

The curious incident of the guns in the night time: Curragh, Larne and the UK constitution

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Abstract

The Curragh ‘mutiny’ and Larne gun-running of spring 1914 made the elected UK government’s Irish legislation unworkable. Some of the participants believed that the elected government was proposing a coup d’état against Ulster Protestants. It would be truer to say that Ulster Protestants and their allies, who included the king and the leader of His Majesty’s Loyal Opposition, mounted a successful coup d’état against the elected government.

Traditional constitutional theory is still largely based on the arguments and assertions of A. V. Dicey, especially his doctrines of parliamentary sovereignty and the rule of law. Dicey was himself an active participant in the unionist coup d’état, which undermined parliamentary sovereignty and the rule of law. Diceyan theory is thus incoherent in its own terms. A rival positive model based on veto player theory is offered.

* We thank Oxford University, Department of Politics & International Relations, for bursary support for TL; the archivists of the Bodleian Library, Churchill College, Cambridge, Durham Record Office, the Imperial War Museum, Nuffield College, Oxford, the Parliamentary Archives (Bonar Law Papers), and the Public Record Office of Northern Ireland; and Gwilym Hughes, Alvin Jackson, Guy Lodge, and Hew Strachan for helpful comments on drafts. An earlier version was presented at the Political Studies Association of the UK Annual Conference, Bath, April 2007. The usual disclaimers apply.

The curious incident of the guns in the night time

Background: constitutional theory in the UK

The sovereignty of Parliament is (from a legal point of view) the dominant characteristic of our political institutions.... Parliament means, in the mouth of a lawyer...., the King, the House of Lords, and the House of Commons.... The principle of Parliamentary sovereignty means neither more nor less than this, namely, that Parliament thus defined has, under the English [sic] constitution, the right to make or unmake any law whatever; and, further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament....

Foreign observers of English manners ... have been far more struck than have Englishmen themselves with the fact that England is a country governed, as is scarcely any other part of Europe, under the rule of law.¹

So wrote A. V. Dicey (1835-1922), whose views remain tremendously influential in English legal scholarship and practice. But Dicey's actions contradicted his dicta. From a contradiction anything follows. Therefore, neither a normative nor a positive theory of the British constitution can be built on Dicey.

'Parliamentary sovereignty' may be a positive or a normative statement. Dicey's first paragraph was not a correct description of how the UK constitution operated in his time. A single counter-example suffices. The Government of Ireland Act 1914 was

enacted in September 1914, under the procedures laid down by the Parliament Act 1911. The Parliament Act was itself endorsed by the King, the House of Lords, and the House of Commons. The 1914 Act was endorsed by the King and the House of Commons. It followed the correct procedures laid down by the 1911 Act for enactment without Lords' endorsement. However, by the time of its enactment, a Unionist coup d'état supported by the king had made it utterly unworkable. A.V. Dicey helped to plan the coup d'état. Parliament is usually sovereign, but a more elaborate theory is required when it is not. A previous related paper points out that the UK normally has few Tsebelian veto players but that from 1909 to 1914 the set of UK veto players grew.²

Normatively, Diceyan parliamentary sovereignty dictates what constitutional actors (politicians, civil servants, judges, soldiers, kings, law professors...) ought to do. But why? Is there something magical about the King-in-Parliament? For H.L.A. Hart, Dicey provides a *rule of recognition*, whereby courts can judge whether such-and-such is valid law. For Maj.-Gen. Sir Charles Fergusson discussed below, an officer 'must stick to the first principle, obedience to the King and constituted authority. If one lets go of that principle, one is all at sea, and can argue oneself into anything'.³

By the rule of law, 'every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals'.⁴ This did not apply to Maj.-Gen. (later Field-Marshal Sir) Henry Wilson nor to Maj. F. H. Crawford, to whom George V personally awarded a CBE at the state opening of the Northern Ireland Parliament in 1921.⁵ The Curragh 'mutiny'⁶ and Larne gun-running of spring 1914 jointly forced the elected UK government to suspend its laws.

We explain how and why this coup d'état succeeded. We conclude by considering the true number of UK veto players.

The Curragh

The UK General Election of December 1910 re-elected the Liberal administration of H. H. Asquith, which governed with the support of the Labour and Irish parties. The Liberals took all ministerial posts. Both that election and the previous one in January 1910 were forced on them by unelected veto players. In the Parliament of 1906-10 the Liberals on their own had a majority of seats, and need not have dissolved until 1912⁷. However, the Lords' rejection of the 1909 Budget forced an immediate general election. In that campaign, Asquith urged King Edward VII to create as many Liberal peers as required to pass the budget and the ensuing proposed restriction of the House of Lords' veto powers. But the king was not prepared to do this until after a second general election.⁸ After his death in May 1910 his successor George V would not let Asquith tell anyone except a few senior ministers that after a second election and a third Liberal victory the king would (very reluctantly) agree to create as many peers as required to enact the Parliament Bill. The House of Lords accepted the 1909 Budget in April 1910, and the Parliament Act in August 1911. The threat of creation of peers, conveyed to the Unionist leaders in the Lords in July 1911, was sufficient to enact the 1911 Act: none were actually created.⁹

The 'progressive alliance', as contemporaries called it, of Liberals, Irish Party, and Labour, held a substantial majority, both in seats and in votes, in the elected house (Table 1). Their majority in votes would have been higher had not almost all seats in Catholic Ireland been uncontested, so hegemonic was the Irish Party there. The two unelected houses – the Lords and the monarchy – were controlled by the opposition

Unionists. Because membership of the Lords came by accession to a peerage (or elevation to a bishopric), the Lords largely represented the landed interest, some of it in Ireland. Since 1885, the material interests of the land had been represented entirely by the Conservative and Unionist Party. So, predominantly, were the interests of the established Church of England. Its bishops had a vested interest in opposing the reduction of its privileges in Ireland and Wales, where it was in a small minority. They almost all voted against Home Rule.

[Table 1 here]

Both kings' vetoes favoured the Unionists. If they had won either of the two forced General Elections, the programme of the government elected in 1906 would have been prematurely aborted. From 1910 to 1914, George V showed more sympathy to His Majesty's Unionist Opposition than to His Majesty's Liberal Government.

The Irish Party was pivotal in both of the 1910 Parliaments (Table 1). It could make or unmake any governing coalition. It is obvious that its normalized Banzhaf power was equal to the Liberals'.¹⁰ Therefore it was now in a position to insist on its programme of Home Rule (devolution) for Ireland. Although bitterly resisted in both unelected chambers, it was common knowledge that Home Rule would be enacted in 1914, provided that the king did not revive a veto last used in 1708 and that, as laid down in the Parliament Act, it was carried unaltered in three successive sessions of the Commons.

This three-session timetable gave the Ulster Unionists plenty of time to mobilise. The Parliament Act required the Bill to be presented *unaltered* each year: this gave them a handy but specious opportunity to say that the government was not listening.

Protestants in Ulster had campaigned since 1886 under the slogan 'Home Rule is Rome Rule'. In 1912 the Ulster Covenant, modelled on the 17th-century Scottish Covenants, pledged its signatories to 'us[e] all means which may be found necessary to defeat the present conspiracy to set up a Home Rule Parliament in Ireland'. The Covenant, and a parallel women's declaration, attracted nearly ½ million signatures.¹¹ A paramilitary organisation, the Ulster Volunteer Force (UVF), was raised. Any two JPs could authorize paramilitary drilling in their area so long as 'the object was to render citizens more efficient for the purpose of maintaining the constitution of the United Kingdom as now established and protecting their rights and liberties thereunder'.¹²

They were initially unarmed, but their leaders darkly threatened that 'all means' might in due course be 'found necessary'. They merely echoed the Leader of the Opposition, Andrew Bonar Law. Law, a Scots-Canadian Presbyterian, was the first non-Anglican and non-Englishman (with the possible exception of Disraeli) to lead the Conservative and Unionist Party when he unexpectedly became leader in 1911. In July 1912 at Blenheim Palace, Law described the Liberal government as 'a Revolutionary Committee which has seized upon despotic power by fraud'. He went on:

I repeat now with a full sense of the responsibility which attaches to my position, that, in my opinion, if such an attempt [viz., to include Ulster within the scope of Home Rule] is made, I can imagine no length of resistance to which Ulster can go in which I should not be prepared to support them, and in which, in my belief, they would not be supported by the overwhelming majority of the British people.¹³

That seems crystal clear. In late 1913 Law considered using the Lords to block renewal of the Army (Annual) Act unless the government promised not to move against the Ulster paramilitaries. By tradition going back to the English Revolution, a standing army could only continue in existence if annually approved by Parliament. To have held up the Army (Annual) Act would have been as revolutionary an act as the rejection of the 1909 Budget. It would have vetoed the Home Rule bill. Scholars have long doubted the claim that Army discipline depended on the annual Army Act.¹⁴ However the veto threat was credible because both sides believed it. Sir John Simon, the Attorney-General, circulated a Cabinet memo explaining that the Army (and Marines when not aboard Her Majesty's ships) could only be disciplined under the Army (Annual) Act; the Navy, and marines aboard ship, had a permanent discipline act. John Seely, the Secretary for War, initialled his copy of this memo on 11 March.¹⁵ However, the plan was apparently too strong meat for some of Law's own colleagues. Henry Wilson, the Director of Military Operations at the War Office, who was in closer contact with the insurgents than with his own superiors, initially opposed the move but came round to fervent support. But Law dropped it on the 20th, the day the Curragh revolt broke out.¹⁶

The Army had both emotional and material interests in the Union and the Empire. All the leading soldiers in the 1914 events at the Curragh, bar one, had served in the Boer War (1899-1902). Following the old slogan 'England's difficulty is Ireland's opportunity', Irish Nationalist MPs had cheered Boer victories in the Commons. This was particularly galling for Army officers, who largely believed that war against a virile rural Teutonic Protestant race was a mistake, but who felt bound (in 1902) not

to criticise their political masters publicly.¹⁷ They therefore had reason to hate the Irish Party.

Although constitutional theory paid lip service to the dual control of the Army, senior officers in 1914 did not believe it. Under dual control, the soldier's duty was to the Crown, but the government of the day was responsible for finance. However, books used in the Staff College revealed officers' contempt for politicians. One of them, *Stonewall Jackson and the American Civil War*, argued that the war (on both sides) went well when generals ran it, but badly when politicians ran it. The author of another, a *History of the British Army*, declared that he was 'absolutely nauseated by their [politicians'] hollowness and cant'.¹⁸ Army officers therefore tended to hate all politicians, but anti-Unionist politicians more than Unionist ones. The second-most senior serving officer involved in the Curragh was Henry Wilson¹⁹. While Director of Military Operations at the War Office between 1910 and 1914, he did not disguise his contempt for the Government he served; and passed on embarrassing information about Government plans and potential Army mutinies to Unionist politicians and the leaders of the UVF, including his next-door neighbour Sir Edward Carson.

Efforts to arm the paramilitaries began in 1913. Sir William Bull MP was political secretary to Walter Long, who had been the unionists' Ireland spokesman. The gunrunning was a fiasco. Bull's unreliable brother-in-law, to whom he had foolishly delegated it, reported that the police

say they have us all smoked in their jargon but the Government are scratching what to do the whole thing was given away by a case of Rifles breaking in half

either at the Hamburg Docks or here. In 48 hours every port (i.e. Custom officials) was warned.²⁰

The government's inaction is indeed curious. In December 1913, however, they did prohibit the private import of arms to Ireland.²¹ By then, intelligence reports told them that the Protestant paramilitaries numbered about 80,000, armed with about 4000 rifles, 3000 swords, and 400,000 ammunition rounds.²² In early 1914 ministers decided to send military reinforcements to protect arms dumps around northern Ireland from paramilitary raids. The GOC (Ireland), Sir Arthur Paget, was summoned to London to be given those instructions. Some unionists thought they were designed to incite the Volunteers to attack the military or police, in order that they could then be violently suppressed. Senior Army officers were already worried that some officers might refuse to act against the Ulster Protestants. Paget asked the Secretary for War, John Seely, if he could permit officers domiciled in Ulster to 'disappear' for the duration of the operation. Seely had himself served in South Africa, and had complained to Joseph Chamberlain about being ordered to burn Boer farms.²³ Therefore he may have empathised with Army officers' unwillingness to coerce the equally Protestant Ulstermen. He agreed to Paget's request, but insisted that any other officer unwilling to obey orders must be dismissed.

On 20 March 1914 Paget returned to Ireland He issued his ultimatum with very short notice. Officers who could not claim the Ulster domicile exception must resign 'and would be dismissed the service with loss of pensions. An answer must be given by 6 pm',²⁴. Brig.-Gen Hubert Gough passed on the ultimatum to his officers in the 3rd Cavalry Brigade at the Curragh camp in Co. Kildare the same afternoon. About 60 officers including Gough himself announced that they would resign. Gough and his

allies immediately alerted their Unionist political contacts in London, who learnt before Government ministers did what was going on.

The officer who did most to limit the fallout was Maj.-Gen. Sir Charles Fergusson, who commanded all the infantry forces in the northern half of Ireland – thus being junior to Paget but senior to Gough. Fergusson – the only Army player in the story not to have served in South Africa - persuaded most of the would-be resigners he spoke to not to resign. He stressed soldiers' duty to the King and the likely reaction of enemies of the Empire to news of mass resignations in the Army.

Gough was relieved of his command and summoned to London, where he parlayed with the Secretary of State. He made it clear to brother officers that, far from going in disgrace and under the shadow of court-martial, he was going in search of written guarantees that the Government would not coerce the Ulster Protestants²⁵. He got them. The Cabinet stated that the whole affair was a 'misunderstanding', but that 'it is the duty of all soldiers to obey lawful commands', including those for the protection of public property and the support of the civil power. Seely then, on his own disastrous initiative, added two 'peccant paragraphs'²⁶ saying that the Government 'have no intention whatever of ... crush[ing] political opposition to the policy and principles of the Home Rule Bill'. Even this was not good enough for Gough, who had been coached and stiffened by Wilson. He demanded and got an assurance from Sir John French, the Chief of the Imperial General Staff, that this meant that 'the troops under our command will not be called upon to enforce the present Home Rule Bill on Ulster'. With this piece of paper he returned in triumph to the Curragh and his

command. When Asquith discovered what Seely had done, he dismissed him, and French also resigned. Gough's undertaking could not practicably be revoked.²⁷

Gough and his friends continued to brief Unionist politicians and journalists. The most remarkable briefer was Wilson. Dining with his neighbour Carson on 18 March, he agreed that 'the Lords must amend the Army Annual Act'. The following day, Carson stormed theatrically out of the Commons, saying that 'I go to my people'. Talk of creating a Provisional Government in Ulster was (at the time) bluff, but well-informed bluff. Wilson had told Carson that the Army Act veto play might protect his private army. He then kept the Unionists up to date with the Curragh developments as they happened and before ministers got to hear of them. A comparable act would have been for a British Army general to have let the Provisional IRA know the weaknesses in a forthcoming British offensive against them. On March 21 Wilson briefed Bonar Law on Gough's campaign, and produced a draft for Seely containing 'what the army would agree to'. He thus controlled both Gough's campaign (as a Unionist activist) and the Government response to it (as Director of Military Operations). He told his diary that he was 'more than ever determined to resign, but I cannot think of a really good way of doing it'. He never did; remaining in his official capacity a Government adviser, and in his unofficial capacity an adviser to Gough, Bonar Law (whom he saw daily at the height of the crisis) and the Ulster paramilitaries at the same time. He urged Sir John French to persist with his resignation. 'Sir John was charming to me and thanked me, etc', and took Wilson's advice. He later hesitated, but when he finally did resign, the non-resigning Wilson wrote:

This is splendid. Rang up B.L. & told him & added that it was now his business to drive the wedge deep into the Cabinet by causing the down fall of Seely, Morley & Haldane. A good day's work.²⁸

The majority of Army officers whose reactions have been recorded sided with Gough. A minority did not. The most eloquent was Fergusson, who may have saved the Army through his efforts to dissuade officers from resigning, even as the Director of Military Operations in London was doing the opposite. For Fergusson, 'all personal considerations invited me to do as Gough did'. However, 'Without a united Army with strong discipline, nothing can save King and Country when the crisis comes. Therefore I will do nothing that will in any way weaken the discipline of the Army.... I don't blame Gough & Co. They acted up to their opinions, but I hold them to be absolutely deluded and wrong.' For this he was roundly abused, not only by Goughite Unionists, but also by the king whose name he had used in order to save the British army. A petulant series of messages from the king complained that he had known nothing of 'his' orders.²⁹ The British Army's effective strength was six infantry divisions plus one cavalry division. The king was not grateful, or even aware, that Fergusson had saved a seventh of his army from destruction.

Larne

The Ulster Volunteers took Wilson's advice not to raid the arms depots in Northern Ireland. But it was in their interest not to reveal to the UK government whether or not they were bluffing. Thanks to Wilson, the Protestant paramilitaries knew better what was going on in the UK security services than vice versa.

For several months after the Bull fiasco, the leaders of the UVF were uncertain whether to try again. The intercepted guns of 1913 had led to the proclamation against

arms imports to Ireland and, probably, to the fateful orders of March to protect military depots. Maj. F. H. Crawford, a former Artillery officer who was acting as the UVF's director of Ordnance, urged the UVF to buy 30,000 rifles in Hamburg. The leaders of the UVF made bellicose noises, but were quite hesitant about Crawford's expedition, twice trying to call it off while he was on the high seas. Nevertheless Sir Edward Carson became the quartermaster for what became the Larne gun-running. He had at least £90,000 subscribed by sympathisers in England, including Rudyard Kipling who paid £30,000.³⁰ The most startling claim in the whole story is Crawford's statement, written in 1915, that on 27 March he

Called and saw Walter Long, MP. He sent his secretary to see Bonar Law. The latter when introduced to me said, with a twinkle in his eye, 'I have heard of you before, Mr Crawford'. I had a private letter from the Chief [Carson] ... to him. I had to see WL about the finances of the business, and make my final arrangements for paying [a] very large cheque.³¹

The standard biographies state that Law did not know about the Larne gun-running until after the event. However, in Appendix A we show that Law knew that something was afoot. His apparent encouragement of Crawford is consistent with his behaviour at Blenheim, over the Army Act and over the Curragh.

By mid-March Crawford had enough money to buy his 30,000 rifles and 3 million ammunition rounds. Prices were high as Hamburg dealers were also supplying Mexicans for their civil war. The plan would also involve buying ships for cash at short notice, since no questions could be asked. On 16 March (four days before the Curragh), Crawford bought outright a Norwegian collier, *SS Fanny*. The *Fanny* was to pick up the rifles from a Hamburg lighter at Langeland, in Danish Baltic territorial

waters. Danish customs officers spotted the transfer of cargo and came to investigate, demanding the papers of both vessels. They promised to return the next day.

Crawford was caught.

I went into my cabin and threw myself on my knees, and in simple language told God all about it: what this meant to Ulster, that there was nothing sordid in what we desired, that we wanted nothing selfishly. I pointed out all this to God, and thought of the old Psalm, 'O God our help in ages past, our hope for years to come',³².

God, or luck, helped. Both ships eloped in the night before Danish customs could return. Unfortunately news of the arrest, with accurate guesses as to the *Fanny's* cargo and destination, appeared in the English papers. The UVF tried to countermand Crawford's orders, but did not know where he was and had no radio. Having renamed and repainted the *Fanny*, Crawford sailed coastwise round Wales, where he put off at Tenby and went to Belfast to consult the UVF committee, and to London to pay his large cheque. The UVF authorised him to buy another collier, the *Clydevalley*, in Glasgow for £4500. The arms were transhipped at night off Wexford as the *Fanny* and *Clydevalley* were made fast together and 'steamed through the traffic with one set of lights'.³³ Crawford now renamed the *Clydevalley* the *Mountjoy II* and made for Belfast Lough.

The Ulster Volunteers had announced a training exercise centred on Larne, the ferry port in Protestant country near the mouth of Belfast Lough. On the night of 24-25 April 1914, they took total control of the port, cutting all telephone lines and blockading all roads out. The railway was also in Unionist hands, but for added security 600 Volunteers were assembled at Belfast York Road to prevent any attempt

to send a troop train to Larne. A decoy ship was sent to Belfast, where it was intercepted by Customs. Meanwhile, the *Clydevalley* was unloaded by the Larne dockers, a.k.a the Larne Harbour section of the Volunteers. All Volunteers' motor cars in Co. Antrim had been ordered to arrive at Larne by 1 a.m. The only hitch was that the *Innismurray*, one of the two ships chosen for coastwise delivery of some of the guns, turned out to have a Nationalist captain. 'The saboteurs [sic] were replaced by a volunteer crew of more reliable politics', relates Stewart, though he does not tell us how, nor what happened to the master and crew. The following description is from a police report in Asquith's papers:

Mr Robinson said .. that as Commanding Officer of the East Antrim Regiment [of the UVF] he had orders from Sir William Adair not to allow anyone to approach the harbour.... I asked him if it was intended to prevent the police and Customs officers from going there in discharge of their duty and he said *It was*. I asked him would he prevent them by force and he said he was prepared to do so and that he had 700 men there for that purpose if necessary.³⁴

Belfast customs, when they spotted the other delivery ship tying up, 'were met by a determined U.V.F. guard' and did not get to see her cargo of rifles.³⁵ A unionist pamphlet of August illustrates how, as each vehicle of the motor car corps left Larne with its cargo of rifles, a washer woman daubed its license plate with tar so as to obscure it, accompanied by a cry of "There you go m'dear".³⁶ The only casualty of the night was a coastguard who had a fatal heart attack while cycling with a dispatch to a superior officer.

Why the Unionist coup succeeded

The primary definition of *coup d'état* in the Oxford English Dictionary is 'a sudden and decisive stroke of state policy'. Both Curragh and Larne fit that description. They

do not fit the secondary definition: '*spec.* a sudden and great change in the government carried out violently or illegally by the ruling power.' They were not violent, nor carried out by the ruling power. But at least the following were unlawful:

- At the Curragh:
 - Insubordination and perhaps sedition (Maj.-Gen. Wilson)
 - Insubordination (Brig.-Gen. Gough, for showing his 'undertaking' to all and sundry on return to Ireland in defiance of orders)
- At Larne:
 - Breach of the Royal Proclamation against importing arms to Ireland (Carson, Lord Milner, Crawford, Long, the officials of the UVF)
 - Sailing without papers and falsification of ships' identities (Crawford)
 - Disobeying an order of Danish customs (Crawford)
 - False imprisonment of the crew of the *Innismurray*
 - Criminal damage to telephone lines
 - Obstruction of police and Customs (freely admitted – see above)

After Larne, the Government again considered prosecuting Carson, Adair, and Maj. Robert McCalmont (MP (Unionist) for East Antrim and commander of the Central Antrim UVF). However, advised by Irish Party leader John Redmond that a prosecution would be counter-productive, they did nothing.

The paramilitaries also behaved as if they were the revolutionary government of Catholic Ulster. According to an intelligence report:

Great annoyance is caused to the Roman Catholic inhabitants of Co.

Monaghan, who are in a large majority, by being challenged when walking

along the roads at night by so-called sentries of the UVF... and being asked for passwords or countersigns... [T]he continuance of this practice by the Ulster Volunteers is very dangerous as it may cause a serious outbreak at any moment.³⁷

How did so many Unionists persuade themselves to break the law? The lead came from the top. Bonar Law and Carson made public statements of inflexible extremism. They were more flexible in private – Law, in particular, had numerous private meetings with Asquith – but their followers did not know that.

Bonar Law worked particularly hard on the king. Initially the king found Law prickly and uncomfortable company. However, he soon adopted Law's words as his own. In August 1913 the king wrote in his own hand to Asquith:

Whatever I do I shall offend half the population. One alternative would certainly result in alienating the Ulster Protestants from me, and whatever happens the result must be detrimental to me personally and to the Crown in general.

He complained that the government was 'drifting' and asked Asquith to consult the Opposition in order to get an agreed settlement.

A month later he went further. Responding to Asquith's claim that the Parliament Act had 'not affected the Constitutional position of the Sovereign', he replied

But the Preamble of the Bill stated an intention to create a new Second Chamber; that this could not be done immediately; meanwhile provision by the Bill would be made for restricting the powers of the House of Lords.

Does not such an organic change in the Constitutional position of one of the Estates of the Realm also affect the relations of all three to one another; and the failure to replace it on an effective footing deprive the Sovereign of the assistance of the Second Chamber?

Going on to complain that the passage of the Home Rule Bill might lead to civil war, he complained:

Do you propose to employ the army to suppress such disorders?... Will it be wise, will it be fair to the Sovereign as head of the Army, to subject the discipline, and indeed the loyalty, of his troops, to such a strain?³⁸

The handwriting was the king's; but the arguments were Bonar Law's. More precisely, they were arguments that Law had assembled from a number of Unionists, including Professor A. V. Dicey and Field-Marshal Lord Roberts. The two main contentions were:

- the Constitution had been in abeyance since 1911; and
- in the event of civil war, the loyalties of the armed forces to the Ministers of the Crown were dissolved.

A summary of the unionist constitutional arguments is at Appendix B. They appealed to the king, who urged Asquith to compromise: to discuss his proposals with the Unionists; to propose the temporary exclusion of Ulster from Home Rule; to call a general election; to consider a scheme for federalism, with 'Home Rule All Round' for England, Scotland, and Wales as well. He seriously considered either dissolving Parliament or refusing Royal Assent to the Government of Ireland Act.

Asquith was equally forthright. The king undoubtedly had the right to dismiss the government and dissolve parliament, but the last one to do so was William IV in

1834, 'one of the least wise of British monarchs'. The Tories, whom William favoured, lost the election and he was stuck again with the Whigs whom he had tried to oust. As to Ireland, Asquith swept aside the king's speculations that most Irishmen were no longer interested in Home Rule and that the Catholic Church did not want it. Asquith did not take the Unionist arguments for a forced dissolution seriously. Nor, unfortunately, did his administration call the Ulster paramilitaries' bluff until it was no longer a bluff. As a consequence, the Government of Ireland Act 1914 was unworkable from the moment it received Royal Assent. A Suspensory Act delayed the operation of both Irish Home Rule and Welsh disestablishment until the end of the war. When it ended, the Welsh got their wish but the Irish did not.

Thus the leaders of his Majesty's Loyal Opposition encouraged armed rebellion against His Majesty's Government. Only one source that we have found directly implicates Bonar Law in Larne; but there is no doubt about Sir William Bull MP, Sir Edward Carson MP, Capt. James Craig (later Lord Craigavon), Lord Milner, Capt. Fred Crawford CBE, Maj. Robert McCalmont MP, Maj.-Gen (later Field Marshal Sir) Henry Wilson, or Field-Marshal Lord Roberts. A selection from the copious evidence that links the leaders of unionism to the armed conspiracy in Ulster is at Appendix C.

Implications for constitutional theory:

positive theory

Dicey's positive theory states that actors in British government observe Parliamentary sovereignty and obey the rule of law. In 1914, the Unionist leaders, including himself, did neither. In normal times the elected government can use its control of Parliament to enact whatever it likes. Parliamentary sovereignty, as subsumed in veto player

theory, then says that the elected government may override all vetoes, including any purported vetoes in the shape of attempts to entrench earlier Acts. With few veto players, the winset of the status quo comprises any points to which the elected government might choose to go. With more veto players, the winset of the status quo contracts to the set of points that no veto player regards as inferior to the status quo.

What then upset the supremacy of the elected UK government between 1909 and 1914? At one level the answer is easy. The House of Lords exercised a veto in 1909. Though that veto was modified by the Parliament Act, it was not eliminated. The three sessions needed to enact the Government of Ireland Act (spring 1912-autumn 1914) were the three sessions needed to turn the Ulster Volunteers from bluff to credible threat. Both kings – Edward VII and George V – vetoed their Liberal governments. Their actions increased the power of the Opposition and decreased that of the government. If defeated in either of the forced 1910 general elections, the programme of the Liberals and their allies would have been aborted. Some public servants abandoned, or never showed, loyalty to their elected superiors. In previous work³⁹ we have shown that the Permanent Secretary to the Treasury encouraged Lord Rosebery to reject the 1909 Budget. His actions were mild compared to (Sir) Henry Wilson's.

normative theory

At a purely formal level, parliamentary sovereignty supplies Hart's 'rule of recognition'. Judges, law professors, and so on ought to recognise that Parliament is sovereign in one of two senses – either the sense in which each Parliament individually is sovereign, so that any Parliament may override any law of its predecessors, or a broader sense in which 'Parliament', as a continuing institution, can

occasionally bind itself in constitutional statutes such as the Parliament Act 1911. Yet in 1914 the unionist leadership, including Dicey, disowned that theory. The Parliament Act 1911 had turned the elected government into a 'Revolutionary Committee', they said as they formed a counter-revolutionary committee of their own.

The unionists' alternative theory of sovereignty was a badly-formulated appeal to the people. The Home Rule Bill must either be stopped outright or be put to the people, who, they were totally confident, would reject it. This idea underlies everything: the Army Act ploy, Curragh, Larne, the intense pressure on the king either to dismiss the government or to veto Home Rule.

But how could they be sure that they represented the people? Asquith told the king:

The Parliament Act ... has not affected ... the constitutional position of the Sovereign. It deals only with differences between the two Houses. When the two Houses are in agreement (as is always the case when there is a Conservative majority in the House of Commons), the Act is a dead letter. When they differ, it provides that, after a considerable interval, the thrice repeated decision of the Commons shall prevail, without the necessity for a dissolution of Parliament.⁴⁰

The people had voted for a Liberal, or Liberal-led, government in three General Elections in a row. Even in Ulster the Liberals and Nationalists held 17 seats to the Unionists' 16. Table 2 gives more details.

[Table 2 here]

The Unionists did have a grievance, but not one that we have seen expressed: gerrymandering. The Irish constituencies had not been redistributed in 1885, unlike

those in Britain. It is clear that this was bipartisan, in order to let the sleeping Nationalist dog lie, and that the leaders of both British parties at the time, Gladstone and Salisbury, concurred. Salisbury could have used the Lords' veto to force an Irish redistribution and reduction in seats had he thought it desirable.

But Salisbury's inaction harmed the Ulster Protestants. Constituencies in Ulster had become very unequal in population by 1914, so that the Liberals and Nationalists won more seats, with fewer votes, than the Unionists. Nevertheless, Table 2 gives the lie to any conception of a homogeneous Protestant Unionist Ulster.

What then possessed the Unionists to assert so fervently that they, and not the elected government, represented the people? They could not just say that they felt very very strongly about Ireland. Nonconformists had felt very very strongly about the Education Act 1902 under the previous unionist government, but neither A. V. Dicey nor any other Unionist then suggested that the king should dissolve Parliament or that either Lords or king should veto the Education Bill. The two Houses were in agreement in 1902.

The answer is that when Unionists counted the people, the people of Ireland did not count. Law wrote that 'the population there [in Ulster] is homogeneous'⁴¹. Table 2, compiled from the 1911 census and published by a commercial map-maker, and therefore available to all at the time⁴², shows the utterly different truth. Irish nationalists were simply invisible to Unionist eyes. Dicey wrote that there were 40 million people in Great Britain and 4 million in Ireland, of whom a million were unionists. As an 'old Benthamite', he declared that he preferred the welfare of the 40

million to that of the 3 million.⁴³ He did not want the nationalist Irish to have a vote in the referendum he was demanding. And yet, unionists insisted, they must forever remain citizens of the United Kingdom. Dicey's theory of popular sovereignty fails.

After the Curragh, the king's secretary, Lord Stamfordham, wrote helpfully to Bonar Law:

If the Govt will not have referendum on the liberal terms you offered – could you not press for exclusion of 6 counties without referendum – (by these means you wd avoid certain zones) and for an unlimited period – and increase the subsidy from the English treasury to say 5 millions. Worth the money!⁴⁴

This practical suggestion from one fervent Unionist to another presages what happened. The six counties of Northern Ireland were indeed excluded from the rest of Ireland without a referendum. The subsidy from the British Treasury has continued to flow. And 'certain zones' were avoided. By that delicate phrase, Stamfordham probably means the nationalist districts within Northern Ireland, especially in Fermanagh, Tyrone, Derry City, west Belfast, and southern Armagh, which would have inconveniently voted the wrong way in any referendum.

A non-contradictory theory of popular sovereignty therefore requires at least that the legislature be elected and that the coalition which can command a majority there is entitled to have its programme enacted until the next General Election. We do not pursue this issue in this paper.⁴⁵

Discussion: observable implications

We have required an extensive narrative to justify our contention that the events of spring 1914 constituted a successful coup against the elected government of the UK.

We have done this because with few exceptions the historiography of the period is so bland.⁴⁶ The standard work on the UK monarchy and the constitution argues that the two kings ought to have refused even more firmly than they did Asquith's requests for the creation of peers, and that on Ulster in 1914 'the king's judgement was superior to that of his prime minister'⁴⁷. How an eminent political scientist, using essentially the same evidence base as us, can reach these conclusions eludes us.

The purpose of this paper is analytic as well as descriptive. Descriptively, we have shown that four unelected veto players enabled the coup to succeed. These veto roles, played by varying people, were the median member of the House of Lords, the monarchy, the set of Army officers prepared to mutiny or resign rather than obey orders, and the Ulster Protestant paramilitaries. The leaders of the Commons opposition, not themselves veto players, supplied ammunition (literally in the case of Larne) for all four.

How then has the belief that the UK is a low n veto-player regime, with a large winset over the status quo, become so persistent in modern political science?⁴⁸ First, we argue, because the veto power of the post-1911, pre-1999 House of Lords has been ignored or mis-characterized. For all that period, the median Lord was a Conservative, as he had been since the late 18th century. He always held a potential veto in the last two years (after 1949, in the last year) of a parliament. Towards the end of a parliament, it is common knowledge that there is insufficient time for the government to legislate without the Lords under the terms of the Parliament Acts. Even nearer the start of a parliament, time is always scarce, so that the median peer, though not a

formal veto player, may be in a position to block potential legislation that is not high on the government's agenda.

How have political scientists managed to miss this (to us) glaringly obvious fact?

First, as Asquith told George V, because the veto power is not evident in periods of Conservative government, when the median peer is close in issue space to the median MP. Therefore, scope for it arose only in the periods 1911-15; 1924; 1929-31; 1945-51; 1964-70; 1974-9; and 1997-9.⁴⁹ Since 1945 it has been modified by the 'Salisbury-Addison convention' whereby the Conservative leaders of the Lords undertook not to veto the manifesto commitments of the elected government. But as that is merely a convention it does not restrict the median peer's formal veto power. That there were not constant vetoes of government legislation in the parliaments just listed merely reflects parliamentarians' common knowledge of the veto power.

That the monarchy is not regarded as an active veto player is an overgeneralisation from the behaviour of the last two monarchs in the series, George VI and Elizabeth II and I, who have indeed never threatened vetoes, as constitutional theory says they should not. Table 3, which is not exhaustive, lists attempted and successful veto plays by the last ten monarchs of the United Kingdom. All of them (except Edward VIII, who failed), vetoed or attempted to veto radical, rather than conservative, actions and/or governments. A future monarch with strong conservative opinions might revive the trend.

[Table 3 here]

The whole army was not behind the contingent mutineers of the Curragh; but enough of its senior officers were behind them to veto the deployment of troops to Ulster in

support of the civil power. Others in the drama, especially Paget and Seely, made unforced blunders which made matters worse. But the Gough-Wilson faction in the army vetoed the policy of the elected government. Nothing remotely comparable has happened in the British Army since 1914, but other democracies have been deposed in military coups since then.

Finally, the intransigence of Ulster Protestantism owes something to Calvinist theology. Whether it be Fred Crawford asking God to save him from arrest by the Danes, or more tragically the march of the UVF, transformed into the 36th (Ulster) Division, straight into German lines on 1 July 1916, shouting as they went ‘No Surrender’ and ‘Remember 1690’⁵⁰, Calvinists’ certainty that God is on their side is a source of both strength and weakness. It remains a strand of Ulster Protestantism.⁵¹

Of these vetoes, that of Ulster Protestants (outside Ulster) and the Army are now dead; that of the monarch is at least sleeping. That of the House of Lords remained in full force until 1999. Further research could usefully examine the constraints it imposed on non-Conservative UK governments from 1911 to 1999.

Table 1

Votes and seats at the UK General Elections of 1906 and 1910

Election	Lib		Con		Irish Nationalist		Lab	
	Vote share, %	Seat share, %	Vote share, %	Seat share, %	Vote share, %	Seat share, %	Vote share, %	Seat share, %
1906	48.98	59.70	43.05	23.43	0.62	12.39	5.86	4.48
1910J	43.03	41.04	46.75	40.75	1.90	12.24	7.58	5.97
1910D	43.82	40.60	46.26	40.60	2.52	12.54	7.10	6.27

Source: F.W.S. Craig *British Electoral Facts* 1989 Tables 1.18 to 1.20

'Con' columns include Liberal Unionists

Table 2. Religion and politics in Ulster 1914

Home Rule Ulster

Constituency	RC population 1911	Non RC population 1911	Total population
S Armagh	23511	11050	34561
W Cavan	38011	9170	47181
E Cavan	36177	7713	43890
N Donegal	33503	7560	41063
W Donegal	42085	4166	46251
E Donegal	24657	14983	39640
S Donegal	32698	8768	41466
S Down	24441	21232	45673
S Fermanagh	18948	11743	30691
N Monaghan	24354	12204	36558
S Monaghan	28987	5850	34837
N Tyrone	20144	16622	36766
Mid Tyrone	22308	13277	35585
E Tyrone	20561	16933	37494
W Belfast	36577	30340	66917
Newry Town	9183	3270	12453
Londonderry City	22978	17821	40799
<i>Subtotal Home Rule seats</i>	459123	212702	671825

Unionist Ulster

N Antrim	10629	32915	43544
Mid Antrim	9575	33377	42952
E Antrim	6627	48524	55151
S Antrim	12526	36486	49012
N Armagh	13616	31854	45470
Mid Armagh	17000	22538	39538
N Down	7166	52850	60016
E Down	16539	31114	47653
W Down	7651	35083	42734
N Derry	18505	34452	52957
S Derry	22953	23912	46865
N Fermanagh	15801	15319	31120
S Tyrone	15922	16670	32592
E Belfast	25018	111080	136098
S Belfast	13265	67715	80980
N Belfast	18218	81847	100065
<i>Subtotal Unionist seats</i>	231011	675736	906747
TOTAL	690134	888438	1578572

Source George Philp & Co., *Political Map of Ulster in 1912*, Mottistone Papers, incorporating religious data from 1911 Census; authors' calculations to take account of Londonderry City by-election 30.01.13, (Lib. gain from Con.)

Table 3.

Veto plays by UK monarchs

Monarch	Reigned	Example veto play	Veto play successful?
Elizabeth II and I	1952-	None known	
George VI	1936-52	None known	
Edward VIII	1936	Attempted marriage contrary to ministers' wishes	No
George V	1910-36	Threat to dissolve Parliament or withhold Royal Assent from Government of Ireland Bill, 1913-14	Partial
Edward VII	1901-10	Refusal to create peers without second general election 1909-10	Yes
Victoria	1837-1901	Attempts to prevent Gladstone from becoming Prime Minister, 1886 and 1892	No
William IV	1830-7	Dismissal of PM Lord Melbourne, 1834	Yes
George IV	1820-30	Delay and attempted veto of Catholic emancipation 1828-9	No
George III	1760-1820	Veto of Catholic Emancipation in Ireland 1801	Yes

Sources. *Oxford Dictionary of National Biography*; C. Matthew, *Gladstone 1809-1898* (Oxford: OUP 1997); I. McLean and A. McMillan, *State of the Union* (Oxford, OUP, 2005); V. Bogdanor, *The Monarchy and the Constitution*; R. Jenkins, *Asquith*.

Appendix A. How much did Law know about the Larne gun-running?

Letters from and to Ronald McNeill MP, 21.12.1921. Law MSS, Parliamentary Archives, BL 107/1/107 and 107/4/18

My dear Bonar,

I don't know whether I told you that I am writing a book on the Ulster resistance to Home Rule; but I have just now been reading for it a MS of Fred Crawford's, the gun-runner. I see he says that just on the eve of the voyage of the "Fanny" James Craig told him

"that Bonar Law & Walter Long would like to meet me before I went, so I saw both these statesmen & they wished me God speed & a successful issue"

I should like to know whether you have any objection to my publishing this statement that you were privy to, & wished well to, the gun-running, or whether you would prefer not to have your name mentioned. I will of course do as you wish about it. Yours ever, Ronald McNeill.

My dear Ronald,

It is difficult looking back so far to feel sure that one's memory is accurate but my recollection is that I did not know of the gun-running till after it had taken place & that Carson told me that he had deliberately refrained from letting me know about it because he thought it better that in my position I shd not have any responsibility for it.

You had better ask Carson [?word illegible, perh. 'now'] whether or not his recollection tallies with mine. I do not remember seeing Mr Crawford, but I saw at different times with Carson a number of our supporters in Belfast & very likely Mr Crawford may have been one of them.

All this however is very immaterial. I took full responsibility at the time for all that was done & have never thought since that I was wrong in doing so. Yours sincerely [unsigned, BL's file copy].

Law concedes that he may have met Crawford; he does not deny the outline of the story: he explains that Carson was deliberately keeping him in the dark, and he claims full responsibility for his actions in 1914. It is hard to believe that he did not guess where the very large sums of money being raised in Britain for the Ulster Protestants were going.

Law had served for over 4 years as Deputy Prime Minister to Lloyd George. In March 1921 he had retired through ill-health. By December he had returned to politics in order to protect Protestant Ulster in Lloyd George's Irish settlement. Ulster Protestants and their allies, including McNeill, denounced the Sinn Fein delegates who had signed a treaty with Lloyd George on 6 December as rebels and murderers. It hardly suited Law's purposes to admit that he had encouraged rebellion on the opposite side. That he was willing to go so far in his reply to McNeill is eloquent. He could have simply said No.

Appendix B. Unionist constitutional arguments 1911-14

Argument	Source	Example of use	Effect
'The Constitution is in suspense because of the 1911 Preamble'	?Lord Lansdowne, Unionist leader in H of L	<i>A Revolutionary Committee ... has seized upon despotic power by fraud.... In our opposition to them we shall not be ... bound by the restraints which would influence us in an ordinary Constitutional struggle. We shall take the means, whatever means seem to us effective, to deprive them of the despotic power which they have usurped... [T]here are things stronger than Parliamentary majorities....</i> Bonar Law at Blenheim 29.07.12, in Blake, <i>Unknown PM</i> , p.130. Stated as fact by George V in his memo to Asquith 22.09.13.	Forced GE; royal veto of GoI Act (see next row); armed insurrection in Ulster all ok.
The King may veto the GoI Bill	Bonar Law	<i>They may say that your assent is a purely formal act and the prerogative of veto is dead. That was true as long as there was a buffer between you and the House of Commons, but they have destroyed that buffer and its true no longer.</i> Law to King 4.5.12, according to A. Chamberlain. Blake, <i>Unknown PM</i> , p. 133	Govt would resign after veto, therefore forced GE.
Fundamental constitutional change should be put to a referendum	Dicey	<i>[T]he referendum judiciously used may, at any rate in the case of England, by checking the omnipotence of partisanship, revive faith in that parliamentary government which has been the glory of English constitutional history.</i> Dicey, <i>Law of the Constitution</i> 8 th edn p. c.	Repeal of Parliament Act and non-implementation of GoI Act.
Lords may amend the Army (Annual) Act	Lord Hugh Cecil, Unionist frontbencher and intellectual	Would 'compel the government to refer the question of Home Rule to the people... [H of Lords had] the right to insist that before the standing army is used to establish Home Rule in Ireland against the will of a large section	Forced referendum on GoI Bill and/or forced GE. Govt believed the threat credible, see Atty-Gen. Cabinet memo

The Irish aren't interested in Home Rule, therefore there is no point in forcing it down the throats of Protestant Ulster	Bonar Law, ?Lord Midleton (southern Irish Unionist leader) and/or Lansdowne	<p>of the Irish population, it should at least be certain that the electorate approve of Home Rule and of such use of the King's armed forces. Memo, 5.6.13 in G. Boyce and A. O'Day ed, <i>The Ulster Crisis</i>, (Basingstoke: Palgrave, 2006), p.58.</p> <p><i>But is the demand for Home Rule in Ireland as earnest and as National to-day as it was, for instance, in the days of Parnell? Has not the Land Purchase Policy settled the agrarian trouble, which was the chief motive of the Home Rule agitation? I am assured by resident Landowners in the South and West of Ireland that their tenants, while ostensibly favourable to Home Rule, are no longer enthusiastic about it.... The hierarchy of the Church of Rome is indifferent and probably at heart would be glad not to come under the power of an Irish Parliament.</i> George V to Asquith, 22.9.13, in Nicolson, <i>King George V</i>, pp. 226-7.</p>	March 1914.
The people hate Home Rule	Bonar Law, Dicey, and many others	<p><i>[T]he present Bill ... is opposed by practically the whole of the House of Lords; by one third of the House of Commons; by half the population of England... Ibid. [NB Unionists always say England, never the United Kingdom, when promoting this argument].</i></p>	Referendum should be held, perhaps only in GB.
If civil war is pending, the Army is released from its duty to uphold the civil power	Bonar Law, Lord Roberts, ?Milner	<p><i>It is a soldier's duty to obey, but if and when Civil War breaks out no ordinary rules will apply. In that case a soldier will reflect that by joining the Army he has not ceased to be a citizen, and if he fights in such a quarrel he will fight on the side he believes to be right.</i> Draft letter to press by Roberts, approved by Law and Carson to be issued in event of Army orders against Protestant paramilitaries, 27.1.14, in Blake, <i>Unknown PM</i>, p.178.</p>	Mutiny or mass resignations.

Appendix C. The Unionist coup d'etat 1913-14.

Source	Date	Author	Document	Comment
Churchill College Bull MSS 4/8	4.6.13	FT Bigham, CID, Scotland Yard	Capt Budden [WB's bro-in-law] is Organising officer of the National Reserve of the Hammersmith District... W J Silcock [is].. proprietor of the premises where the cases are stored ... intimate friends, together with Sir William Bull... members of the same Political Association (Conservative & Unionist).	File marked 'This material opened and returned to file on instructions of Cabinet Office April 2004'. Bull was political secretary to Walter Long.
Churchill College Bull MSS 4/8	16.6.13	H. P. Budden to Sir W Bull	The members of the political side of S Yard in this case are Irwin of course as chief McBrien Riley & Parker they say they have us all smoked in their jargon but the Government are scratching what to do the whole thing was given away by a case of Rifles breaking in half either at the Hamburg Docks or here. in 48 hours every port (i.e. Custom officials) was warned.	As above
IWM HHW 1/23	23.3.14	Henry Wilson	I went to B.L. at 9.10 am. Told him that I was going to claim equal treatment with Hubert [Gough] & that I felt confident the whole G.S. would follow me; told him Hubert had been in to breakfast & we had determined our plan of campaign which was that any proposals made must be in writing & must state that he would not be called on to employ his troops and coerce Ulster to accept the present H.R. bill.	
IWM HHW 1/23	26.3.14	Henry Wilson	Talk with Bonar Law and Milner after breakfast. It seems to me Johnny French must resign, but the rest of	At least one Divisional Commander – Fergusson, who was in Ireland trying to

			us must stand fast unless the Government take action against Hubert. Wired him again to keep absolutely quiet. Sir John [French] sent for us three Directors at 1 o’c and told us he had resigned, but Seely would not accept. Directly after, all Cs in C and Divisional Commanders came into the CIGS’s room and told him the army was unanimous in its determination not to fight Ulster. This is superb. At 3 o’c Sir John sent for me to talk things over. He told me the Cabinet are all opposed to his going and were trying to find some way out of it. I told him that he and Ewart must stick to their resignations....	contain the effects of the Curragh – cannot have been there.
IWM HHW 1/23	29.3.14	Henry Wilson	I lunched at Bonar Law’s house, only Carson there fresh back from Belfast. We talked about the situation in all its bearings. Carson told me of ... the visits of all officers of the <i>Pathfinder</i> to him, and of the petty officers, of the friendship between the Navy and the Ulster boys, and of the signalling practice that goes on between the two, and of how excellent the Ulster men are.	HMS <i>Pathfinder</i> had been sent to the Ulster coast to aid with operations to protect arms depots. Her Captain had written to his Rear-Admiral to say ‘I have no intention of going against Ulster’. Beckett 1986, p. 284.
Bonar Law MSS 32/1/65	22.3.14	Lord Stamfordham to BL	My dear Bonar Law, Many thanks for the copy of your letter of today to the Prime Minister, which the King has read with interest. Indeed this is a most serious disaster to the Army – worse than a defeat at the hands of an enemy – nothing to compare with it has happened in the history of our country – the facts as to what actually happened are not yet positively known. If the Govt will not have Referendum on the liberal terms you offered – could you not press for exclusion of 6 counties without referendum – (by this means you wd avoid certain zones) and for an unlimited period – and increase the	The king’s secretary gives political advice to the Leader of the Opposition, suggesting a way around the problem of Fermanagh and Tyrone and their inconvenient nationalist majorities.

Bonar Law MSS 32/1/75	28.3.14	AV Dicey to BL	subsidy from the English treasury to say 5 millions. Worth the money! Yrs very truly, Stamfordham The plain truth is that at the present crisis it is absolutely essential that we should either get rid of the Government or ensure an appeal to the people by way of a dissolution or a referendum before the Home Rule Bill passes into law.	[but 'though I am a believer in the referendum', doesn't think it should be forced this time because Asquith would control the wording and timing]
PRONI D/1700	July 1915, refers to 27.3.14	Fred Crawford diary	Arrived in London. Called and saw Mr Walter Long, MP. He sent his secretary to see Bonar Law. The latter when introduced to me said, with a twinkle in his eye, 'I have heard of you before, Mr Crawford'. I had a private letter from the Chief, whom I left in Belfast, to him. I had to see WL about the finances of the business, and make my final arrangements for paying [a]very large cheque.	

Notes

¹ A. V. Dicey, *Introduction to the Study of the Law of the Constitution*. 8th edn. (London: Macmillan, 1915), pp. 37-8, 179-80.

² George Tsebelis, *Veto Players: how political institutions work* (New York: Russell Sage Foundation, 2002); Iain McLean and Jennifer Nou, 'Why should we be beggars with the ballot in our hand? veto players and the failure of land value taxation in the United Kingdom, 1909-14', *British Journal of Political Science* 36, (2006), 575-91.

³ H.L.A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1961), p. 99; Sir Charles Fergusson, letter to his brother, 25.04.1914, in I. W. F. Beckett, (ed. and intro.) *The Army and the Curragh Incident, 1914*, (London: Bodley Head for the Army Records Society, 1986), p. 340.

⁴ Dicey, *Law of the Constitution*, p. 189.

⁵ Ronald McNeill, *Ulster's Stand for Union*, (London: John Murray 1922), p. 289.

⁶ The Curragh, Co. Kildare, in Ireland's horse country, was the main cavalry base of the British Army. No officer disobeyed an actual order. However, the *Manchester Guardian* (24.03.1914) condemned their actions, in a powerful leader probably by C. E. Montague, as 'the contingent mutiny of the cavalry officers in Ireland'.

⁷ The maximum term of a Parliament was seven years, reduced to five years by the Parliament Act 1911.

⁸ Because, as reported to Asquith's secretary, it would be 'tantamount to the destruction of the House of Lords'. J. A. Spender and Cyril Asquith, *Life of Herbert Henry Asquith, Lord Oxford and Asquith* (2 vols London: Hutchinson, 1932), I., 262.

⁹ Roy Jenkins, *Mr Balfour's Poodle* 2nd edn (London: Collins, 1968), pp. 122-3, 173-83, 213-65.

¹⁰ Normalized Banzhaf indices for the Parliament of December 1910: Liberals, Conservatives, Irish Party: 1/3 each; Labour Party, 0. Iain McLean, *Rational Choice and British Politics* (Oxford: Oxford University Press, 2001), Table 4.3.

¹¹ McNeill, *Ulster's Stand*, p. 124.

¹² A.T.Q. Stewart, *The Ulster Crisis* (London: Faber & Faber, 1967), p. 69.

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- ¹³ Quoted in Robert Blake, *The Unknown Prime Minister: the life and times of Andrew Bonar Law 1858-1923*, (London: Eyre and Spottiswoode, 1955), p. 130.
- ¹⁴ J. W. Fortescue, *Military History* (Cambridge: Cambridge University Press, 1914), p. 60; Hew Strachan, *The Politics of the British Army* (Oxford: Clarendon Press, 1997), pp. 47-51.
- ¹⁵ Nuffield College, Oxford, Mottistone (J.E.B. Seely) MSS, Box 16.
- ¹⁶ Blake, *Unknown PM*, p. 182; Wilson diary, Imperial War Museum HHW 1/23. The Wilson diaries, which are in negative microfilm, are very hard to read; the printed transcriptions in Beckett, *Army and the Curragh Incident*, are sometimes incorrect.
- ¹⁷ Keith Surridge, 'All you soldiers are what we call pro-Boer': the military critique of the South African War, 1899-1902', *History* 82 (1997), 582-600.
- ¹⁸ Strachan, *Politics of the British Army*, pp. 4-6.
- ¹⁹ In terms of his position as DMO, not of his formal rank. As a major-general, he ranked equally with Sir Charles Fergusson and below Sir Arthur Paget, Sir Spencer Ewart, and Sir John French, all of whom he despised and outmanoeuvred. He drew much of his political capital in the Army from his association with the revered Lord Roberts.
- ²⁰ Churchill College, Cambridge. Bull MSS, 4/8, Capt H. P. Budden to Bull, 16.06.1913.
- ²¹ Beckett, *Army and the Curragh Incident*, p. 7.
- ²² Cabinet memo by Augustine Birrell, 05.03.1914, in Mottistone MSS Box 16.
- ²³ Surridge, 'All you soldiers are what we call pro-Boer', pp. 582-3. Surridge's title is Chamberlain's reply to Seely.
- ²⁴ Notes by Lt.-Col. I. G. Hogg on the events of 20-23 March 1914, in Beckett, *Army and the Curragh Incident*, p. 114.
- ²⁵ Maj. P. Howell to [C. Wigram], Curragh, 22.03.14, in Beckett, *Army and the Curragh Incident*, p. 103.
- ²⁶ A label applied by the former Unionist leader A.J. Balfour, which stuck.
- ²⁷ Gough gave his copy to his solicitor and refused all requests to return it. Quotations in this paragraph are from the version in Beckett, *Army and the Curragh Incident*, pp. 218-9.
- ²⁸ IWM HHW 1/23, Wilson diary, various dates between 21 and 29.03.1914. Lord Morley (Lord President of the Council) had been with Seely while he drafted the 'peccant paragraphs'. Lord Chancellor Haldane had preceded Seely as Secretary for War.

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- ²⁹ Fergusson to his brother, 25.03.1914, in Beckett, *Army and the Curragh Incident*, pp. 339-42. The letters from or on behalf of the king are Beckett's Documents 170-87, 193, 214, 227. That the king was beside himself with fury is clear from a letter in his own hand to Asquith on 21 March: 'As you will readily understand, I am grieved beyond words at this disastrous and irreparable catastrophe which has befallen my Army.... It is deplorable to think that gallant Officers have been drawn to take such fatal steps.... Now I must complain that I have been kept in complete ignorance.... I must request that no further steps are taken without my being consulted'. Bodleian Library, Oxford: MS Asquith 40 f.27.
- ³⁰ Stewart, *Ulster Crisis*, p. 136.
- ³¹ Fred Crawford, 'Diary of the gunrunning' in Public Record Office of Northern Ireland, PRONI D/1700/5/17/2/4.
- ³² Ibid, quoting the opening of Psalm 90 in the *Scottish Metrical Psalter*.
- ³³ Stewart, *Ulster Crisis*, p. 195.
- ³⁴ Police report, Larne, 25.04.14, in MS Asquith 41, ff. 36-7. Sir William Adair was a retired General in the Royal Marines. An intercepted Co. Fermanagh UVF mobilisation order in the Mottistone Papers, Box 16, gave two grades: against the police, 'Mobilization No. I – Without arms, but bring a truncheon or blackthorn'. Against the military presumably a Mobilization No. II 'With arms' would have been ordered.
- ³⁵ Stewart, *Ulster Crisis*, pp. 206, 208.
- ³⁶ PRONI D1507/A/5/28.
- ³⁷ 'Further notes on the Movement in Ulster', circulated to Cabinet by A. Birrell, 05.03.1914. MS Mottistone Box 16.
- ³⁸ George V to Asquith, 11.8.13 and 22.09.13. In Harold Nicolson, *King George the fifth: his life and reign*, (London: Constable, 1952). pp. 222-6. Compare Law's memo to the king, 1912, *ibid.*, p. 201 for the similarity of language. Asquith to George V, September 1913, in Roy Jenkins, *Asquith* (London: Collins, 1964) pp. 543-9.
- ³⁹ McLean and Nou, 'Why should we be beggars?'
- ⁴⁰ Asquith to George V, 'The constitutional position of the Sovereign', September 1913, in Jenkins, *Asquith*, p. 544.
- ⁴¹ Law to Lady N. Crichton Stuart (a Catholic), 10.07.1912, quoted by Blake, *Unknown PM*, p. 126.

⁴² The copy we use is itself a historic document. It is the copy on which Seely scribbled the names and locations of the arms dumps he asked Paget to order the Army to protect. Seely knew which dumps were in Protestant, and which in Catholic, territory.

⁴³ A. V. Dicey, *A Fool's Paradise: being a constitutionalist's criticism on the Home Rule bill of 1912*. (London: John Murray, 1913), p. ix; Iain McLean and Alistair McMillan, 'Professor Dicey's Contradictions', *Public Law* 00 (2007), 000-00.

⁴⁴ Stamfordham to Bonar Law, 22.03.14. Parliamentary Archives, Law MSS 72/1/65.

⁴⁵ But see McLean and McMillan, 'Professor Dicey's Contradictions'. A book-length discussion is planned.

⁴⁶ The main exceptions are George Dangerfield, *The Strange Death of Liberal England* (Paladin edn London: Granada, 1970; originally published in 1935); Jenkins, *Asquith*; Stewart, *Ulster Crisis*; and Alvin Jackson, *Home Rule: an Irish History 1800-2000* (London: Weidenfeld & Nicolson, 2003), the first historian to quote Crawford's claim to have seen Law and Long before Larne. Of these, Dangerfield has been perhaps written off as shrill (which he was, about industrial unrest and suffragism, which were smaller threats than he made them out to be). Jenkins is so urbane that readers seem to have missed his passionate unspoken contempt for the king and Law. Stewart is an uninhibited, but scholarly, celebration of the Goughites and the UVF. Prof. Jackson reports that his revelation from the Crawford papers was ignored by British reviews of his book, and celebrated by Irish republican reviewers (personal communication, 30.03.07).

⁴⁷ Vernon Bogdanor, *The Monarchy and the Constitution* (Oxford: Clarendon Press, 1995), pp. 116, 118, 128 (source of quotation).

⁴⁸ For a sample of the modern literature, cf Torsten Persson and Guido Tabellini, *the Economic Effects of Constitutions* (Cambridge, MA: MIT Press 2005), ch. 9; Torben Iversen and David Soskice, 'Electoral Institutions and the Politics of Coalitions: Why some Democracies Distribute More than Others', *American Political Science Review*, 100 (2006), 165-81.

⁴⁹ For the quite different voting behaviour of the post-1999 Lords, where the median peer is a Liberal Democrat, crossbencher, or bishop, see Meg Russell and Maria Sciara, 'The Policy Impact of Defeats in the House of Lords', paper to 2007 Political Studies Association conference, at <http://www.ucl.ac.uk/constitution->

unit/research/parliament/The%20Policy%20Impact%20of%20Defeats%20in%20the%20House%20of
%20Lords%20PSA%20final.pdf.

⁵⁰ Stewart, *Ulster Crisis*, p. 239. On 1 and 2 July 1916, the 36th Ulster Division lost 5,500 troops, killed, wounded, and missing. This exceeds the total toll of violent deaths in Northern Ireland from 1968 to date.

⁵¹ Steve Bruce, *God Save Ulster! the religion and politics of Paisleyism* (Oxford: Oxford University Press, 1986); *The Edge of the Union* (Oxford: Oxford University Press, 1994).