

Authority upon which we rely

The basis of the Constitution

The Constitution of this Country is unwritten or not codified. It has been built in stages throughout history starting with the Magna Carta (1215), Magna Carta 1216, Magna Carta 1297, followed by The Petition of Right (1628), The Bill of Rights (1689), The Acts of Union (1707), Act of Settlement 1701, The Parliament Act 1911, Habeas Corpus and the like.

Precedents

1. When alteration to the Constitution involves the transferring of the rights of citizens, and such a serious issue as the Sovereignty of the U.K., to a foreign entity, it is submitted that this required the direct assent of the electorate by a referendum or similar.

Whilst this Constitution has been 'amended' by Parliament over the years, this is acceptable, in that it is 'internal' and the Constitution continues 'as amended', but to transfer the Sovereignty or parts thereof to a foreign entity is of a different nature; that is 'external.'

For, once given away in this sense, it can never be retrieved and could be in breach of the Bill of Rights. Parliament does not have sovereignty to give away the Constitution, or parts thereof, and Parliament is the servant of the electorate; the electorate which is the truly supreme body and which has never given Parliament such rights to transfer sovereignty to a foreign entity, without first obtaining the consent or direct assent of the electorate must surely be an illegal act and against the will of the electorate.

2. The phrase 'consent of the governed' refers to the idea that a government's legitimacy and moral right to use state power is only justified and lawful when consented to by the people or society over which that political power is exercised. In support, Article 21 of the United Nation's 1948 Universal Declaration of Human Rights states that "The will of the people shall be the basis of the authority of government".
3. The electors are (in the words of Dicey's "Introduction for the Study of the Law of the Constitution" published in 1885) "*the body in which sovereign power is vested*". Dicey goes on to point out that "*in a political sense the electors are the most important part of, we may even say are actually, the sovereign power, since their will is under the present constitution sure to obtain ultimate obedience.*" Bagehot, author of The English Constitution, 1867, describes the nation, through Parliament, as "*the present sovereign*".
4. The Bill of Rights contains the following swearing of oath '*Supremacy, I AB, do swear that I do... ..And I do declare that no foreign Prince, Person, Prelate, State or Potentate hath or ought to have any Jurisdiction, Power, Superiority, Pre-eminence or Authority.*' Parliament and The Lords are required by law to affirm their allegiance by oath. The main principles of the Bill of Rights are still in force today.

5. There is a clear constitutional rationale for requiring a referendum in such circumstances. MPs are entrusted by the electorate with legislative power, but they are given no authority to transfer that power. That authority requires a specific mandate from the people. *'The Legislative,'* declares John Locke, in that bible of liberal constitutionalism, the Second Treatise of Government, Chapter 11,

sec.141 *"Fourthly, the legislature cannot transfer the power of making laws to any other hands. It was delegated to them from the people, and they aren't free to pass it on to others. Only the people can decide the form of the commonwealth, which they do by instituting a legislature and deciding whose hands to put it into. . . . The power of the legislature, being derived from the people by a positive voluntary grant and institution, can't be anything different from what that positive grant conveyed; and what it conveyed was the power to make laws, not to make legislators; so the legislature can have no power to transfer to anyone else their authority to make laws..... Fourthly, the legislature must not transfer the power of making laws to anyone else, or place it anywhere but where the people have placed it."*

John Locke, Second Treatises of Government (Chapter 9 Sec 216-217)

216. *Thirdly, when, by the arbitrary power of the king changes are made in who is to vote, for members of the legislature, or in how that vote is to be conducted, without the consent of the people and contrary to their common interests, there again the legislature is altered. For if the voting is done by people other than those whom the society has authorized to vote, or is done in another way than what the society has prescribed, those chosen are not the legislature appointed by the people.*

217. *Fourthly, if the people are delivered into the subjection of a foreign power, whether by the king or by the legislature, that is certainly a change of the legislature and thus dissolution of the government. . . ."*

6. Even in *Westphalian Sovereignty* (the principle of international law) each nation-state has exclusive sovereignty over its territory. **External** powers should not interfere in another country's domestic affairs. Each state, no matter how large or small, has equal rights to sovereignty. The principle underlies the modern international system of sovereign states. The United Nations Charter states that "nothing should authorise intervention in matters essentially within the domestic jurisdiction of any state." Yet, the 1972 European Communities Act was the piece of legislation that brought the UK into the European Union: it gives EU law supremacy over UK national law. Where the interpretation of EU law is in doubt, the 1972 Act requires UK courts to refer judgment to the European Court of Justice. All primary legislation enacted by the UK Parliament after the 1972 Act came into force on 1 January 1973, has effect subject to the requirements of EU law. This means that the courts are obliged to strike down legislation which is inconsistent with EU law.

The Breach

In 1961, MacMillan and Heath were both fully aware and briefed, by the allies of Frenchman Jean Monnet, who had drafted the 'Schuman Declaration' in 1950, and as to the project's ultimate goal - full economic and political union. Under the 30 year rule, it showed that the Cabinet accepted their urging but that this should not be revealed to the public or Parliament. It was then sold to the British people as a 'Common Market' for trade only.

In January 1972, Edward Heath signed the 'Treaty of Accession' which gave up Parliaments' rights to be the supreme law making authority in the country.

The UK joined the EEC, after Edward Heath had secretly handed over our fishing rights and it was not until 1973, by Harold Wilson, that the electorate was asked for its consent by way of a referendum, however this was asking the electorate to confirm the non-existent terms he had 'renegotiated, and assuring no loss of sovereignty. However, it was misleading as the UK had already been signed up to the EEC, prior to the electorates consent.

In 1986, Margaret Thatcher signed 'The Single European Treaty', changing the EEC to the European Community.

In 1993, John Major signed the 'Maastricht Treaty; which not only changed to the European Union but made all the British people, including the Queen, citizens of the EU with obligations to the Union. Further directives and regulations from the EU were imposed upon the country and the country was further governed directly by the unelected European Commission. This also gave the EU its own foreign and defense policies. Article 247 of that Treaty, requires member states of the Community to ratify Maastricht "in accordance with their respective constitutional requirements". Ratification of this Treaty by other Member States was done so, after first having had referendums within their respective countries. In accordance with British constitutional convention, specifically that of parliamentary sovereignty, ratification in the UK was not subject to approval by referendum. In regards to the ratification of the Maastricht Treaty, Douglas Hurd had argued that, while the Danish, French and Irish constitutions require or allow for a referendum, in Britain it is Parliament that decides. This may be so in relation to '**internal**' affairs of the country but not to '**externally**' passing our sovereignty to a foreign entity, which is both illegal and unconstitutional.

In 1999, the 'Treaty of Amsterdam' and the 2001 'Treaty of Nice' were signed by Tony Blair creating the Europol secret police and Corpus Juris (European law) to replace our common law. Tony Blair, by signing this Treaty, agreed to devolve certain powers from the national government to the European Union, including legislation on immigration, civil and criminal law, and enacting foreign and security policy. To maintain in full *acquis communautaire*^(a) and build on it. The 'Treaty of Nice' provided for the creation of subsidiary courts, European Court of Justice and Court of the First Instance with special areas of law, as well as increasing presidential powers to the President and enlargement of the European Union.

(a) It is the cumulative body of European Union legislation consisting of primary (treaties and protocols) and secondary legislation (regulations, directives and decisions) and the case law of the European Court of Justice. The *acquis* therefore comprises the objectives of the European Union, its policies and the rules governing these policies. The *acquis* is fundamental and dynamic, constantly developing as the European Union evolves. All member states are bound to comply with the *acquis communautaire* because EU law has primacy over national law. (Glossary European Union)

In 2004, Tony Blair considered signing the 'European Constitutional Treaty' which was set up to finalise the creation of the new super state 'The United States of Europe'. However, this was not ratified.

In 2007, Gordon Brown signed 'The Lisbon Treaty'. This treaty was mainly described as an amending treaty but had originally meant to form the European Constitution. Fifty-five articles of the Charter of Fundamental Rights of the European Union enshrine certain political, social, and economic rights into EU law. In the rejected 'Treaty establishing a Constitution for Europe' the charter was integrated as a part of the treaty itself. In the Lisbon Treaty, however, the charter is incorporated by reference and given legal status without forming part of the treaties. With the signing of the Treaty of Lisbon on 17 December 2007 and its entry into force on 1 December 2009 the Constitutional Treaty was, in parts, integrated into EU law. Other parts will remain a footnote in the process of European integration. Mr. Brown, had at the time, faced widespread revolt and threat of legal action, after forcing the Treaty into law without a promised Referendum. This, too, was transferring powers and sovereignty to a foreign entity for which he had no consent from the electorate.

Even in 1993, The House of Lords debated whether the Maastricht Treaty on European Union should be put to a referendum, with some members arguing the people had a right to vote on the controversial plan and others warning a vote would undermine the government of Prime Minister John Major. Former Prime Minister Margaret Thatcher opposed her Conservative Party's position on the issue despite warnings it would damage Major, arguing the government already had ceded too much power to the European Community and should seek public backing before making any more concessions. 'Yes, we got our fingers burnt,' Thatcher said. '*Do not now go back to that same fire with a much bigger treaty with many more powers and get both your arms and perhaps your head burnt as well.*' Lord Robert Blake said '*I believe there is a strong moral case for a referendum on Maastricht in all the circumstances.*' '*This is a golden chance to show that the (politicians) are in favor of the people.*'

Our 'membership' of the EU has never therefore been constitutionally lawful and all past payments and taxes to the EU by the Governments over the years have been unlawfully made.

The People give their Sovereignty to Parliament for a period of time through elections. They DO NOT give their Sovereignty to Parliament for them to then hand it to someone else.

We now have an opportunity to remedy this Breach by reclaiming our Sovereignty and powers, in total, by leaving the EU in its entirety. This Breach was, in the circumstances, tantamount to treason.

By making this Declaration and containing it within our uncodified Constitution, we the Sovereign People will ensure the safety of our Sovereignty not only for the United Kingdom but for generations to come.

"Whenever the Legislators endeavour to take away, and destroy the Property of the People, or to reduce them to Slavery under Arbitrary Power, they put themselves into a state of War with the People, who are thereupon absolved from any farther Obedience, and are left to the common Refuge, which God hath provided for all Men, against Force and Violence. When so ever therefore the Legislative shall transgress this fundamental Rule of Society; and either by Ambition, Fear, Folly or Corruption, endeavour to grasp themselves, or put into the hands of any other an Absolute Power over the Lives, Liberties, and Estates of the People; By this breach of Trust they forfeit the Power, the People had put into their hands, for quite contrary ends, and it devolves to the People, who have a Right to resume their original Liberty."
(Locke, Two Treaties of Government) (Magna Carta Article 61).