

The British Constitution

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Until recently, the Ministry of Justice had this to say about the Constitution:

The British Constitution is not, as it is in many countries, a 'written constitution'. It is not codified in a single document but is made up of a complex web of statutes, conventions, and a corpus of common and other law. It is also informed by an interweaving of history and more modern democratic principles. The legal premise of the United Kingdom constitution - that the UK parliament is sovereign - is a fundamental part of our constitutional arrangements. This means that an Act of Parliament must be obeyed by the courts, that later acts prevail over earlier ones, and that the rules made by external bodies cannot override Acts of Parliament.

The Bill of Rights 1689 and Magna Carta are important elements of our constitution. Magna Carta is Primary legislation and has the same status as any other legislation and is not immune from repeal or amendment. The same applies to the Bill of Rights which was an ordinary Act of Parliament passed in the ordinary way.

This statement is untrue - it is a political interpretation, with a political agenda. It is designed to nullify our Constitution and the protections it provides.

The first line, for example, states that the British Constitution is "unwritten". This is untrue, often repeated and unqualified in the press. It is strange that the Ministry of Justice would make such a statement, since the British Constitution is the basis for many of the world's constitutions, including those of the United States, Canada, Australia, New Zealand and India.

It is worth quoting U.S. President John Adams here, because he makes a few points to which we should pay close attention.

Discussing the British Parliament and Constitution, he wrote:

If the people are not equitably represented in the house of commons,

this is a departure in practice from the theory. If the lords return members of the house of commons, this is an additional disturbance of the balance: whether the crown and the people in such a case will not see the necessity of uniting in a remedy, are questions beyond my pretensions: I only contend that the English constitution is, in theory, the most stupendous fabric of human invention, both for the adjustment of the balance, and the prevention of its vibrations; and that the Americans ought to be applauded instead of censured, for imitating it, as far as they have. Not the formation of languages, not the whole art of navigation and ship building, does more honour to the human understanding than this system of government.

So what is this Constitution that the Ministry of Justice denies, and yet was held in high regard by one of the authors of the American constitution? Why would they wish to brush it under the carpet? Could it be that it has been treasonously and unlawfully undermined?

Common Law

Common Law was established by Alfred the Great, who reigned from 871-899AD. He compiled the laws and customs of the nation into the "Liber Judicialis," based on the Ten Commandments and the Golden Rule. Alfred's son, Edward, declared:

To all who are charged with the administration of public affairs I give the express command that they show themselves in all things to be just judges precisely as in the Liber Judicialis it is written; nor shall any of them fear to declare the common law freely and courageously.

In contradiction to the Common Law, the Civil Law of Rome prevailed in continental Europe. When William the Conqueror invaded in 1066, he brought with him jurists and clerics steeped in the principles of Roman civil law. Our ancient laws and customs withstood the shock, and remained without any serious amendment. Common Law includes the Charter of Liberties, which makes the Monarch subject to the law, the 1102 Synod of Westminster, which abolished slavery

in England, the 1627 Petition of Right, which granted the right to criticise the government without fear of arrest, as well as Magna Carta and the Declaration of Right. Common Law defends property rights and rights to self defence.

Many of our greatest constitutional documents are Common Law documents. These are not Acts of Parliament. Their principles cannot be repealed by Parliament, and when our Monarch swore to uphold the "laws and customs" of the people of the United Kingdom at her Coronation, those "laws and customs" include Common Law.

Magna Carta

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, nor will we proceed with force against him except by the lawful judgement of his equals or by the law of the land. To no one will we sell, to no one deny or delay right or justice.

Magna Carta - a Common Law document - came into being in 1215; a contract between the knights, barons, clergy, townspeople and the King. Magna Carta affirmed the right of the People to such things as trial by jury, and protection from excessive fines.

In 1297 the Model Parliament confirmed Magna Carta in statute law. Much of this statute has since been repealed. Yet while Parliament can repeal or amend any Act of Parliament (statute), Parliament was not a party to the original Common Law contract, and cannot, therefore, amend or repeal it lawfully, and thus its original provisions remain intact.

Constitutional Convention 1215

Lord Blackstone is most famous for having written his Commentaries on the Laws of England, but he also wrote a book on Magna Carta. This is what he had to say of the circumstances leading to the constitutional convention which led to Magna Carta:

On the 5th May, the barons, having chosen as their leader, Robert Fitzwalter ... performed the solemn feudal ceremony of diffidatio, or renunciation of their fealty and homage, a formality indispensable before vassals could, without infamy, wage war upon their feudal overlord. Absolved of their allegiance ... they marched on London.

What this demonstrates is that having taken an oath of allegiance which one might assume is for life, is not, and so allegiance can be withdrawn if the Monarch is in breach of their contract with the people.

Blackstone continues:

It was on the 15th June, then, in the year 1215, that the conference began between John, supported by a slender following of half-hearted magnates, upon the one side, and the mail-clad barons, back by a multitude of well-armed knights, upon the other. The conference lasted for eight days, from Monday of one week till Tuesday of the next. On Monday the 15th, John set seal to the demands presented to him by the barons, accepting every one of their "Articles," with the additional "Forma Securitatis" or executive clause, vesting in twenty-five of their number full authority to constrain King John by force to observe its provisions.

Right to Rebel

That "full authority to constrain ... by force" is one of the key features of Magna Carta: our right to rebel should the government of the day be operating outside its lawful authority.

Article 61 states:

Since we have granted all these things for God, for the better ordering of our kingdom, and to allay the discord that has arisen between us and our barons, and since we desire that they shall be enjoyed in their entirety, with lasting strength, for ever, we give and grant the barons the following security:

The barons shall elect twenty-five of their number to keep, and cause

to be observed with all their might, the peace and liberties granted and confirmed to them by this charter ...

The baron's committee is formed whenever the people petition them with their grievances, and this was done in 1999.

Article 61 continues:

If we, our chief justice, our officials, or any of our servants offend in any respect against and man, or transgress any of the articles of the peace or of this security, and the offence is made known to four of the said twenty-five barons, they shall come to us - or in our absence from the kingdom to the chief justice - to declare it and claim immediate redress by seizing our castles, lands, possessions, or anything else save only our own person and those of the queen and our children, until they have secured such redress as they have determined upon. Having secured the redress, they may then resume their normal obedience to us ...

The phrase "until they have secured such redress as they have determined upon" gives the authority for a constitutional convention. There have been three such conventions in the last 800 years.

The first was at Runnymede when Magna Carta was signed. The barons were the final court of appeal, as they still are under our Common Law, and determinations made by the barons have the status of a legal judgement. So the barons met at Windsor Castle, with the full support of the people who had risen up, and Magna Carta was the result.

Article 61 continues:

Any man who so desires may take an oath to obey the commands of the twenty five barons for the achievement of these end, and to join with them in assailing us to the utmost of his power. We give public and free permission to take this oath to any man who so desires, and at no time will we prohibit and man from taking it. Indeed, we will compel any of our subjects who are unwilling to take it to swear it at

our command.

In other words, it is our duty to step in and require the Monarch to uphold their contract with the people. Sovereignty lies with the people and the Monarch is bound by that oath to hold an out-of-control government to account.

Declaration Of Right

The Petition of Right at the beginning of the 17th century, and the Declaration of Right and Bill of Rights at the end, embody a century long fight to constrain the power of Government. At that time it was the Monarch who desired a divine right. Today it is our Parliamentarians. The Petition of Right and Declaration of Right are Common Law contracts between the People and the Crown. The Bill of Rights is a statute law enactment of the Declaration of Right.

The Declaration of Right was imposed upon William and Mary as a condition of their assuming the Crown - in other words, they would only be elected by the People if they accepted its terms.

The Declaration of Right, and the Bill of Rights, clearly state that - no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm.

So it can clearly be seen that every EU treaty imposed upon us by Parliament, is unconstitutional. Here is the evidence that our present Monarch has indeed broken her Coronation Oath, by giving Royal Assent to these treaties.

Other constitutional rights given by these contracts:

- The right to bear arms
- The right to petition the Sovereign
- Free men cannot be imprisoned without cause
- The Government cannot arrest any man because he disagrees with the Government's policies

- Habeas corpus is not to be denied
- No person will be compelled to make loans to the King, and there will be no tax without the approval of Parliament
- Soldiers and sailors will not be billeted on civilians
- Government will not impose martial law during peacetime

The right to bear arms gives every person the right to self defence using reasonable force, including deadly force if appropriate. Using tragic events as an excuse to remove that right has historically been the work of governments with good reason to fear their people - governments intent on some kind of future totalitarian control of their populations.

First Statute of Westminster

The word Parliament comes from the French word parlement. Parlement is derived from parler, to speak, and ment, which according to Bullet's Celtic dictionary, published in 1754, is synonymous with quantité. So Parliament means, lots of talk, a discussion. Some suggest a more ironic derivation for the word, that ment is derived from the French verb mentir, to lie. The first known use of the word mentir is the 10th century, well before the first Parliament, so maybe ... The second explanation certainly seems more appropriate in modern Britain.

The first English Parliament took place in 1265, during the reign of Henry III. The Parliament was called by Simon de Montford, who had captured Henry during the Barons Wars. Montford's Parliament was the first council to include elected representatives from the shires and boroughs - one of many reforms Montford's rebellion was about.

Montford died defending his reforms, but in 1275, Robert Burnell incorporated them into the first Statute of Westminster, passed during the reign of Edward I. According to William Stubbs, the British constitutional historian:

This act is almost a code by itself; it contains fifty-one clauses, and

covers the whole ground of legislation. Its language now recalls that of Canute or Alfred, now anticipates that of our own day; on the one hand common right is to be done to all, as well poor as rich, without respect of persons; on the other, elections are to be free, and no man is by force, malice or menace, to disturb them. The spirit of the Great Charter is not less discernible: excessive ameracements, abuses of wardship, irregular demands for feudal aids, are forbidden in the same words or by amending enactments.

Clause 15, known as the Freedom of Election Act 1275, is still in force today.

The Coronation Oath

The Coronation Oath is the freely taken and mutual covenant between the Monarch and the People of Britain. During the Coronation ceremony, the People effectively elect the Monarch, and in return, the Monarch swears the Coronation Oath. Here is the Oath Elizabeth II swore:

Archbishop: Will you solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, Pakistan and Ceylon, and of your Possessions and other Territories to any of them belonging or pertaining, according to their respective laws and customs?

Queen: I solemnly promise so to do.

Archbishop: Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?

Queen: I will.

Six British Monarchs have been deposed in one form or another, having been deselected for their failure to maintain the rights and liberties of the People. They were Ethelred, Richard II, Henry VI, Charles I (executed), James II and Edward VIII.

We have a tripartite government in this country. Parliament, the Judiciary and the Monarchy are intended to provide protections and limits upon each other. One of those limiting powers is Royal Assent. Since Queen Anne, no British Monarch has withheld Royal Assent from an Act of Parliament. Nevertheless it remains there as the exclusive authority of the Monarch, to be used when necessary on behalf of the People. As such, several of our Sovereigns since Anne, especially the present Queen, have broken their Coronation Oath by refusing to withhold Royal Assent from unconstitutional statute. While Government is tripartite, we the People must recognise our role in demanding our good governance. Remember what John Adams said?

... whether the crown and the people in such a case will not see the necessity of uniting in a remedy.

If we are unhappy with the manner in which we are governed, we have no right to a remedy until we are willing to act in our own defence. We must demand that our Monarch lives by the oath she took. If she does not, we must seek redress elsewhere.

Conclusion

There are many unwritten customs which are considered to be ancient traditions that have always belonged to the People. One obvious example is the right to free speech, for which, unlike the U.S. Constitution, there is no written provision within the British Constitution. So while we have shown in the previous pages that our rights and liberties are clearly stated in written contracts, it is also true that many of our rights, whilst not in written form, are equally valid.

Today the British Constitution is in grave danger. Moves are afoot to replace the Bill of Rights and the Act of Settlement. These are to be replaced by a new "Bill of Rights" and a European constitution. Britain's constitutional documents are timeless, and were constructed

by the People. The new "constitutional" documents will be written by politicians. Which would you trust?

Parliament has grabbed executive power from the Crown. The House of Lords has become a body which blindly follows the party whip. And today, our Monarch simply complies with the wishes of the Prime Minister, with no thought or consideration to our sovereignty or the Constitution. Nor, it seems, to the solemn oath she took at her Coronation.

*[executive power] will corrupt the legislature as necessarily as rust
corrupts iron ...*

and when the legislature is corrupted, the people are undone.

John Adams