

The European Constitution

What is the position in 2011?

History of constitutions

Does Britain have a constitution?

Where do we stand now?

What is it?

Is it necessary?

Constitutions in history

Athens – home of democracy

Rome – SPQR

Magna Carta – England 1215

Bill of Rights – England 1689

Act of Settlement – England 1701

American Constitution - 1785

Origins of constitutional government in Britain

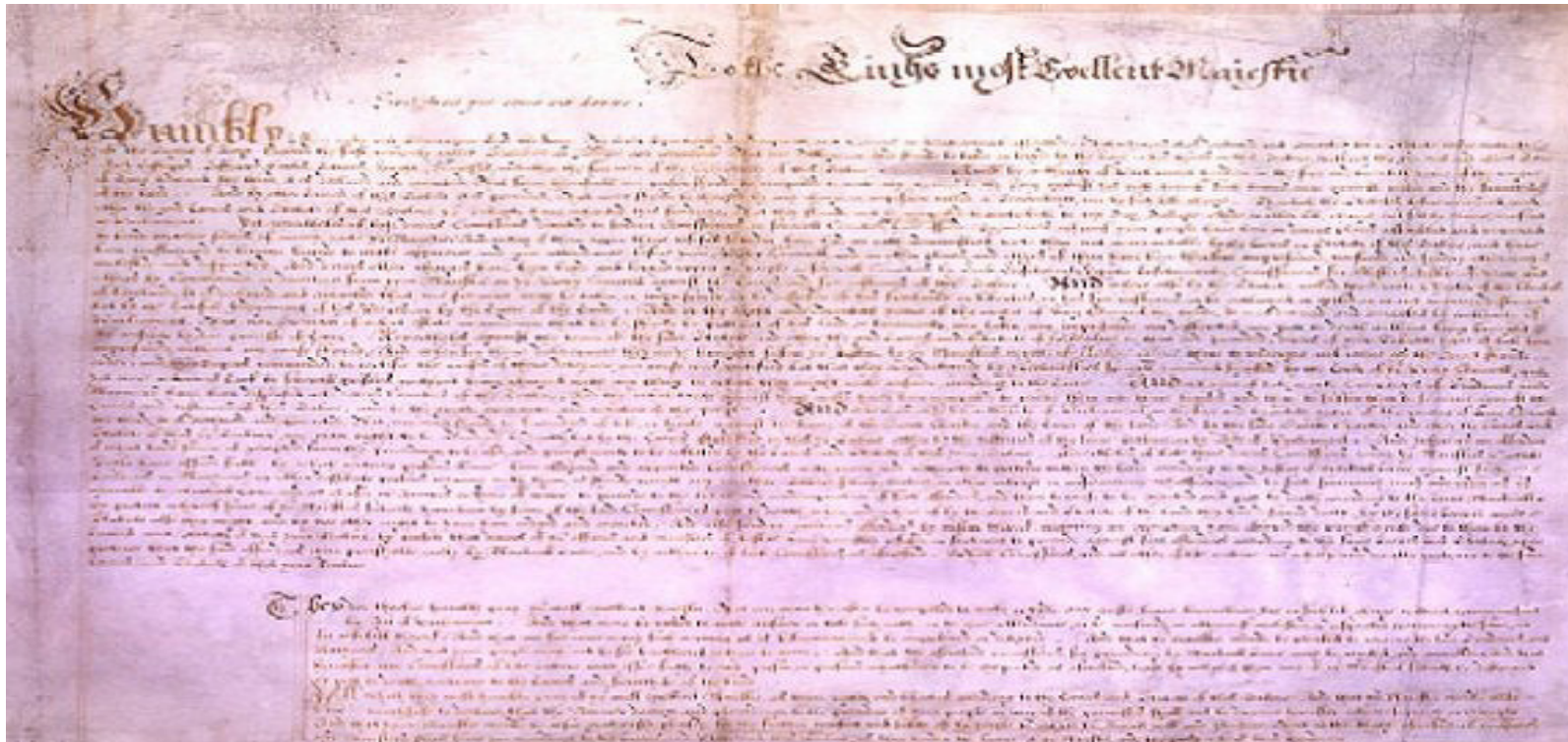
Magna Carta

King John of England agreed, in 1215, to the demands of his barons and authorized that handwritten copies of Magna Carta be prepared. He bound not only himself but his "heirs, for ever" to grant "to all freemen of our kingdom" the rights and liberties the great charter described. With Magna Carta, King John placed himself and England's future sovereigns and magistrates within the rule of law.

It was the foundation for fundamental English rights including trial by jury, equality before the law, and freedom from arbitrary arrest

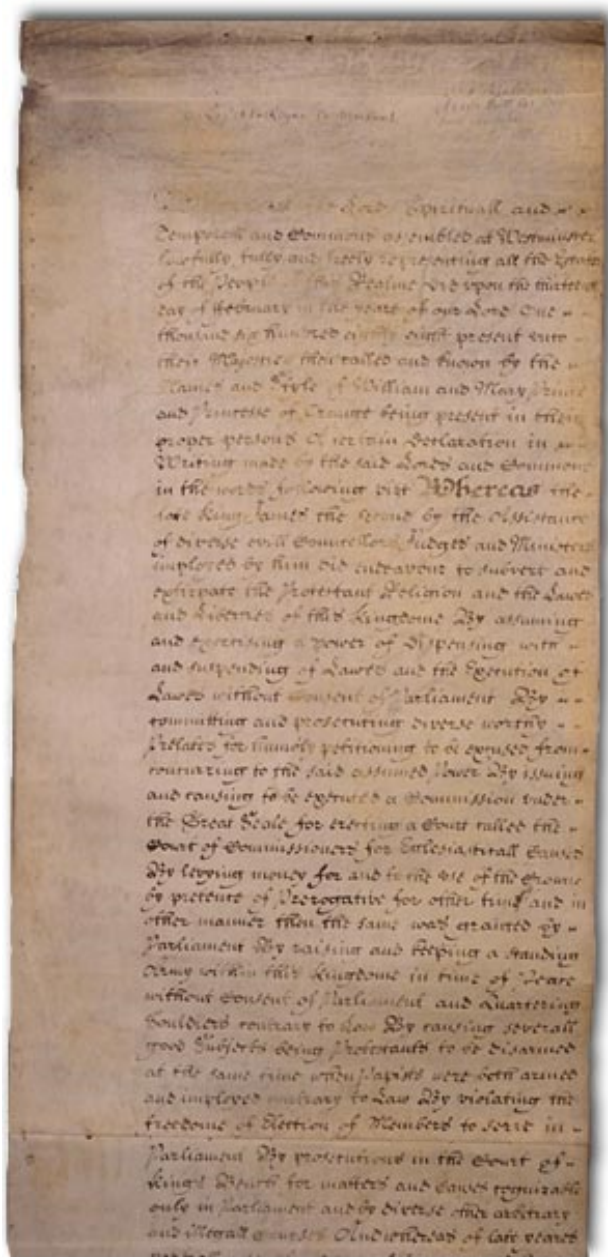


Petition of Right 1628



Political tension concerning the power of Parliament and the 'rights and liberties of the subject'. In 1628 the House of Commons drafted this petition proclaiming, the illegality of taxation without parliamentary consent and of arbitrary imprisonment and freedom from martial law.

<http://www.parliament.uk/about/images/historical/1628petitionright.cfm>



The Bill of Rights 1689

defined basic freedoms

It is an English Act of Parliament

It is a predecessor of

the United States Constitution,

the United Nations Universal
Declaration of Human Rights

and the European Convention on
Human Rights

English Common Law is derived from **Magna Carta**.

This is the foundation of constitutional government in UK, USA, Canada, Australia, New Zealand, India etc

British Constitution

Britain has no written, codified, constitution

We find the key rules and practices of the British system in a number of places:

- Statute Law – parliament is supreme

- Common Law – developed and applied by the courts

 - by precedent

- Royal Prerogative – actually the Prime Minister's authority

- Conventions

- Authoritative Works

- International Treaties and Agreements

 - United Nations

 - EU – limits supremacy of parliament

Key features of the British Constitution:

Uncodified

Not entrenched

Flexible

Unitary (excluding recent devolution)

Key principles:

Rule of law

Lack of separation of powers

Parliamentary sovereignty

Accountability – Prime Minister's Questions PMQs

The functions of any constitution should be:

- 1) To distribute power within the political system
- 2) To limit the power of the Government
- 3) To establish the rights of the citizens
- 4) To define the nature of citizenship
- 5) To define the territory governed by the constitution
- 6) To define relationships with external bodies
- 7) To establish how the constitution itself can be amended

The American Constitution



We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

(Four pages)

Also:-

Bill of Rights

International treaties and constitutions



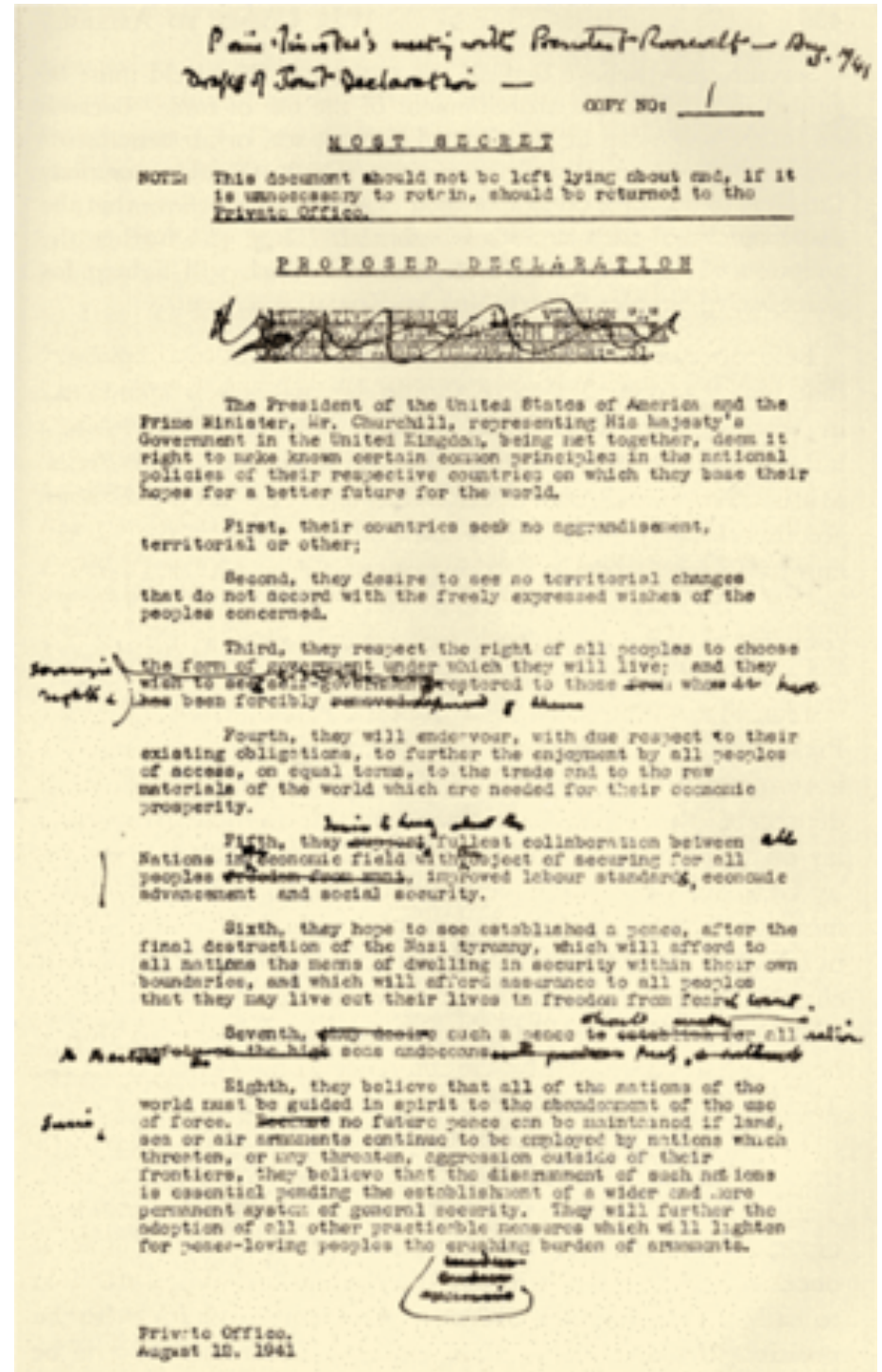
Placentia Bay 14 August 1941

Prime Minister Churchill and President Roosevelt met at Placentia Bay aboard the USS Augusta and on HMS Prince of Wales on 14 August 1941.

They formulated eight common principles in the national policies of their respective countries on which they base their hopes for a better future for the world.

THE ATLANTIC CHARTER

August 1941



THE ATLANTIC CHARTER eight principles

August 1941

1. no aggrandizement, territorial or other;
2. no territorial changes that do not accord with the freely expressed wishes of the peoples concerned;
3. respect the right of all peoples to choose the form of government under which they will live.
4. all States have access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity;
5. ... collaboration between all nations in the economic field with the object of securing, for all, improved labour standards, economic advancement and social security;
6. .. to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want;
7. all men to traverse the high seas and oceans without hindrance;
8. of the nations of the world, for realistic as well as spiritual reasons must come to the abandonment of the use of force...

Franklin D. Roosevelt
Winston S. Churchill

The Atlantic Charter was the forerunner of:-



(The North Atlantic Treaty signed on 4 April 1949).

The United Nations



The United Nations officially came into existence on 24 October 1945. The first General Assembly, with 51 nations represented opened on 10 January 1946 in Central Hall, Westminster, London.

Britain was, de facto, a founder member of both organisations

The Atlantic Charter was the forerunner of:- Bretton Woods 1944

Financial and economic charter

International Monetary Fund

International Bank for Reconstruction & Development

World Bank

Bank for International Settlements

Original arrangements collapsed,
currencies floated in 1970s

G8 and WTO as co-ordinating influences

Harry Dexter White (left) and
John Maynard Keynes (right) at the
Bretton Woods Conference



Is Britain capable of formulating a constitution?

The constitution of Canada was formulated and enacted in the UK parliament

The Canada Act, 1982

including the Constitution Act, 1982

House of Commons, London

29th March 1982



Whereas Canada has requested and consented to the enactment of an Act of the Parliament of the United Kingdom to give effect to the provisions hereinafter set forth and the Senate and the House of Commons of Canada in Parliament assembled have submitted an address to Her Majesty requesting that Her Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that Purpose.

The European Constitution

February 2002: Convention starts work

June 2003: Draft submitted to EU Thessaloniki summit

December 2003: Brussels summit fails to agree final text

May 2004: EU enlarges to 25

June 2004: Text agreed

But

Purpose of the constitution

The constitution brings together for the first time the many treaties and agreements on which the EU is based.

It defines the powers of the EU, stating where it can and act and where the member states retain their right of veto.

It also defines the role of the EU institutions

<http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/2950276.stm>

Published: 2004/06/22 10:57:51 GMT

What is contained in the constitution?

POWERS OF THE EU
DIVISION OF RESPONSIBILITIES
DECISION MAKING
QUALIFIED MAJORITY VOTING (QMV)
PRESIDENT
FOREIGN MINISTER
FOREIGN AND DEFENCE POLICY
REFORM OF THE COMMISSION
EUROPEAN PARLIAMENT
CHARTER OF FUNDAMENTAL RIGHTS
LEGAL SUPREMACY
LEAVING THE EU

But..... How many pages?

800 pages – did anyone ever read it?!

EU constitution: British red lines

The "red lines" were outlined in a white paper in 2002:

Defence : UK must remain in control of its own defence and foreign policy. European defence cooperation must not undermine or replace NATO

Treaty changes : UK says opposes the removal of the national veto for major decisions on the EU's future.

Tax : Taxation must be decided by nation states alone.

Justice : The UK opposes majority voting on steps to harmonise European law systems. It will not give up frontier patrols.

Social Security: Social support systems are very complicated so the EU should only make changes through unanimous votes.

European resources : The UK wants any changes to the EU's right to raise certain funds to be agreed by unanimity alone. That would protect the controversial British annual budget rebate, secured by Margaret Thatcher in the 1980s.

The European Constitution

No / non / nee

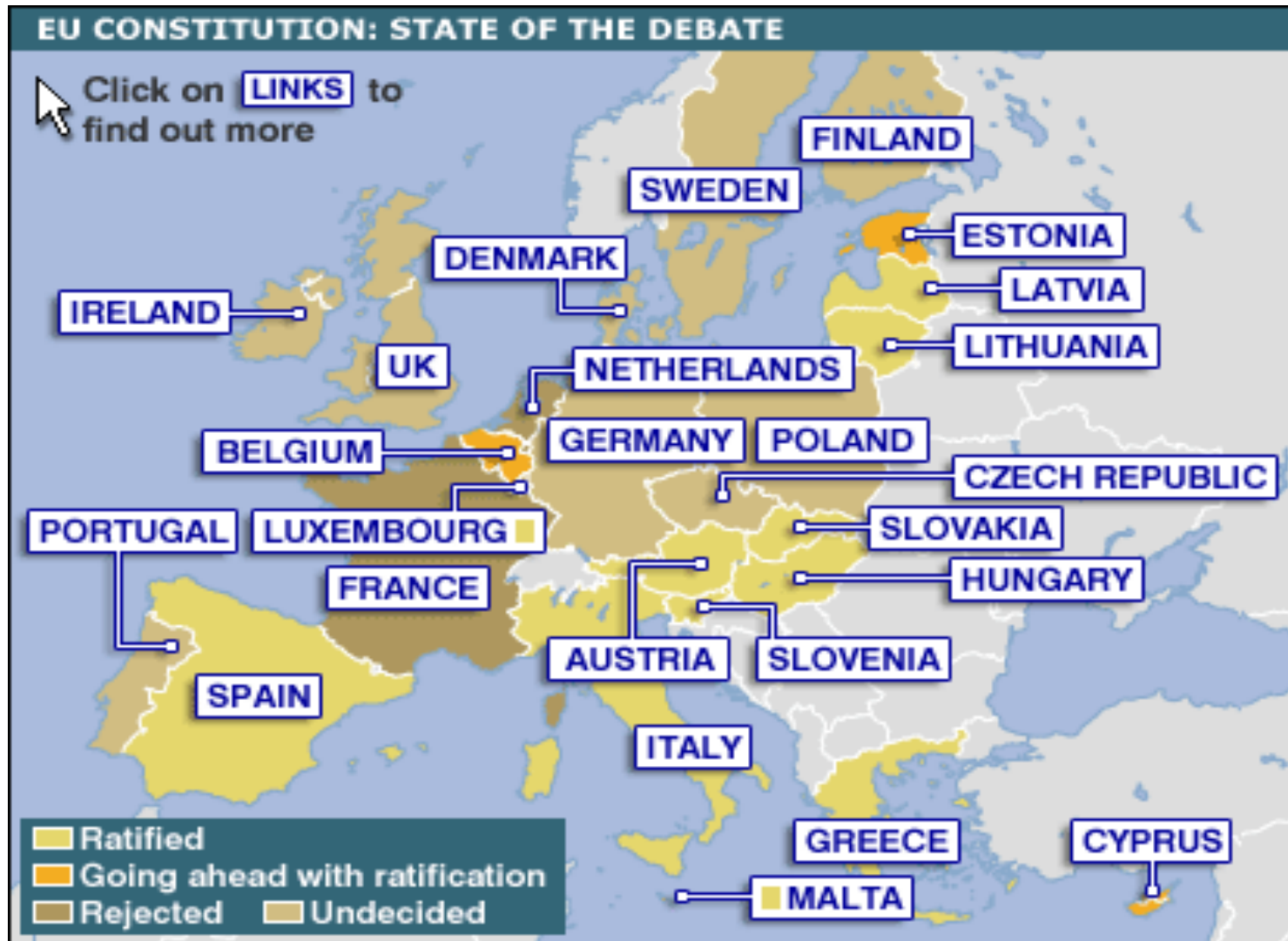


The European Constitution was signed on 29 October 2004 at a ceremony in Rome, to be ratified by all 25 member states within two years

Twelve countries ratified the treaty: Austria, Cyprus, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Slovakia, Slovenia and Spain.

Two countries voted “no” in referendums - In May 2005 France by 55% to 45%; in June 2005 the Netherlands by 61% to 39%.

EU leaders at a 16-17 June 2005 summit in Brussels called for a "pause for reflection" and scrapped the original 2006 ratification deadline.



<http://news.bbc.co.uk/2/hi/europe/3954327.stm>

The Lisbon Treaty replaced the European Constitution



On 13 December 2007, EU leaders signed the Treaty of Lisbon, thus bringing to an end several years of negotiation about institutional issues.

A more democratic and transparent Europe

Efficient and modern institutions

A Europe of rights and values

The EU in the world

More Justice, Freedom and Security

Policies for a better life

http://europa.eu/lisbon_treaty/glance/index_en.htm

The Treaty of Lisbon amends the current EU and EC treaties, without replacing them. It will provide the Union with the legal framework and tools necessary to meet future challenges and to respond to citizens' demands.



The Lisbon Treaty

Why does the Lisbon Treaty matter?

The Lisbon Treaty matters - because how well the European Union performs as an organisation affects the daily lives of everyone in the United Kingdom.

When the EU works well, it can help us achieve the things we all want - more jobs, more opportunities, a safer and more open society, and greater influence for the UK on the big issues of the day.

The EU now represents 27 countries and over 490 million people. Reform of the EU's institutions and working practices is needed to ensure that it can continue to function effectively.

Getting agreement on these changes will mean that the EU can work harder on the things that matter to citizens across Europe.

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1139992024177>

But will Britain ever have a written constitution?