

Should Britain Have a Written Constitution?

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I

‘We Englishmen’, declares Mr Podsnap in Charles Dickens’s novel, *Our Mutual Friend*, ‘are Very Proud of our Constitution—It was Bestowed Upon Us by providence. No other Country is so Favoured as this Country’.

What Dickens intended as satire seemed to many, until the second half of the twentieth century, no more than sober realism. Indeed, Mr Podsnap’s view was to be echoed not only in Britain but also by observers in other countries, who studied the British constitution to discover the secret of successful government, the secret of how to combine freedom with stability. Today, however, Mr Podsnap is out of fashion, and, in its July 2007 Green Paper on *The Governance of Britain*,¹ the incoming Brown government cautiously airs the idea of a ‘written constitution’ for the United Kingdom (paras 212–3). Would a written constitution be either feasible or desirable?

A written—more properly, a codified—constitution provides a clear, accessible and coherent account of the body of fundamental rules and principles according to which the state and society are constituted and governed. In addition, it defines the powers of the institutions of government and sets out the rights of individuals and their responsibilities.

Constitutional romantics would claim that there already is an excellent British constitution in place, a constitution that has served Britain well for centuries, but

happens to be uncodified and, in part, unwritten. The trouble is, however, that an uncodified constitution yields insufficient clarity in many important areas. In the autumn term of 2006, Vernon Bogdanor and Stefan Vogenauer held a seminar at Oxford, at which students were asked to draft a constitution for Britain. Tarunabh Khaitan, a doctoral student, played a prominent part in the exercise. The students were asked to draft the constitution as it actually is rather than as it might be or as it ought to be. They soon realised that there were many areas of unclarity. Is there, for example, a constitutional requirement for a referendum before legislative powers are transferred from Westminster to a devolved body? Is there now, following the precedent of the House of Commons vote before the Iraq war, a constitutional requirement for Parliament to approve significant, non-routine deployments of the armed forces into armed conflict?

The answers that the students gave to these and many other equally important questions can be seen in their draft constitution, published below in this issue of *The Political Quarterly* and also as an appendix to Chris Bryant’s volume, *Towards a New Constitutional Settlement*.² But it is impossible to say whether the students’ answers accurately reflected the present state of the constitution—precisely because nobody knows what the constitutional position actually is.

Some might concede the need for further constitutional reform, but suggest

that this need not entail a codified constitution. Instead, we should, so they would argue, continue to act in the traditional spirit of British law reform, which is not that of systematic, rational and comprehensive codification of an entire area of law, but rather one of organic and incremental adjustment. Further amendments to the constitution, therefore, should be made in a piecemeal manner.

This would not, however, yield the clarity and accessibility that only a constitution could produce; and it would fail to confront two frequent criticisms of the programme of constitutional reform since 1997, namely that it has been conducted not only in a disconnected fashion, but sometimes also in a procedurally flawed way. Many of the constitutional reforms are, after all, interconnected, and it is not helpful to deal with them in isolation. It would make little sense, for example, to discuss the composition of the House of Lords and the question of the electoral system for the House of Commons as if they were separate issues. They need to be dealt with together if coherence and consistency are to be achieved.

As long ago as March 1992, Gordon Brown, as a leading politician in opposition, put forward the aim of 'not just tidying up our constitution but transforming it' in his Charter 88 Sovereignty Lecture entitled 'Constitutional Change and the Future of Britain'. That exercise of 'transforming' the constitution could well entail a codified constitution. Moreover, since all the major reforms since 1997 have been introduced by Act of Parliament, and have thus been 'written down'—the same, of course, will be true for the further reforms proposed in the Green Paper—what argument can there be for not binding them together in one single, coherent document?

II

Perhaps, therefore, the question—ought Britain to have a codified constitution—is

formulated in the wrong way. Perhaps the question ought really to be—Why should Britain *not* have a codified constitution? Britain is, after all, one of just three democracies not to have a codified constitution, the others being New Zealand and Israel. Why is this?

There are in fact two reasons, one historical and the other conceptual.

Most states promulgate constitutions following some momentous development, such as revolution, regime change, war or the attainment of independence. Such moments require the peoples concerned to reassure themselves of the shared values that form the basis of their society by giving themselves new rules for the future. That happened, for example, when the United States declared her independence from Britain in 1776, when India attained her independence in 1947, when France adopted new regimes in 1946 and 1958 and when Germany adopted a new regime in 1949. There is a 'constitutional moment' at which the rules by which a country is governed need to be clarified.

England, however, has not enjoyed such a constitutional moment since the seventeenth century, when Oliver Cromwell drew up an Instrument of Government in 1653, England's only written constitution. Cromwell, however, had already abolished the House of Lords and was to refuse to summon the House of Commons, and so the Instrument of Government did not seem to provide any check upon the power of the ruler. In 1660, the monarchy was restored, and it was as if the brief republican interlude had never been. Thus England, the predominant nation in the United Kingdom, seemed never to have begun as a state but to have evolved continuously. There had not been a constitutional moment.

There is, admittedly, a sense in which Britain may be said to have begun in 1707, when the Acts of Union between England and Scotland created the new state of Great Britain. Then, in 1801, the Union

with Ireland created the United Kingdom of Great Britain and Ireland. This in turn became in 1921, when all but six of the Irish counties seceded to form the Irish Free State, the United Kingdom of Great Britain and Northern Ireland, which remains the official title of the British state.

But these dates—1707, 1801 and 1921—important though they are, hardly have the character of defining moments in the creation of a new state, as 1776 does in the history of the United States, or 1789 in the history of France. Admittedly, the Acts of Union of 1707 created a new Parliament, the Parliament of Great Britain. But this new Parliament was located in Westminster, as the old one had been, and, in practice, it took on the characteristics of the old English parliament. In theory, no doubt, 1707, 1801 or 1921 could have been seen as ‘constitutional moments’, to be marked by the enactment of a constitution, and there are certainly those in Scotland who regard the Acts of Union as a constitutional document. In practice, however, the fundamental characteristics of the state remained unchanged and the English felt little need for a codified constitution.

Moreover, not only have we probably not seen any need for a codified constitution, but we have seen no virtue in one either. We did not believe that it would improve our system of government. For the ‘historic’ and uncodified constitution gave Britain, so it was thought until recently, many advantages. It seemed to have the great virtue of flexibility, since its provisions could be changed with relative ease. There were no entrenched provisions, provisions that required some special procedure if they were to be changed. We were saved, therefore, from being bound by the preconceptions of their forebears; we were saved from ancestor worship, something against which Bentham and his utilitarian followers had warned us so strongly. For, on the Benthamite view, a codified con-

stitution reflected merely the dead hand of the past.

In addition, because there was no codified constitution, we did not have to subscribe to statements that would rapidly become redundant as a result of political change. A constitution drawn up in the year 1830, for example, would have made statements about voting rights and about the powers of the House of Lords, which would have become rapidly redundant after the Great Reform Act of 1832. A constitution drawn up in 1996 would, likewise, have become rapidly redundant following the reforms of the Blair government, elected in 1997.

There was, in much of the writing on the advantages of Britain’s ‘flexible’ constitution, an implication that we were not as other countries, that we were made in a different and more durable way, that we had discovered a unique method of balancing consensus and conflict in a manner that best reconciled freedom and stability. That no doubt was also what Mr Podsnap meant in his eulogy of the constitution.

But there is also a conceptual reason why Britain has never had a written constitution. It is that our dominant, perhaps our only, constitutional principle has been the sovereignty of Parliament. The 1689 Bill of Rights, unlike its American equivalent, did not entrench fundamental rights against a majority in the legislature. Instead, it guaranteed the rights of Parliament against the king. Instead of repudiating the doctrine of the sovereignty of Parliament, it emphasised it. Perhaps the time has now come to de-emphasise it. For, as Bentham noticed, if Parliament is sovereign, the individual cannot have rights against Parliament. There was therefore no point in having a written constitution limiting the rights of Parliament. Indeed, the British constitution could have been summed up in just eight words—what the Queen in Parliament enacts is law.

During the seminar held by Vernon Bogdanor and Stefan Vogenauer in 2006, the question arose of how the constitution ought to be amended. The students presented three options—the first was to amend by implied repeal, the second was to amend by explicit repeal and the third was to amend by referendum. After some discussion, the students voted for explicit repeal. That was the one occasion on which the students decided deliberately to deviate from the constitution as it now is. There was, so the students thought, no point in having a constitution unless it was in some sense ‘fundamental’; that is, more difficult to change than an ordinary law. Even so, it may be argued that explicit repeal is not a particularly firm safeguard for the rights of the individual, and this illustrates the difficulty of drawing up a constitution without explicitly repudiating the notion of the sovereignty of Parliament. For the idea of a constitution is inconsistent, surely, with the idea of the sovereignty of Parliament in its purest form.

III

At the beginning of the twenty-first century, it may be, nevertheless, that the two reasons for not having a written constitution, the historical and the conceptual, have less weight than they once did. For the years since 1997, when Labour came to power, have seen an unprecedented and still uncompleted series of constitutional reforms, which together perhaps comprise a constitutional moment. These reforms include the following:

1. The constitutional independence of the Bank of England from government in monetary policy.
2. Referendums, under the Referendums (Scotland and Wales) Act 1997, on devolution to Scotland and Wales.
3. The Scotland Act 1998, providing for a directly elected Scottish Parliament.
4. The Government of Wales Act 1998, providing for a directly elected National Assembly in Wales.
5. The Northern Ireland Act 1998, providing for a referendum on a partnership form of devolution to Northern Ireland.
6. The introduction, following the referendum in Northern Ireland, in 1998, of a directly elected Assembly in the province.
7. A referendum, under the Greater London Authority (Referendum) Act 1998, on a directly elected mayor and strategic authority for London.
8. The introduction of proportional representation for elections to the devolved bodies in Scotland, Wales, Northern Ireland and the London strategic authority.
9. The European Parliamentary Elections Act 1999, providing for the introduction of proportional representation for elections to the European Parliament.
10. The requirement on local authorities, under the Local Government Act 2000, to abandon the committee system and adopt a cabinet system, a city manager system or a directly elected mayor.
11. The Human Rights Act 1998, requiring public bodies to comply with the provisions of the European Convention on Human Rights, allowing judges to declare a statute incompatible with the Convention and providing a fast track procedure for Parliament to amend or repeal such a statute.
12. The removal, under the House of Lords Act 1999, of all but ninety-two of the hereditary peers from the House of Lords, as the first phase of a wider reform of the Lords.
13. The Freedom of Information Act 2000.
14. The Political Parties, Elections and Referendums Act 2000, requiring the registration of parties, controlling

political donations and national campaign expenditure, and providing for the establishment of an Electoral Commission to oversee elections and to advise on improvements in electoral procedure.

15. The Constitutional Reform Act 2005, providing for the removal of the Lord Chancellor from his position as head of the judiciary and speaker of the House of Lords, removal of the law lords from the House of Lords and the establishment of a new Supreme Court.

Almost any one of these reforms, taken singly, would constitute a radical change. Taken together, they allow us to label the years since 1997 as an era of constitutional reform. Indeed, these years bear comparison with two previous periods of constitutional reform—the 1830s, the era of the Great Reform Act, and the years immediately preceding the First World War, which saw the passage in 1911 of the Parliament Act, restricting the powers of the House of Lords, and the abortive Government of Ireland Act of 1914, providing for Home Rule for Ireland, as well as agitation by suffragettes to extend the vote to women.

The constitutional reforms since 1997 offer a spectacle nearly unique in the democratic world, of a country transforming, by piecemeal means, her uncodified constitution into a codified one, there being neither the political will nor the consensus to produce a codified constitution in one fell swoop. The end-point of this piecemeal process of constitutional reform is, as yet, unclear. It might be argued, however, that it would now be natural, with so much of the constitution codified, to produce a written constitution.

There is, moreover, following the devolution legislation and the development of Britain into a multicultural society, a new concern with the notion of 'Britishness' and how it can be reaffirmed. There is some anxiety lest Britain become so frag-

mented that the notion of a common identity is lost. Indeed, the Green Paper emphasises the 'need to ensure that Britain remains a cohesive society, confident in its shared identity' and the need 'to provide a clearer articulation of British values', values 'which have not just to be shared but also accepted' (paras 125, 212 and 195). Britain, it is suggested, 'needs to articulate better a shared understanding of what it means to be British, and of what it means to live in the UK' (para. 7). That implies, surely, that a constitutional moment may have arrived. The American constitution plays an important educative role, in helping to entrench a sense of American identity, of what it means to be an American. Some politicians argue that a British constitution might do the same for Britain.

The lack of a constitutional moment is not, however, the only obstacle to a codified constitution. There is also, as we have seen, a conceptual obstacle, the sovereignty of Parliament. Yet, the Human Rights Act and the devolution legislation, together with the European Communities Act of 1972, in practice, if not in form, limit the sovereignty of Parliament. By convention, Parliament does not now legislate for Scottish domestic affairs and it does not deliberately infringe the provisions of the European Convention of Human Rights, nor those of the European Union. The European Communities Act, the Human Rights Act and the devolution legislation all imply that there is a higher law than the sovereignty of Parliament. Therefore, we may now be in a position to consider the basic principles of a fully codified constitution.

IV

There is, however, a tension between two types of codified constitution—what might be called a lawyers' constitution and what might be called a peoples' constitution. The argument that a codified constitution would have an

educative function and strengthen the notion of Britishness implies that a British constitution should be comparatively short, like that of the United States—a peoples' constitution. The argument from the need for clarity, however, implies that the constitution must comprise much more detailed provisions—that it must be a lawyers' constitution. This tension between the demands made by the two types of constitution was felt by India following her independence in 1947. The same tension will be felt in Britain if she decides to codify her constitution. It is worth looking at the choice that India made.

The Indian constitution sought to codify the British model of parliamentary democracy. In 1947, a Constituent Assembly began to draft a constitution—a task that took over two years to complete. The constitution was not finally enacted until 1950. While independence was a momentous occasion, the political consensus was clearly in favour of retaining a large part of the structure of the colonial administration, with appropriate changes to mark the transition to democratic government. The desire for legal certainty, accentuated by political insecurity, militated in favour of a lawyers' constitution for India.

The constitutional structure that India inherited at independence was essentially that embodied in the Government of India Act, passed by the Westminster Parliament in 1935. With 321 sections and ten schedules, it was, up to that time, the longest Bill ever passed by Parliament. The fine print was introduced to ensure that the Indian politicians who were to be given limited powers under the Bill were not able to misuse its provisions. Almost all of the constitutional arrangements under the Act continued until 1947. Between 1947 and 1950, while the new constitution was being drafted, the 1935 Act continued to operate provisionally, with a few modifications. There was already a reasonably well-developed jurisprudence under the 1935 Act. Well-

established institutions were in place and the constitution proposed to preserve these institutions, so far as possible. Although the 1935 Act had been motivated in part by distrust of Indian opinion, its painstaking detail had, nevertheless, already been institutionalised by the time of drawing up the new constitution.

The 1950 Indian constitution, which resulted from the momentous effort by the Constituent Assembly, thus preserved the skeletal form of the nature of the federation, and the structure of and the relationship between most state institutions under the 1935 Act. Many of the provisions were transposed verbatim.

Of course, the 1950 constitution also made some far-reaching changes. The introduction of judicially guaranteed fundamental rights and egalitarian directive principles to guide state policy were quite revolutionary. The state institutions were made democratically representative and accountable wherever necessary. Indirect elections and limited franchise were replaced by direct elections and universal adult franchise. The unelected and all-powerful office of the Governor-General was replaced by an indirectly elected and ceremonial presidency, with powers mirroring those of the British monarch. Nevertheless, these far-reaching changes were made within the structural and textual framework provided by the Government of India Act 1935.

A reasonably developed pre-existing constitutional structure was not the only justification for wanting legal certainty. The new republic was born with gargantuan problems and genuine political insecurity. Starting anew would hardly have been feasible, politically, and the unintended consequences that necessarily flow from a broadly worded short constitution were best avoided. Thus the constitution makers shared with the drafters of the 1935 Act a desire for certainty and predictability in the new political arrangements.

The parallels between the Indian experience and the situation in Britain today are noteworthy. Britain may be about to enter a period of radical constitutional overhaul. The motivation for many of the proposed changes is also, of course, a desire to deepen democracy. But Britain, unlike India, has legal institutions and jurisprudence developed over centuries. In addition, there are numerous conventions and assumptions about the proper working of government. There could be considerable dispute as to which of these conventions, if any, should be embodied in a codified constitution. It would be difficult to summarise Britain's complex jurisprudence with its numerous exceptions and caveats in broadly worded provisions.

Must we, then, conclude that to avoid unintended consequences and achieve certainty in the constitutional arrangements, Britain must select an Indian-style lawyers' constitution? The trouble is that such detailed constitutions rarely provide educative political slogans. Such constitutions also need frequent detailed amendments. The Indian constitution has been amended around a hundred times in the less than six decades of its existence, although most of the amendments are insignificant from a political or constitutional point of view.

There is, therefore, a tension between achieving constitutional certainty and achieving political education through a constitutional document. Yet, constitution writing has evolved over the past half-century and the choices before Britain need not be as stark as they were for India. For Britain does not face the political insecurity that India did in 1947 and can afford perhaps to take greater constitutional risks. Imaginative solutions that strike the right balance may be possible. But awareness of this tension will be the first step towards addressing it—as and when Britain does decide to codify her constitution.

Intellectually, there is clearly a strong case for a written constitution, and it was an interesting exercise for us to produce one with the students. But there are two interrelated reasons militating against producing one at the present time. The first is that there is a sense of incompleteness about the reforms in the sense that they do not seem to amount to a final constitutional settlement. At the time of the devolution legislation, the Secretary of State for Wales, Ron Davies, famously said that devolution was a process, not an event. That is also true of constitutional reform in general.

The second reason why the present may not be a good time is that the next stage of constitutional reform is likely to prove both more complex and also more fundamental. The first stage comprised a redistribution of power between elites—between politicians at Westminster, Edinburgh and Cardiff, and between politicians and judges—'But today we want to go further', Gordon Brown and Jack Straw declare in the Foreword to the Green Paper, 'We want to forge a new relationship between government and citizen . . .'. The second stage of constitutional reform, therefore, will seek to reinvigorate British democracy by redistributing power between the elites and the people. That will involve, as the Green Paper indicates, devolving power to local communities and 'creating a more participatory democracy' (para. 179).

The next phase of constitutional reform, therefore, will involve the transformation of the democratic system from one in which decisions are made primarily by elites to one in which the people come to make decisions for themselves. From this point of view, it can be seen that the constitutional *forms* of the British state are no longer in alignment with the political *forces* of

the age. The problem of making the constitutional forms congruent with the social forces is one of the fundamental problems of our time. It is likely eventually to lead to the promulgation of a codified constitution.

Notes

- 1 Ministry of Justice, *The Governance of Britain*, Cm 7170, London, TSO, 2007.
- 2 Chris Bryant (ed.), *Towards a New Constitutional Settlement*, London, The Smith Institute, 2007.

Appendix: The Constitution of the United Kingdom, as of 1 January 2007

Part 1: the United Kingdom and its nationals

Article 1—The United Kingdom comprises England, Scotland, Wales and Northern Ireland. Northern Ireland shall in no circumstances cease to be a part of the United Kingdom without the consent of a majority of registered voters in Northern Ireland voting in a poll.

Article 2—Nationality of the United Kingdom

The following are nationals of the United Kingdom:

- (a) British citizens, except for British citizens from the Channel Islands and the Isle of Man;
- (b) British subjects with the right of abode in the United Kingdom;
- (c) British overseas territories citizens.

Article 3—British Citizenship

- (a) British citizenship is acquired by birth, adoption, descent, registration or naturalisation, or is conferred by statute.
- (b) A minister may by order deprive a person of British citizenship acquired as a result of registration or naturalisation on the ground that it was obtained by fraud, false representation or concealment of any material fact. But no such person may be deprived of British citizenship unless a minister is satisfied that it is not conducive to the public good that that person should continue to be a British citizen.

Part 2: the head of state

Article 4—The Sovereign

- (1) The head of state is the Sovereign who is the descendant of Sophia Electress of

Hanover next in line to the throne, as provided by the Act of Settlement 1700, extended to Scotland in 1707 and Northern Ireland in 1801 by Acts of Union.

- (2) The Sovereign is the head of the executive and the fount of justice.
- (3) The Sovereign is commander-in-chief of the armed forces.
- (4) The Sovereign presides at meetings of the Privy Council whose members are appointed by the Sovereign on advice. Only British citizens and citizens of the Republic of Ireland may be members of the Privy Council. Members of the Privy Council are appointed for life but a Privy Counsellor may be removed on advice or at his or her request. Privy Counsellors are required to take an oath as laid down by statute. The Privy Council exercises advisory functions and functions entrusted to it by statute. Three Privy Counsellors constitute a quorum. The full Privy Council is summoned only for a coronation. Ministers are responsible to Parliament for decisions taken by the Privy Council.
- (5) The Sovereign is in communion with, and Supreme Governor of, the Church of England, by law established.
- (6) Any alteration in the succession to the throne requires the consent of the Parliaments of the Commonwealth Realms as well as the Parliament of the United Kingdom.
- (7) The Sovereign acts on the advice of ministers, except when appointing a Prime Minister, considering a request to dissolve Parliament, making a public statement in virtue of the office of Head of the Commonwealth or conferring honours, awards, decorations and distinctions that are within the personal gift of the Sovereign. The Sovereign assents to

- legislation, unless advised to the contrary by ministers.
- (8) The acts of the Sovereign as head of state are not reviewable by the courts. The Sovereign is immune from suit and legal process in any civil cause in respect of acts and omissions in the Sovereign's private capacity. The Sovereign is immune from criminal proceedings in respect of acts and omissions in the Sovereign's private or official capacity.
 - (9) An annual sum shall be voted by Parliament for expenditure incurred by the Sovereign, the Royal Household and by other members of the Royal Family.
 - (10) All persons in the service of the Crown are required to swear or affirm allegiance to the Sovereign and his or her heirs according to law.
 - (11) The Sovereign has the right to be informed upon all matters of State.
 - (12) Statutory provision is made for the appointment of a Regent in case of the minority or incapacity of the Sovereign.
- (3) Details of the electoral process are set out in an Act of Parliament.
 - (4) The following are disqualified from membership of the House of Commons:
 - (a) aliens;
 - (b) those under the qualifying age;
 - (c) bankrupts;
 - (d) persons convicted of treason;
 - (e) persons currently detained in a penal institution for more than one year;
 - (f) persons convicted of illegal election practices;
 - (g) holders of various judicial offices;
 - (h) civil servants;
 - (i) members of the regular armed forces of the Crown;
 - (j) members of any police force maintained by a police authority;
 - (k) Ambassadors and High Commissioners;
 - (l) election and boundary commissioners and electoral registration officers;
 - (m) members of a foreign legislature outside the Commonwealth or the Republic of Ireland;
 - (n) holders of various other public offices, as defined by statute; and
 - (o) members of the House of Lords.
 - (5) An Electoral Commission of the United Kingdom is appointed by the Sovereign on the advice of the Prime Minister, with the agreement of the Speaker, and following consultations with the leaders of all parties represented in the House of Commons. The Commission is responsible for the supervision of elections and referendums, the registration of political parties, and the determination of those who are permitted to participate in a referendum or make donations to political parties.
 - (6) Political parties wishing to nominate candidates for elections are required to register with the Electoral Commission and to maintain accounts in accordance with regulations laid down by the Commission.
 - (7) The chief officer of the House of Commons is the Speaker who is elected by the House of Commons at the beginning of each new Parliament or on the death or retirement of the previous office-holder.

Part 3: the legislative power

Article 5—Parliament

- (1) Legislative power in the United Kingdom is vested in Parliament.
- (2) Parliament consists of the Sovereign, the House of Lords and the House of Commons.

Article 6—The House of Commons

- (1) Members of the House of Commons are directly elected in free, equal and secret elections by universal suffrage. Constituencies are regularly reviewed by Boundary Commissions, chaired by the Speaker of the House of Commons. The revision of constituency boundaries requires parliamentary approval before it can be given statutory effect.
- (2) All Commonwealth citizens and citizens of the Republic of Ireland over the qualifying age, not detained in a penal institution, nor found guilty of a corrupt or illegal practice, who are registered in a parliamentary constituency on the qualifying date shall have the right to vote. Peers entitled to sit in the House of Lords shall not be entitled to vote.

The Speaker does not belong to any political party and votes only in the case of a tie when the Speaker votes for further discussion where that is possible. The Speaker represents and presides over the House, enforces the rules which govern its conduct, and protects the rights and privileges of the house. The Speaker has full authority to enforce the rules of the House, and powers to regulate the conduct of debate. In cases of grave and continuous disorder, the Speaker may adjourn or suspend the sitting. The Speaker may order a Member of Parliament who breaks the rules of the House to leave the Chamber, initiate a short suspension or put the matter to a vote.

- (8) Members of Parliament are remunerated from public funds, and may claim various allowances as determined by the House of Commons.
- (9) Members of Parliament are required to observe the Code of Conduct. They are required to register pecuniary interests and various other benefits in a Register of Interests. The Register is supervised by an independent Parliamentary Commissioner for Standards.
- (10) Parties which sit in the House of Commons but do not support the government constitute the Opposition. The Leader of the Opposition is the leader of the largest of these parties. The Leader of the Opposition in the House of Commons and the Leader in the Opposition in the House of Lords, the Chief Opposition Whip in the House of Commons, the Chief Opposition Whip in the House of Lords, together with not more than two Assistant Whips in the House of Commons are remunerated from public funds.

Article 7—Meeting and Dissolution of Parliament

- (1) The Sovereign summons Parliament to meet after each general election, and its duration is from that first meeting until Parliament is dissolved. If not dissolved earlier, a Parliament ceases to exist five years from the day on which, by writ of summons, it was first appointed to meet, unless extended by Acts of Parliament.
- (2) The Prime Minister may at any time ask the Sovereign for a dissolution of Parlia-

ment. Such a request will be granted unless the Sovereign believes that an alternative Prime Minister, able to secure the support of the House of Commons, can be found.

- (3) A Prime Minister defeated in a vote of confidence in the House of Commons either resigns or requests a dissolution.

Article 8—The House of Lords

- (1) The House of Lords comprises the following categories:
 - (a) Life peers under the Life Peerages Act 1958. Life peers in this category are appointed by the Sovereign on the advice of the Prime Minister. An Independent Appointments Committee recommends non-party life peerages to the Prime Minister. The Prime Minister may also recommend the appointment of non-party peers. Party peerages are recommended to the Prime Minister by party leaders, and vetted by the Appointments Commission to ensure propriety.
 - (b) Ninety-two hereditary peers, as provided by the House of Lords Act 1999.
 - (c) The Lords Spiritual, who comprise the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester, together with twenty-one other diocesan bishops by seniority of appointment. The Lords Spiritual remain members solely during the tenure of their sees.
 - (d) Until 2009, life peers under the Appellate Jurisdiction Act 1876, as amended. Life peers in this category are appointed by the Sovereign, on the advice of the Prime Minister, following a recommendation by a Selection Committee. But, from 2009, peers in this category shall be disqualified from sitting and voting in the House of Lords as long as they remain Justices of the Supreme Court.
- (2) The chief officer of the House of Lords is the Lord Speaker who is elected by the members of the House of Lords every five years or on the death, retirement or

resignation of the previous Lord Speaker. The Lord Speaker does not belong to any political party, and votes only in the case of a tie when the Lord Speaker votes for further discussion where that is possible. No Lord Speaker serves for more than two five-year terms. The Lord Speaker presides over the House, offers advice on procedure outside the chamber, acts as an ambassador for the work of the Lords at home and abroad, and participates in certain ceremonial duties, including the State Opening of Parliament. The Lord Speaker has no power to act in the House nor to discipline members without the consent of the House.

- (3) Members of the House of Lords are required to observe the principles in the Code of Conduct. They are required to register various pecuniary interests and other benefits in a Register of Interests.

Article 9—Powers of the Two Houses

- (1) The House of Commons alone may propose alterations in financial charges on public funds, taxes or other charges.
- (2) A public bill, certified by the Speaker of the House of Commons as a money bill, that has been passed by the House of Commons, but has not been passed by the House of Lords without amendment within one month of the House of Lords having received it, is, nevertheless, unless the House of Commons directs otherwise, presented to the Sovereign for royal assent.
- (3) Any other public bill which originates and has been passed by the House of Commons in two successive sessions and which, having been sent to the House of Lords at least one month before the end of the session, has been rejected by the House of Lords in each of these sessions, is, on its rejection for the second time by the House of Lords, unless the House of Commons directs otherwise, nevertheless presented to the Sovereign for royal assent; provided that at least one year has elapsed between the second reading of the bill in the House of Commons in the first session and its passing the Commons in the second session.
- (4) The provisions of paragraph (3) of this

Article do not apply to a bill to extend the maximum duration of Parliament beyond five years for which the consent of both houses is needed, nor to any amendment to this constitution under Article 59(1).

Article 10—Privileges of Parliament

- (1) The freedom of speech and of debates or proceedings in Parliament is not impeached or questioned outside Parliament.
- (2) The House of Commons has the power to expel a member who it deems to be unfit to continue in that capacity, and also to adjudicate upon cases of disqualification of members not covered by an Act of Parliament.
- (3) Each House has the right to control its own proceedings and to regulate its internal affairs and whatever takes place within its walls.
- (4) Each House has the power to punish for breach of its privilege or for contempt.

Article 11—Legislative Measures of the European Union

Legislative Measures of the European Union which are directly effective have legal effect in the United Kingdom.

Part 4: the executive power

Article 12—The Executive

- (1) The executive power of the United Kingdom is vested in the Sovereign, but all executive acts are performed by ministers in the Sovereign's name. Ministers are required to observe the principles of administrative law which apply to the interpretation of executive acts.
- (2) The executive power includes authority to appoint and remove officers of the armed forces, to declare war, to command the armed forces, to recognise foreign jurisdictions, to exchange envoys, to sign and ratify treaties, to make appointments not otherwise provided for, to grant charters, to grant honours and to grant mercy.
- (3) All executive powers are exercised subject to the legislation, if any, governing the circumstance and mode of such exercise.

- (4) Declarations of war and deployment of armed forces to engage in armed conflict require the consent of the House of Commons, except in circumstances that do not admit of delay.
- (5) Subject to Schedule 2 of the European Communities Act 1972, obligations of the United Kingdom arising under European Union law may be implemented by Order in Council or by statutory instrument.

Article 13—Appointment and Removal of Ministers

- (1) The Government consists of a Prime Minister, a Cabinet and other ministers. The maximum number of holders of ministerial office entitled to sit and vote in the House of Commons at any one time is ninety-five.
- (2) The Sovereign appoints as Prime Minister the person who appears best able to form a Government enjoying the confidence of the House of Commons.
- (3) All ministers besides the Prime Minister are appointed and removed, and have their individual responsibilities determined, by the Sovereign upon the Prime Minister's advice.
- (4) All ministers must be, or within three months of their appointment become, members of the House of Lords or House of Commons.
- (5) The Prime Minister and all ministers of the Treasury must be or become members of the House of Commons.

Article 14—The Cabinet

- (1) The Prime Minister, the heads of the executive departments and such other ministers as the Prime Minister determines, comprise a Cabinet, which is summoned and chaired by the Prime Minister.
- (2) The Cabinet is collectively responsible for its decisions.

Article 15—The Ministerial Code

- (1) The ethical standards required of ministers are laid out in a Code formulated and published by the Prime Minister.
- (2) The Prime Minister is responsible for enforcing the Ministerial Code, and is also bound by it.

Article 16—Relations between the Government and Parliament

- (1) Ministers are always entitled to be heard in the House of Parliament of which they are members. A minister who has resigned or been removed is entitled to make an address to the House of which he or she is a member.
- (2) The Government must present receipts of revenue and estimates of expenditure to the House of Commons at least once in every year.
- (3) Every minister who is a member of the House of Commons is personally accountable to the House for all matters within his or her portfolio. Ministers must not deceive or knowingly mislead Parliament or the public.

Article 17—The Civil Service

- (1) A civil servant is a servant of the Crown employed in a civil capacity who is paid wholly and directly from monies voted by Parliament.
- (2) Civil servants are recruited on the basis of merit and promoted on the basis of ability. They are politically impartial at all times.
- (3) There shall be a Civil Service Commission, appointed by the Crown under Royal Prerogative, and independent of ministers, to ensure that selection to the civil service is based on the principle of fair and open competition, and to hear appeals under the Civil Service Code.
- (4) The civil service supports ministers individually and collectively in formulating policy and in administering public services for which the government is responsible. Civil servants give honest and impartial advice to ministers and make all information relevant to a decision available to ministers. They may not deceive or knowingly mislead ministers, Parliament or the public. They must conduct themselves in such a way as to deserve and retain the confidence of ministers and to be able to establish the same relationship with those whom they may be required to serve in some future administration.
- (5) The ethical standards required of civil servants are provided for in a Civil Service Code.

- (6) Ministers uphold the political impartiality of the civil service. They may not ask civil servants to act in any way which would conflict with the Civil Service Code.

Article 18—The Police

There shall be a police authority for every area of the United Kingdom. Police authorities in England and Wales shall comprise magistrates, local authority representatives and independent members, except that the police authority for the City of London shall be the police committee of the Corporation of London. In Scotland, police authorities shall comprise members of local authorities. In Northern Ireland, the police authority is the Northern Ireland Policing Board. It is the duty of every police authority to secure the maintenance of an efficient and effective police force for its area. Every police authority must appoint, with the approval of the responsible minister, a Chief Constable, except that, in London, the head of the police force is the Metropolitan Commissioner who is appointed by the Sovereign on advice.

Article 19—The Armed Forces

The armed forces of the United Kingdom comprise the Royal Navy, the Army and the Royal Air Force. Officers in the armed forces are commissioned by the Crown, and may be dismissed at the pleasure of the Crown, but they may not resign their commission without leave. There shall be no standing army in time of peace without the consent of Parliament.

Article 20—The Security and Secret Intelligence Services

The Security and Secret Intelligence Services are required to protect national security from, in particular, espionage, sabotage and terrorism. Their powers are laid down by statute and they are accountable to responsible ministers.

Article 21—Public Inquiries

An Act of Parliament provides for the establishment and conduct of public inquiries into matters of public concern.

Article 22—Emergency Powers

The Sovereign may, on advice, proclaim that a state of emergency exists, in time of war, or

when there is a threat to the life of the nation. The occasion of such a proclamation must be communicated to Parliament. During the existence of a state of emergency, the Crown has power, by Order in Council, to make regulations for securing the essentials of life to the community. But such regulations may not impose any form of compulsory military service nor industrial conscription.

Part 5: devolution and local government

Article 23—Devolution

- (1) There shall be a Scottish Parliament, a Northern Ireland Assembly and a National Assembly for Wales. Their powers are laid down by statute.
- (2) The establishment of a directly elected, territorially based body enjoying legislative or executive powers devolved from Parliament requires a referendum.

Article 24—Local Government

- (1) There shall be directly elected local authorities covering every area of the United Kingdom, and appropriate to its character and needs.
- (2) Local authorities have powers to promote the economic, social and environmental well-being of the areas which they represent.
- (3) Local authorities may raise taxes as provided for by an Act of Parliament or a measure of the devolved bodies.
- (4) The boundaries of a local government area may be revised by the Electoral Commission.
- (5) The executive of a local authority is either a cabinet or a directly elected mayor. Before the office of directly elected mayor is instituted in a local government, a referendum is held in that local government area to ascertain the view of its electorate. In any local authority area, 5 per cent of the registered electorate in that area can require, by petition, that such a referendum to be held.

Article 25—Proviso

Nothing in this Part affects Article 5(1).

Part 6: the judicial power

Article 26—The Judicial Power

The judicial power is exercised, until 2009, by the Appellate Committee of the House of Lords and the Judicial Committee of the Privy Council; and, after 2009, by the Supreme Court; and the courts of England and Wales, Scotland and Northern Ireland, the decisions of which are executed in the name of the Sovereign, and by tribunals.

Article 27—Extraordinary Courts

The establishment of extraordinary courts requires an Act of Parliament.

Article 28—The Head of the Judiciary

The Lord Chief Justice is head of the judiciary in England and Wales; the Lord President of the Court of Session is head of the judiciary in Scotland; the Lord Chief Justice of Northern Ireland is head of the judiciary in Northern Ireland.

Article 29—Independence of the Judiciary

- (1) The judiciary is independent of the other branches of government.
- (2) Ministers are required to uphold the independence of the judiciary. The Lord Chancellor is responsible for defending the independence of the judiciary. This includes the duty to ensure the support necessary to enable them to exercise their functions.

Article 30—Publicity of Sitings

The sittings of all courts are public, except in circumstances provided for by Act of Parliament, and judgments are pronounced at a public sitting.

Article 31—The Supreme Court

- (1) The Supreme Court of the United Kingdom is the ultimate court of appeal in Great Britain and Northern Ireland, except for Scottish criminal cases.
- (2) Subject to statutory restrictions, an appeal lies to the Supreme Court:
 - (a) in civil and criminal cases, from the Court of Appeal in England and Wales, by leave of that court or of the Supreme Court;
 - (b) in civil cases, from the Court of Session in Scotland, leave to appeal not normally being required;

- (c) in civil and criminal cases, from the Court of Appeal in Northern Ireland, by leave of that Court or of the Supreme Court;
- (d) in civil and criminal cases, direct from a decision of the High Court in England and Wales or the High Court in Northern Ireland, by leave of the Supreme Court;
- (e) from the Court Martial Appeal Court, by leave of that court or of the Supreme Court;
- (f) on issues concerning devolution under the Scotland Act 1998, the Government of Wales Act 1998 and the Northern Ireland Act 1998.

Article 32—Judicial Review

- (1) So far as it is possible to do so, legislation and all other rules of law are read and given effect in a way which is compatible with this Constitution. The courts do not give effect to any rule which is incompatible with Article 59 of this Constitution.
- (2) If a court is satisfied that a provision of a statute is incompatible with a right enumerated in Part 7 of this Constitution it may make a declaration of incompatibility. A minister may then by order make such amendments to the statute as are considered necessary to remove the incompatibility.
- (3) So far as it is possible to do so, legislation and all other rules of law are read and given effect in a way which is compatible with the law of the European Union. The courts do not give effect to any rule of law which is incompatible with directly effective European Union law.
- (4) Subordinate legislation and administrative action are subject to judicial review.

Article 33—Appointment and Selection of Judges

- (1) Judges are appointed by the Sovereign on advice.
- (2) There shall be a Judicial Appointments Committee. No person with a legal qualification may be appointed as chair of this Committee. The Committee shall have a majority of lay members.
- (3) Judges are selected solely on merit,

regard being had to the need to encourage diversity in the range of persons available for selection for appointments.

- (4) Judges of the Supreme Court are selected by a selection committee convened by the Lord Chancellor. The Lord Chancellor notifies to the Prime Minister the name of the person selected. The Prime Minister advises the Sovereign to appoint this person.
- (5) The Lord President of the Court of Session and the Lord Justice Clerk are nominated by the First Minister of Scotland. The Prime Minister advises the Sovereign to appoint this person.
- (6) Other judges are selected by the Judicial Appointments Commission for England and Wales, the Judicial Appointments Board for Scotland or the Northern Ireland Judicial Appointments Commission. The Lord Chancellor or, in the case of Scotland, the First Minister of Scotland, recommends the persons selected for appointment.
- (7) The Lord Chancellor or, in the case of Scotland, the First Minister of Scotland, may not reject a selection made under paragraphs (4) or (6) of this Article unless there is evidence that the person selected is not suitable for the office or is not the best candidate on merit. Reasons must be given for rejection.

Article 34—Tenure of Office

- (1) Judges hold their office during good behaviour, until they reach the age of retirement provided by statute or resign or become incapable of performing their duties.
- (2) Judges of the Supreme Court, the Appeal Court and the High Court may be removed by the Sovereign only on an address by both Houses of Parliament. Judges in the inferior courts may be removed only after compliance with statutory procedures for their removal.

Article 35—Salaries and Pensions

- (1) All judges are entitled to a salary which is to be determined by the Lord Chancellor in agreement with the Treasury and which is to be a charge on the Consolidated Fund of the United Kingdom.

- (2) A holder of high judicial office is entitled on retirement from that office to a pension for the rest of his or her life at the annual rate provided by statute.

Part 7: human rights

Article 36—Right to Life

- (1) Everyone's right to life shall be protected by law.
- (2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
 - (a) in defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 37—Abolition of the Death Penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 38—Prohibition of Torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 39—Prohibition of Slavery and Forced Labour

- (1) No one shall be held in slavery or servitude.
- (2) No one shall be required to perform forced or compulsory labour.

Article 40—Right to Liberty and Security

- (1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - (a) the lawful detention of a person after conviction by a competent court;
 - (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
 - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
- (2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
 - (3) Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
 - (4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
 - (5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 41—Right to a Fair Trial

- (1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable

time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

- (2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- (3) Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 42—No Punishment Without Law

- (1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
- (2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when

it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 43—Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 44—Freedom of Thought, Conscience and Religion

- (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- (2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.
- (3) If a court's or tribunal's determination of any question arising under this Part of the Constitution might affect the exercise by a religious organisation (itself or its members collectively) of the right to freedom of thought, conscience and religion, the court or tribunal must have particular regard to the importance of that right.

Article 45—Freedom of Expression

- (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and

regardless of frontiers. This Article shall not prevent requiring the licensing of broadcasting, television or cinema enterprises.

- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 46—Freedom of Assembly and Association

- (1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
- (2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 47—Right to Marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 48—Prohibition of Discrimination

The enjoyment of the rights and freedoms set forth in this Constitution shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin,

association with a national minority, property, birth or other status.

Article 49—Restrictions on Political Activity of Aliens

Nothing in Articles 45, 46 and 48 shall be regarded as preventing the imposition of restrictions on the political activity of aliens.

Article 50—Prohibition of Abuse of Rights

Nothing in this Part of the Constitution may be interpreted as implying for the State, a group or a person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in this Constitution.

Article 51—Limitation on Use of Restrictions on Rights

The restrictions permitted under this Constitution to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Article 52—Protection of Property

- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- (2) The preceding provisions shall not, however, in any way impair the right of the State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 53—Right to Education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 54—Right to Free Elections

Free elections are held at reasonable intervals by secret ballot, under conditions which will

ensure the free expression of the opinion of the people in the choice of the legislature.

Article 55—Freedom of Information

There shall be a right of access to information held by public authorities subject to exceptions determined by statute.

Article 56—Right to Health Care and Subsistence

No person shall be denied the right to a minimum standard of health care and subsistence as set out in statutory provisions to be enacted from time to time.

Article 57—Interpretation of Human Rights Provisions

- (1) A court or tribunal determining a question which has arisen in connection with one of the rights and freedoms enumerated in Articles 36–49 of this Constitution must take into account any—
 - (a) judgment, decision, declaration or advisory opinion of the European Court of Human Rights,
 - (b) opinion of the European Commission of Human Rights given in a report adopted under Article 31 of the European Convention on Human Rights,
 - (c) decision of the European Commission of Human Rights in connection with Article 26 or 27(2) of the European Convention on Human Rights, or
 - (d) decision of the Committee of Ministers taken under Article 46 of the European Convention on Human Rights,whenever made or given, so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen.
- (2) Evidence of any judgment, decision, declaration or opinion of which account may have to be taken under this article is to be given in proceedings before any court or tribunal in such manner as may be provided by rules.
- (3) In this Article ‘rules’ means rules of court or, in the case of proceedings before a tribunal, rules made for the purposes of this Article—
 - (a) by the Lord Chancellor or a Secre-

- tary of State, in relation to any proceedings outside Scotland;
- (b) by the Secretary of State for Scotland, in relation to proceedings in Scotland; or
 - (c) by a Northern Ireland department, in relation to proceedings before a tribunal in Northern Ireland—
 - (i) which deals with transferred matters; and
 - (ii) for which no rules made under paragraph (a) of this Article are in force.

Article 58—Derogation

In time of war or other public emergency threatening the life of the nation, the government may derogate from the above rights providing that such derogation is not inconsistent with the obligations of international law. There can, however, be no derogation of the rights in Articles 36, 38—except in respect of deaths resulting from lawful acts of war—39 and 42.

Part 8: amendment and commencement

Article 59—Amendment

- (1) This Constitution may be amended by legislation passed by the Crown in Parliament, with the assent of the Sovereign, the House of Lords and the House of Commons.
- (2) Any amendment must be brought expressly through a Constitutional Amendment Bill. A Constitutional

Amendment Act purporting to amend or repeal the provisions in Article 23(2) of this Constitution must be approved in a referendum before coming into effect.

Article 60—Commencement

This Constitution comes into force at the end of the period of twelve months beginning with the day on which it is passed.

Oxford, March 2007

Andrew Baldwin (St Antony's)
 Laura Bradley (Exeter)
 Becci Burton (St Hilda's)
 Eleanor Doherty (Oriol)
 Sarah Sophie Flemig (Brasenose)
 Tarunabh Khaitan (Exeter)
 Christopher Knight (St John's)
 Tom Lubbock (Brasenose)
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