The British Constitution

I. Sources of the British Constitution
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I. Sources of the British Constitution

- Statute Law (Acts of Parliament)
- Common Law
  - Prerogative Powers (powers exercised in the name of the Crown)
- Convention
  - EX: ministerial responsibility, royal assent, no confidence votes
- Works of Authority
  - EX: Erskine May; A.V. Dicey; Walter Bagehot
- EU Law
I. Principles of the British Constitution

- An ‘Historic Constitution’
- Main Constitutional Principles
  - Constitutional Monarchy
  - Unitary State
  - Parliamentary Sovereignty
  - Cabinet Government
  - Rule of Law
  - Democratic Accountability
- The “Westminster Constitution”

Where it all began – the Magna Carta
The long road to rights

Key dates in the evolution of the UK’s unwritten constitution

1215
Magna Carta
Signed by King John. Limited the power of the sovereign

1689
Bill of Rights
Statement of citizens' rights including the right to bear arms for defence

1832
Reform Act
Increased the franchise, redistributed seats and tackled electoral corruption

1918
Representation of the People Act
Extended the franchise greatly, leading to universal suffrage in 1928

1973
EEC membership
Became the EU in 1993, subjecting UK laws to EU directives

1611
Case of Proclamations
Added further limits on Royal prerogative, stopping rule by decree

1701
Act of Settlement
Settled the succession to the throne

1911
Parliament Act
Gave Parliament power to pass Acts without approval of the Lords

1949
Parliament Act
Reduced time Lords could delay bills

1998
Human Rights Act
Made the European Convention on Human Rights enforceable in UK courts
Whitehall
(Executive/Government Departments)

Westminster
(Parliament)
III. Qualification to the Westminster Constitution

- Membership in the European Union
  - Joined in 1973; referendum in 1975
  - Surrender of sovereignty to Brussels

- Devolution
  - Ultra vires principle
  - (Political) ability to repeal?

  - Incorporates the European Convention of Human Rights directly into EU Law

- Sovereignty shared upwards, downwards, sideways
IV. Constitutional Reform

- Devolved institutions
  - Scotland, Wales, Northern Ireland
  - London (Assembly and Mayor)
  - English regions?
- Human rights and information
- (Some) reform of the Lords...
- ...but no electoral reform!
- A Supreme Court
- How much of a change?

Tony Blair – Accidental Radical
Government in London

Boris’ nemesis, former Mayor “Red” Ken Livingstone

London Town Hall

Current London Mayor Boris Johnson (yes, the hair always looks like that)
IV. A Written Constitution for Britain?

BENEFITS OF CURRENT STRUCTURE:
- Allows for flexibility and evolutionary change
- British democracy works
- A written constitution would give too much power to judges

BENEFITS OF A CODIFIED CONSTITUTION:
- Reflects changed power structure
- Would establish formal protection against government abuse (EX: anti-terrorism laws)
- Would improve the legitimacy of the system