

Chapter 1

Historical context of the UK political system



Magna Carta established the first formal limits to the power of the monarchy and paved the way for the creation of parliament

From 1066 until 1215, when Magna Carta was introduced, England was effectively run as an absolute monarchy. The king was sovereign and held all power. Scotland had its own absolute monarchy, while Wales and Ireland were ruled by a series of princes and chieftains, with nominal oversight and domination from England.

Today the monarchy is limited and sovereignty, or power, has passed to parliament, while the separate nations have become part of a United Kingdom.

Unlike many nations, there is no single point at which the UK became the modern democracy it is today. Instead, the system of government and politics in the UK has evolved over time, thanks to its **uncodified constitution**, resulting in a number of unusual features.

An understanding of this historical evolution will help you to grasp many of the issues faced by the UK today, such as devolution, relations with the EU, the idea of parliamentary sovereignty and the nature of parliamentary democracy.

Key term

Uncodified constitution This describes a constitution where the laws, rules and principles specifying how a state is to be governed are not gathered in a single document. Instead, they are found in a variety of sources — some written (e.g. statute law) and some unwritten (e.g. convention).

Synoptic links

Constitutions

A constitution is the set of rules that set out how a country is to operate. Among other things it establishes links between the different parts of the political system and the rights of the citizens. Many constitutions are created in one go, usually after a revolution, and are therefore set out in one document. The UK constitution has evolved, rather than been created, and its various elements are not collected in one place. You can find out more about this in Chapter 3.

Table 1.1 The development of the UK constitution

Date	Event	Date	Event
924–1066	Development of the witan (the council of the Anglo-Saxon kings), trial by jury and habeas corpus	1800	Acts of Union create the United Kingdom of Great Britain and Ireland
1066	Norman invasion of England and building of Westminster Hall begins	1832	Great Reform Act
1215	Signing of Magna Carta Beginning of the House of Lords	1867	Second Reform Act
1275	Beginning of the House of Commons	1872	Ballot Act
1327	Edward II removed as king by parliament	1883	Corrupt and Illegal Practices Act
1534	First Act of Supremacy	1885	Redistribution of Seats Act (Third Reform Act)
1559	Second Act of Supremacy and the introduction of the Oath of Supremacy	1911	Parliament Act reduces the power of the Lords
1603	James VI of Scotland becomes James I of England	1918	Representation of the People Act gives all men and some women the right to vote
1642	Start of the English Civil War	1921	Anglo-Irish Treaty leads to an independent Ireland and the establishment of the United Kingdom of Great Britain and Northern Ireland
1649	King Charles I tried and executed by parliament	1928	Representation of the People Act gives all women the right to vote
1660	Restoration of the monarchy	1949	Parliament Act further reduces the power of the Lords
1688	Glorious Revolution	1969	Representation of the People Act lowers voting age to 18
1689	Bill of Rights	1972	European Communities Act
1701	Act of Settlement		
1707	Act of Union creates the United Kingdom of Great Britain		

Anglo-Saxon institutions

Key terms

Habeas corpus A process in law which means a person can appeal to the courts against unfair or illegal imprisonment.

Trial by jury The idea that a group of twelve peers would hear the evidence in a case and decide if the accused was guilty.

Trial by ordeal The medieval practice of putting the accused through an ordeal to determine guilt, such as burning their hand and waiting to see how well it healed.

As England came into existence from a series of smaller kingdoms under the Anglo-Saxons, three key elements emerged that would have profound effects on the development of politics in the UK:

- the witan
- the principle of **trial by jury**
- **habeas corpus**

The witan was a council that advised the king on taxation and military matters. Although not a parliament as we would understand it today, it established the principle that the king of England should consult with the lords before taxing and commanding the people. It was also the job of the witan to decide who should be king.

The principle of trial by jury was the Anglo-Saxon legal principle that any noble accused of a crime should be tried a jury of peers. The king would determine the sentence, but guilt was decided by the deliberation of his fellow lords. Elsewhere in Europe, guilt was often determined by a decision of the king or through **trial by ordeal**, but England was governed by law and the power of the monarch was limited.

The principle of habeas corpus meant that a prisoner had the right to appeal to the courts against unfair or illegal detention. This meant that even

the lowest ranked citizen could appeal to the law about unfair punishment and imprisonment. In this sense, the weakest in society were protected by the rule of law against unfair treatment by the strongest.

Although these three aspects of Anglo-Saxon society were challenged and ignored in the years immediately after the Norman Conquest, they became the underpinning of the revolt of the barons in 1214 and later still became the founding principles of the UK constitution when it emerged.

Norman and Angevin rule



Under the feudal system nobles had to swear an oath of loyalty to the king

From the Battle of Hastings in 1066 until the signing of Magna Carta in 1215, England was run as a feudal system. This meant the king effectively owned all the land and everyone had to swear an oath of loyalty or 'fealty' to him. The king would give land to the nobles who would use knights to manage it for the king. In return, the nobles would supply an army to the king if the country needed it. Over time, rather than supply an army, the nobles began to supply cash instead. To work out what the nobles owed, the king's chancellor would use a huge chequered mat (like a giant chess board) to calculate the amount of money owed, hence the title the '**chancellor of the exchequer**'.

Key term

Chancellor of the exchequer The government official responsible for calculating, collecting and distributing government funds through taxation and duties.

As well as being king of England, most kings — from the Norman Conquest of 1066 until the end of the Angevin empire with the death of King John in 1216 — were also lords in France, owning Normandy, Anjou and Aquitaine. As such, the kings were often absent and would leave their nobles — chief ministers — to run England while they were away. These chief ministers were nothing like modern prime ministers, but they helped to establish the principle of royal powers being exercised by someone nominated by the king.

Finally, the absence of the king meant he could not be relied on to preside over court proceedings and dispense justice. To combat this, he would appoint justices of the peace, or judges, who would travel the country and hear cases on behalf of the crown. This marked the beginning of the English legal system, and many of the common-law principles that were established then continued to exist in UK politics until fairly recently.

Magna Carta

Unlike his immediate predecessors, King John (1166–1216) was seen as a ruthless and ineffective king. The English nobles resented him raising money in England to fund wars in France, as well as his abuse of royal powers, his conflict with the Church and his arbitrary abuse of the justice system for his own ends.

By 1214, these issues had come to a head and the barons of England revolted against the king. The nobles referred to the Anglo-Saxon

principles of the witan and habeas corpus as limits on the power of the monarchy. They even went so far as to offer the crown to Prince Louis of France. This revolt led to the defeat of the monarchy and John was forced to sign a great charter, or 'Magna Carta', at Runnymede in Berkshire.

Key provisions of Magna Carta

Magna Carta guaranteed the freedom of the Church from royal interference (Clause 1) and curbed the powers of the king:

- The king could not raise a tax without the consent of the people (Clause 12).
- The right to due process in the law was guaranteed (Clause 29).
- The right to trial by jury was guaranteed (Clause 39).
- Justice had to be free and fair (Clause 40).
- The nobles could select a committee of 25 to scrutinise the actions of the king (Clause 61).

Magna Carta was the first time since 1066 that the powers of the monarch had been limited and it was an acknowledgement that the rights of the lords had to be respected. There were 63 provisions in total, mostly concerning the rights of the nobles to be consulted about taxation and about the legal protection they had from the power of the monarchy. By consolidating these Anglo-Saxon principles into a formal legal document, the lords created the first part of the UK's constitution and established the first formal limits to the power of the monarchy. Magna Carta also paved the way for the creation of parliament.

The creation of parliament

Key terms

House of Commons The chamber where elected members of the UK Parliament sit.

House of Lords The second, unelected, chamber of the UK Parliament.

Palace of Westminster Originally the royal palace attached to Westminster Hall, today it is the seat of government and comprises Westminster Hall, the House of Commons and the House of Lords.

parler A French term meaning to speak or converse.

Parliament The British legislative body that is made up of the House of Commons, the House of Lords and the monarchy.

Westminster Hall A large chamber in Westminster where the early Norman kings would meet with the nobility.

The right of the nobles to be consulted on the king's demands for tax to defend England, the right to air their grievances to the king and the right to have a committee to scrutinise the actions of the monarch meant the nobles had to be consulted regularly — this was effectively the creation of the **House of Lords**.

In 1275, King Edward I required money to fight against Scotland. Knowing the lords would object to this, he sent out writs demanding that each shire and each town elect two representatives from among the knights and burgesses (town officials) to join with the lords in voting to authorise the king's demands for taxation. The knights agreed and they, too, were regularly consulted by the monarch. Not being noble, the knights and burgesses were classed as 'commoners' — this was effectively the creation of the **House of Commons**.

Both the Lords and the Commoners met to **parler** with the monarch at **Westminster Hall** in the **Palace of Westminster**. Therefore, the Palace of Westminster became the **parliament** where the lords and the representatives of the knights met to discuss their grievances with the monarch and confirm or deny the monarch's requests for tax reform. This is where the concept of parliamentary democracy began.

In 1327, following a period of civil war, King Edward II was formally removed by parliament on the basis that his personal faults and weak leadership had led to disaster in England. Parliament chose to replace

him with his son, Edward III. This established the principle that the government, in the form of the monarch, was answerable to parliament and could be removed by parliament.

The journey towards parliamentary sovereignty

Key terms

Acts of Parliament Laws that have been formally passed by parliament and given royal assent by the monarch.

Codified constitution A single, authoritative document that sets out the laws, rules and principles by which a state is governed, and which protects the rights of citizens.

Sovereignty The control of power and the ability to distribute and reclaim it in a political system.

Most legislative chambers in the world have powers over taxation but few hold **sovereignty** in the way that the UK system does today. Sovereignty usually resides in the constitution, especially if it is a **codified constitution**. While the lack of a codified constitution explains why the UK does not have a sovereign constitution, it does not explain why parliament should be sovereign.

The idea of parliamentary sovereignty began with King Henry VIII. To justify his break with the church in Rome and change religious practice across England and Wales, Henry used legislation, or **Acts of Parliament**, saying that the changes had been approved by the will of the people and should therefore be respected. Henry forced the members of parliament to pass the Acts he wanted but his repeated statements that parliament — as the representatives of the people — had the power to approve the actions of the king established the idea of parliamentary sovereignty. This became a major issue during the English Civil War.

The monarchy and parliament clash: the English Civil War

Between 1603 and 1642, tension increased between the monarchy and parliament over who held power. This came to a head in 1642 when the king declared war on parliament. There were many factors at work during the English Civil War but the main ones concerned the nature of power and the resulting conflicts between King Charles I, who believed that he had a divine right to run the country as he wanted, and parliament, whose members believed the monarchy had to consult them and listen to their grievances following Magna Carta and Henry VIII's use of parliament to justify his actions.

The English Civil War was won by parliament when the royal forces were defeated at Naseby. Parliament put King Charles I on trial as a traitor and ruled that he was guilty and should be executed, thus establishing the supreme authority of parliament over the monarchy. From 1653 to 1658, England was ruled as a republic under the strict military rule of Oliver Cromwell. This nature of rule proved unpopular, so when Cromwell died and his son failed to be an effective leader, parliament elected to restore the monarchy with limited powers.

The Bill of Rights

The year 1660 saw the restoration of the monarchy, initially under Charles II and then under his brother, James II. The restoration was passed by parliament, meaning it had decided to accept Charles II as the legitimate king of England. However, Charles and James both attempted to rule as absolute monarchs with a divine right, which created tensions with parliament.

Key term

Declaration of Rights A statement of the rights of the subject which also declared that the monarch could not act without the consent of parliament.

In 1688, the invasion of William of Orange, who claimed the English throne through his wife Mary, became known as the Glorious Revolution. Faced with this and mounting opposition, King James II resigned the throne.

As MPs debated a replacement for James, William of Orange threatened to abandon the country if he was not made king. A Convention Parliament was called and it drafted a **Declaration of Rights**. This was presented to William and Mary when they were offered the crown and the declaration was read aloud at their coronation.

The Declaration of Rights was modified in 1689 and placed on the statute book as the Bill of Rights (see Table 1.2). The bill was heavily influenced by the political philosopher John Locke, who believed that government existed as the result of an agreement between the people and the monarch. Far from the monarch having absolute power, Locke believed the people were entitled to freedom from the government and that this should be protected by law.

Table 1.2 Key provisions of the Bill of Rights, 1689

Provision	Effect
The suspension or execution of laws, without parliamentary consent, was made illegal.	Only parliament could pass or remove laws.
The levying of money for the crown through prerogative and without consent of parliament was made illegal.	Only parliament could raise money for government expenditure.
Subjects were given the right to petition the king.	People could complain to the monarchy through parliament.
Raising or keeping an army in peacetime, unless by the consent of parliament, was made illegal.	Only parliament could raise and maintain an army during peacetime.
Members of parliament must be elected in free elections.	The principle of free elections away from government influence was established.
The impeachment or questioning of debates and proceedings in parliament was made illegal in any court or place outside of parliament. Freedom of speech was protected.	The parliamentary privilege of being able to say things in the chamber of the House of Commons without fear of prosecution was established, in order to allow for full and open debate.
Imposing excessive bail or excessive fines was made illegal. Cruel and unusual punishments were made illegal.	The judicial power of the monarchy was limited and the court system could not be abused by the executive.
Parliaments were to be held frequently.	The monarch could not simply ignore parliament by refusing to call it.

Synoptic links**The UK and US constitutions**

The framers of the US Constitution modelled many of its features on the British constitution. Key elements of the American Bill of Rights (the first ten amendments to the Constitution) were based on the English Bill of Rights.

Study the American Bill of Rights and try to identify which clauses were based on the English Bill of Rights. Were there any other principles from the English political system that the USA may have tried to replicate? Why do you think this?

The Bill of Rights was a major milestone in the development of the UK's constitution.

- It removed royal interference in elections.
- It placed limits on the use of the royal prerogative.
- It established the legal position of the army.
- It established key principles of rights or freedoms from the government.
- It formally established the principle of parliamentary sovereignty.

However, there were also problems with the bill:

- The rights were vague and could be easily reinterpreted.
- The precise definition of 'free elections' was unclear.
- As a statute law it held no higher legal authority and so could be easily repealed or replaced by a future parliament.
- There was no formal procedure for removal of the monarchy.
- The monarch still held enormous powers over war, the peaceful running of the kingdom and foreign policy.

The Act of Settlement 1701

The Act of Settlement in 1701 marked another step in the changing relationship between the crown and parliament. When it became clear that neither William III nor his heir, Queen Anne, would have any children, the succession should have gone to one of the heirs of James II or Charles I. However, these heirs were Catholic and the Protestant Westminster parliament objected to a Catholic monarch. The Act of Settlement was passed to settle the succession problem and parliament decided to offer the throne to George of Hanover. While there were nearly 50 closer relatives to Queen Anne, George was chosen as the closest relative who was not a Catholic, despite having never been to England and not being able to speak a word of English.

So when George I became king in 1714 it was the result of an Act of Parliament, not through any divine right of inheritance. In addition to granting parliament the power to choose the monarch, the Act of Settlement also established several principles that had been suggested during the debates over the Bill of Rights:

- Judges could not be removed without the consent of parliament.
- Royal pardons were to be irrelevant in cases of impeachment.
- The monarch could not take England into a war to defend their home country, without the consent of parliament.
- In governing Britain, the monarch could not make decisions alone and had to consult the full **Privy Council**.
- No foreign-born man could join the Privy Council, sit in parliament, hold a military command or be given lands or titles in Britain.
- The monarch had to be a member of the Church of England.
- The monarch could not be Catholic or married to a Catholic.

Synoptic links

The prime minister's power of patronage

Today, the prime minister can appoint any MP or peer to the government. A return to the principle of cabinet appointees having to stand again in a by-election would limit the power of the prime minister and perhaps force MPs to consider the wishes of constituents rather than seeking career advancement, thus improving democracy. However, it may lead to a less effective government and make the prime minister unwilling to make necessary changes to the cabinet.

Key term

Privy Council A group of senior political advisors who have the job of advising the monarch on the use of the royal prerogative.

The Act contained a provision that, after the death of Queen Anne, 'no person who has an office or place of profit under the king, or receives a pension from the Crown, shall be capable of serving as a member of the House of Commons'. Had this clause not been repealed by the Regency Act of 1706, the UK would have seen a strict separation of power and the idea of cabinet government would not have become established.

After the Act of Settlement, anyone appointed to the cabinet had to resign their seat in the House of Commons and stand in a by-election, a practice that continued until 1918. This meant the power of the monarch, and then the prime minister, to appoint cabinet ministers was limited by the fear of losing a by-election.

The Act also established the principle that the monarch could only choose ministers who could command a majority of support across both Houses of Parliament. This meant the king had to choose a 'king in parliament' who could control both chambers, rather than appointing the minister of his choice.