

In my essay I will examine the effects membership of the European Union or EU has had on the British Constitution and Parliamentary Sovereignty and also the effect membership has had on policies and how the views of the two main political parties have changed since its inception.

The EU was set up as a consequence of the Second World War to establish co-operation and unity throughout Europe. The idea being that if the countries of Europe were more closely integrated, with a mutual dependence on each other, then the threat of war erupting would somehow lessen. Britain joined the EU in 1973.

Perhaps the least obvious change membership of the EU has seen is that of the British Constitution. The Constitution is viewed as being flexible. It's unwritten and can be altered as and when required. It sets out a system of government that is unitary and where Parliament is sovereign or supreme to all other governmental institutions. For us to decide whether Parliamentary Sovereignty has been lost since joining the EU, if it indeed ever existed, we must first define what it is.

Parliamentary Sovereignty can be divided into three parts: -

1. Parliament can make or unmake any law but only if it does not conflict with EU Regulations or Directives. In certain areas EU law does take priority over UK law. However, when Qualified Majority Voting¹ (QMV) is expanded into areas that currently require unanimity², the UK will in effect, lose the right of veto that unanimity currently allows. This will mean the UK may find itself having to execute laws it didn't necessarily want nor vote for;
2. Parliament cannot bind its successors. This was traditionally understood to mean that say a present Labour government could not pass legislation that would come into force when a Conservative government came into power. The EU has had a significant effect on this, as now the UK cannot pass any legislation that *could*, in future, contravene EU law;
3. The Courts cannot question an Act of Parliament. An example of this can be seen in the well-documented Factortame case of 1991: -

¹Whereby each country can cast a certain number of votes, roughly in proportion to the size of its population. For a proposal to be adopted there must be a qualified majority in favour of it.

²Whereby all countries have to agree unanimously

In this case EU law directly overruled UK law. An Anglo-Spanish Fishing company, Factortame Ltd, brought a case against the Secretary of State for Transport concerning restrictions, placed upon them by the UK government, in the Merchant Shipping Act 1988. Part II of the Act prohibited companies using foreign ships registered as British from fishing in UK waters. Under EU law Factortame argued that they were allowed to fish in UK waters. EU legislation allowed for a domestic court in the UK to go over the heads of the House of Lords, seen as the highest court in the UK, and take the matter straight to the European Court of Justice³ who eventually found in favour of Factortame and awarded considerable damages to the tune of some £120m for their trouble. (<http://www.emplaw.co.uk/>)

The alternative view is that Parliamentary Sovereignty has not been lost but “pooled” with other member states thus giving what appears to be a much stronger position and the ability to achieve much wider gains than a single state could accomplish on their own. By pooling sovereignty the EU can become economically stronger. It appears to be in a much better position to negotiate trade agreements. For example the EU forced the United States to reduce steel tariffs by threatening to place tariffs on US exports to the EU. The UK had suffered as a consequence of these tariffs and lost considerable amounts of trade. On its own, the UK would have had little chance in negotiating these agreements. (www.news.scotsman.com)

Parliamentary Sovereignty is not the only aspect of UK politics to have altered as a result of EU membership. European integration means that member states must work together to make decisions on a whole variety of issues. The result is that various common policies are developed and adopted including the Common Fisheries Policy (CFP), the Justice & Home Affairs Policy (JHA) and the Common Agricultural Policy (CAP):

The CAP was to stabilise markets and increase agricultural productivity and efficiency. It currently accounts for approximately 40% of the EU's budget and supplements farmers' incomes in three ways: -

1. The Intervention price is the price the EU guarantees farmers will get if they cannot sell their produce on the open market. The EU agrees to buy the surplus.

³ The European Court of Justice is the “supreme legal body” in matters relating to EU law and can rule against UK legislation if it contradicts EU legislation.

2. Import Levies are imposed by the EU on food imported from outside the EU so that farmers do not have to deal with tough competition outside the EU.
3. Export Subsidies is a payment to farmers who sell their produce outside the EU. This has the effect of reducing the surplus the EU may have to buy and stockpile.
(www.defra.org.uk)

A more controversial common policy is that of adopting the Euro or common currency. Britain opted out of joining 12 other member states in getting rid of their own currency of 1 January 2002. The economic benefits to the UK are still not clear at this time. One of the arguments for joining the Euro is companies that export considerably to other countries within the Eurozone will not have to endure the costs of exchanging profits back into their home currency. The main argument against is simply that joining the Euro means handing over control to the EU regarding our monetary policy.

The Three Main Institutions of the European Union

The Council for the European Union or the Council of Ministers is the most senior and most powerful decision-making body. It approves or dismisses proposals and issue Regulations, which are directly binding on all member states, and Directives, which are left for member states to interpret how best they be implemented. Members are directly elected MPs or foreign ministers from their own country. (Budge, I, et al 2004, 214)

The European Commission's role is to implement the decisions made by the Council of Ministers. The Commission have offices, called Representations in all of the member states of the European Union. In the UK there are offices in London, Edinburgh, Cardiff and Belfast.

The European Parliament consists of MEPs directly elected by the people of Europe to represent their interests. Its role is to discuss policies and suggest amendments before finally rubber stamping any new laws. The Parliament also has the power to dismiss the European Commission.

The decision-making system of the EU is often seen to be far removed from the people of Europe. The complex jargon and legislation and the fact that there appears to be little accountability creates what is termed a "democratic deficit". This can be countered by what is termed the "subsidiarity principle". This means that EU decisions are taken as close as

possible to the citizen. The EU will not take action if it is more effective to do so at national, regional or even local level, except where EU action is solely responsible.

In most European countries there is a Ministry for European Affairs that deals with all aspects of the EU. In the UK there is no such body. Instead the Cabinet Office co-ordinate "interdepartmental committees" devised from teams working on EU affairs within various departments. The Foreign and Commonwealth Office also deals with matters pertaining to the EU.

The nature of Pressure Groups has changed since EU membership also. Pressure Groups are organised groups which do not put forward candidates for election but seek to influence policy or legislation by targeting those who have the power to change it. Since membership UK based groups are expanding into Europe and joining up with their European counterparts. This has led to more unified groups emerging and using combined resources to add strength to their influence over particular policies. An example of this can be seen in the National Farmers' Union, which joined forces with the Committee of Professional Agricultural Organisation who already had a strong Brussels presence. (Budge, I, et al, 2004, 213)

Perhaps the most profound effects can be seen in our political parties and how their views towards European integration have altered throughout the course of time.

You would imagine that the UK political parties would have a firm stance on Europe. Rather, the issue of Europe divides the parties not only from each other but also internally giving rise to often wishy-washy policies and prolonged in-house fighting. Since the EU's inception, whilst even at its most basic level, there has been intense division between the two major political parties.

Traditionally the Conservative Party were anti-European but ironically, back in 1973, it was a Conservative government led by Ted Heath when the UK initially applied for membership of the then EEC. Labour was severely divided on opinion and whilst in opposition we saw a "civil war" break out within the party. Labour's European policies were erratic and inconsistent. Harold Wilson won the General Election for Labour in 1974 and in 1975, despite his reservations, held a public Referendum with a result of 67% in favour of staying in the EEC.

In 1979 we saw the Conservative government under Margaret Thatcher start to change their attitude towards European integration. Mrs Thatcher was angered over British contributions to the EEC Budget and demanded a rebate which was finally received in 1984⁴. In 1986 however, Margaret Thatcher did sign the Single European Act in the hope that it would provide more economic growth with less interference from the government. At this time other member states were looking toward a greater integration with the now named European Union. 1991 saw John Major sign the controversial Maastricht Treaty. This reiterated the original aims of the Treaty of Rome and laid out new ones concerning three new areas; The European Commission, Foreign and Security Policy and Justice and Home Affairs. This caused much concern and scepticism on the home front and the Amsterdam Treaty was seen as a compromise. By this time dissention in the ranks was really beginning to grow and EU membership did not look such a positive move for the Conservatives after all.

Since Neil Kinnock's Labour in 1983, the Party has readily pursued a more positive European stance culminating in the landslide victories of the 1997 General Election, where Tony Blair supported a "loose confederation of the states" and again in the 2001 General Election. In 2005 Labour is still more positive towards European integration than its Conservative opposition.

So what changes have we seen since the UK became a member of the European Union way back in 1973?

Constitutionally there has been very little with the exception of Parliamentary Sovereignty seeing Westminster having to transfer some power to Europe regarding legislation. In the modern, global world however "pooling" sovereignty with Europe seems a more positive way of looking at it. It enables us to join forces with other member states on issues out with our control as a single nation.

Integration does mean that common policies have had to be adopted. This sees the UK working ever closer with other member states to iron out potential problems in policies as they arise. This has not always been an easy task and some policies have proved more controversial than others. The issue of the Euro is something that the UK will have to take a stance on at some point in the future. The economics benefits of adopting a common currency are not altogether clear at this point in time.

⁴ The British rebate is currently under scrutiny once more as part of the 2007-13 EU Budget. Ironically this has now reared its head under a Labour government. (The Economist, Dec 10 – 16, 2005, 15)

Pressure Groups have had a more positive time, seeing those whose interests are directly affected by the EU pooling their resources to add clout to their voice on a variety of issues.

The democratic deficit could be managed better with clearer information concerning Europe filtering through to the man on the street and using the principle of subsidiarity seeing the EU giving more power back to national, regional and local governments in areas where it is not directly concerned.

Today the political parties are still divided. The Labour government is taking small tentative steps toward deeper EU integration and sees it as a positive association. The Conservative Party is still sceptical but realise that a fair amount has been gained since joining. Their main concern is that Europe has too much influence over the UK and would like to see some of our sovereignty recouped. Policies are a little clearer but there are still considerable divisions both within and between the main parties.

Our future is in Europe and an “ever closer union” with the EU is a good thing for us. We have gained far more than we have lost and I believe that the Labour government is taking tentative steps in the right direction. When the time is right we will join the Euro but only when there are clear economical advantages for us to do so. I believe the question of Parliamentary Sovereignty is a moot point. If indeed it ever existed in the first place, pooling our sovereignty with other member states places us in a stronger position globally.

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