

Cameron's deceit over sovereignty

In the early days of the *Save Britain's Fish* campaign it became obvious that the establishment's lawyers were going to take us head on, and the only way we could combat that was to study law, especially Constitution Law.

This paid dividends when Prime Minister John Major sent Fisheries Minister Tony Baldry, himself a barrister, to deal with us, but my colleague Tom Hay sent Baldry packing. The establishment never expected mere fishermen to know the law.

The same applies to this very day, when many, including barristers and lawyers state we, the UK, have lost sovereignty.

There is a massive difference between loss of sovereignty, and what has actually happened. Our Westminster Parliament has "lent" sovereignty to the European Union.

We start with the classic definition of sovereignty given by A. V. Dicey in his "Introduction to the Study of the Law of the Constitution":

"The principle, therefore, of parliamentary sovereignty means neither more nor less than this, namely that 'Parliament' has 'the right to make or unmake any law whatever'".

This means that Parliament exercised its sovereignty in passing the European Communities Act 1972. By doing so, Parliament – not the EU, not the European Court of Justice, but Parliament – decided to accept the obligations of EU membership for the UK. Parliament has continued to exercise its sovereignty in passing the legislation necessary to implement every EU amending treaty since the Single European Act 1986.

Therefore the UK Parliament is and remains sovereign. That is not affected one millimetre or one inch by the Lisbon treaty. As our own courts have ruled, by Lord Justice Laws:-

"The fundamental legal basis of the UK's relationship with the EU rests with the domestic not the European legal powers."

This is very important to understand. David Howarth MP stated in 2008 there are those who talk about the supremacy of Parliament who want to get to a situation in which our Parliament can make European law. That is impossible; the legislative supremacy of this Parliament relates only to its ability to change the British legal order. We will never be in a position to change the European legal order.

As far as the EU is concerned we are bound by our own Act; we have decided that that should be so. (the will of Parliament) We could always decide not to be bound by it, but until then we are in the European legal order, which decides its rules by its own procedures. We cannot change the European legal order; it can change its rules only by its own procedures. We can, however, change the rules of the legal system of this country, and that always includes the possibility of repealing the 1972 Act and withdrawing from the entire structure.

It is a question of the status of the supremacy of Parliament, which is, if anything, a rule of the common law. We ourselves, by passing amendments to Bills, cannot do anything about it. We cannot give it away either. We cannot give away our supremacy, and we cannot regain it if we lose it

As Lord Denning said,

"If the time should come when our Parliament deliberately passes an Act with the intention of repudiating the treaty or any provision in it or intentionally of acting inconsistently with it and says so in express terms then I should have thought that it would be the duty of our courts to follow the statute of our Parliament."

So we have the situation where the “will” of parliament has “loaned” authority to the EU, but the UK can only change the British legal order not the European Union order. This, however, is exactly what Prime Minister David Cameron is trying to do and explains why on becoming party leader he dumped the policy of returning fisheries to national control and why before this, he had been so opposed to Michael Howard’s letter outlining the course of using the supremacy of parliament to obtain national control of fisheries, because he has no intention of using the British legal order.

To quote David Howarth again: it is of our own doing that we are in this club. (The EU) While we are in the club, we are bound by its rules. If we object to the rules, we can leave the club, but we cannot ourselves, by ourselves, change those rules—they can be changed only according to the rules of that club.

This causes a dilemma for David Cameron. He has no intention of leaving the EU, as he stated on 24th October 2011, *“some of them (other MPs) would like us to get out of the European Union altogether. But that is not our policy”* nor does he intend using the British legal order. However, he can only use the European Union order if he obtains the full consent of the other 27 member states for major items that require a treaty change, which is extremely difficult as you have to give concessions elsewhere to stand any chance, which only leaves minor items under qualified majority voting. As the leaders of the Eurozone want to forge ahead to full integration – which Cameron opposes – the UK is going to be relegated to the second or even third division, yet still controlled by the European Union order. This is hardly very inspiring for the UK.

The Lisbon Treaty has done us a big favour by including Article 50 (the exit clause), because it has put the “reformists” on the spot and shown them in their true colours. After Lisbon there is now an EU legal order to leave the EU,

not just a British legal order, but those who don't want withdrawal at any price and think they can reform the EU should take notice of David Howarth's words: *"they can be changed only according to the rules of that club"* and the club has no intention of changing to the British way, so Cameron has two clear options, get out and invoke article 50, or carry on with what he is presently doing, deceiving people into believing that he can change the club rules, while keeping us in the ongoing integration process, where eventually we will lose our sovereignty.

Unfortunately for the UK, Prime Minister Cameron is constantly facing two opposite ways at once. On the 17th December 2012, he stated, concerning the single currency *"It is for those countries that are contemplating that integration and that loss of sovereignty to answer that question. I would not be comfortable with it, as someone who believes in the importance of national Parliaments, national democracy and national decision making"*.

It is easy for him to state this, but he never carries it through as we noted in his opposition to Michael Howard's fisheries plans, where he rejected the supremacy of parliament.

A few days earlier on the 12th December 2012, he said:'

"There were two possible outcomes: either a treaty of all 27 countries, with proper safeguards for Britain; or a separate treaty in which eurozone countries and others would pool their sovereignty on an intergovernmental basis, with Britain maintaining its position in the single market and in the European Union of 27 member states." That is the second division of associate membership.

Presently there does not appear to be any indication of a future EU Treaty in the offing, yet on 29th. June 2015, he said, *"We want national Parliaments (of the Member States) to*

be able to work together to have more power, not less”.

But our Parliament has all the power it requires but it chooses of its own free will not to exercise that power.

William Hague, Foreign Secretary, at the Conservative Party Conference of 6 October 2010 stated “EU law has effect in this country because – and solely because – Parliament wills that it should. Parliament passed the 1972 European Communities Act. That was the act of a sovereign parliament – a parliament which is and remains sovereign.”

So why oh why, is the Prime Minister wanting to propose legislation to make it clearer to people that our Parliament is sovereign, when it is already sovereign? What is going on here? Is it a public relations stunt? He says he wants national Parliaments to have more power, but he is not prepared to use the British legal order. Instead he would rather change the Club rules and go for the EU legal order, which isn't going to happen.

Maybe we have to go back to the beginning – the Treaty of Rome – “to lay the foundations of an ever closer union among the peoples of Europe” which can only mean one thing, the individual Nation State slowly disappears and yes, the sovereignty too, is to be replaced by a larger bigger Nation.

At what stage in that slow process, does sovereignty start to go, and is finally gone?

Over the past 20 years there has been talk of a two-speed Europe, an inner core, that goes for full integration, and an outer core, the associate members, very much the second division, who are playing catch up.

Presently we have many people saying if Britain leaves the EU, the EU will be severely damaged. I disagree with this. I believe Britain is holding up the inner core as we are forcing them to slow down in their striving to reach their final

destination, and that is causing them problems. It would be in our interest and theirs if Britain was set free to steer her own course. Supporters of EU membership unfortunately don't see it that way; they would rather us be trapped in the second division, under their thumb of the *acquis*.

So is our Prime Minister on the same track as myself? – in other words, is the reason why he wants to strengthen sovereignty is because he doesn't want to be part of the inner core of final and total integration? If that is the case, why does he not say so, rather than take us into this impending second division of associate membership, portraying us as a second rate nation likely to end up on the rocks rather than as a premier league global player in our own right?