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THE BRITISH CONSTITUTION AS AN EXAMPLE OF AN UNWRITTEN CONSTITUTION

***Abstract:** the article discusses the features of the unwritten Constitution of Great Britain, the question of the existence of a constitution in this country, controversial issues. The author believes that the unwritten constitution has the right to exist. Some legal scholars and lawyers do not consider the English constitution to be unwritten, since both precedents and statutes are set out in writing. Thus the United Kingdom has a written but uncodified constitution. Its peculiarity is that it consists of statutory law, common law and constitutional agreements, is a living, mobile act and is currently not completed, continues to develop and change.*

***Keywords:** unwritten constitution, Great Britain, precedent, statute law.*

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КОНСТИТУЦИЯ ВЕЛИКОБРИТАНИИ КАК ПРИМЕР НЕПИСАНОЙ КОНСТИТУЦИИ

Аннотация: в статье рассматриваются особенности неписаной Конституции Великобритании, вопрос о существовании конституции в этой стране, спорные моменты. Автор считает, что неписаная конституция имеет право на существование. Некоторые правоведы и юристы не считают английскую конституцию неписаной, поскольку и прецеденты, и статуты изложены в письменной форме. Таким образом, Соединенное Королевство имеет письменную, но неcodифицированную конституцию. Особенность ее в том, что она состоит из статутного права, общего права и конституционных соглашений, является живым, подвижным актом и в настоящее время не завершена, продолжает развиваться и меняться.

Ключевые слова: неписаная конституция Великобритании, прецедент, статутное право.

The Constitution as the basic law of the country is one of the most important and central issues of constitutional law. The relevance of the topic of our research lies in the fact that the question of the existence of the Constitution of Great Britain has long been the subject of disputes between jurists from different countries of the world. It is widely believed that there is no constitution in the UK [5, p. 276–277]. At the same time, it is recognized that it was in this country that constitutionalism was born. The discrepancy lies in the fact that a democratic state, including a monarchy, cannot exist in the modern world without a constitution [3, p. 415].

The purpose of our study is to identify the causes of the above inconsistencies. To achieve this goal, it is necessary to study the issue of disputes surrounding the Constitution of the United Kingdom of Great Britain and Northern Ireland, to determine why this particular legal act causes ambiguous opinions.

The Constitution is a legal act that has the highest legal force and regulates the foundations of the organization of the state and society, as well as the foundations of the relationship between the state and the citizen [7, p. 59]. In pre-capitalist formations, actual (unwritten) constitutions were in force, reflecting the existing foundations of the constitutional system, disordered laws, as well as customs and traditions of state power. The first written constitution was the United States Constitution,

adopted by the Philadelphia Convention in 1787 [2]. From this we can conclude that the constitution does not necessarily have to be written in a single document. Just like the written constitution that exists, for example, in the Russian Federation and the United States, Italy and most countries of the modern world, an unwritten constitution has the right to exist.

Countries that have an unwritten constitution include: Great Britain, Canada, Israel, New Zealand. However, even in this aspect, not everything is so clear. Many modern English legal scholars and jurists do not consider the English constitution unwritten, since both precedents and statutes are set out in writing [13, p. 157]. For example, Lloyd John claimed that England has a written constitution. Professor Vernon Bogdanor, a leading expert on constitutional law, described the idea that Britain has an unwritten constitution as disorienting [10, p. 68]. He stressed that the rules governing the political balance between those who govern and those who are governed are set out in writing. They're just not recorded in the same place [11]. Based on this, we can say that the United Kingdom has a written but uncodified constitution.

It should be noted that the Constitution of Great Britain has some special features. It is a unique phenomenon in its own way, it consists of statutory law, common law, and constitutional agreements. Constitutional norms can be derived from statutes, judicial precedents, and constitutional agreements [12]. Statutes are acts passed by Parliament and sanctioned by the Monarch. In the order of adoption, amendment and repeal, all statutes (in the narrow sense) have equal legal force [10]. These include such important acts as the Magna Carta (1215), the Petition of Law (1628), the Bill of Rights (1689), the Representation of the People Act (1969), and others. Together, they cover most of the most important principles and constitutional norms. Common law can be considered as a set of judicial precedents (decisions of higher courts that are binding when considering similar cases by lower courts and subsequently become part of the constitution) [1].

Legal scholars still debate the relationship between statutes and precedents. F.M. Reshetnikov and T.V. Aparova suggested that judicial precedent and a parlia-

mentary act exist as two equal and closely interacting sources of law [9, p.227] Bailey and other researchers believe that from the moment that statutes acquire the force of law as acts of Parliament, their legality cannot be challenged in court [8, p.132]. Other English scholars confirm the fact that historically precedent has played a greater role than statutes. So we see that, like many other issues related to the UK Constitution, this issue remains debatable.

So why is there so much debate about the English constitution? In our opinion, V.A. Tomsinov made an important assumption that the essence of the British Constitution lies in its formation, and not in the form itself. Unlike most other countries, it is not an artificial creation of a group of people, but the result of the natural-historical process of the development of the state of England [6, p. 18–20]. This explains its ambiguity and flexibility in making changes.

Thus, after studying the opinions of various legal scholars and historians, we were able to identify some of the reasons that explain so many ambiguities and features of the English constitution. The main feature is that the Constitution of the United Kingdom is a living, moving act and is currently not completed, but continues to evolve and change. In our opinion, this is much easier and faster, unlike, say, the Constitution of the Russian Federation, due to its uncodified and flexible nature. Of course, this has its drawbacks, such as the fact that the Constitution contains many omissions and omissions concerning such important issues as the status of the British cabinet. However, no other constitution addresses absolutely all issues of law of any State. And in the context of the modern political system and globalization, the absence of a constitution in the UK in the usual sense, on the contrary, as we assume, contributes to the most rapid and efficient development of the country.

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