

APPG on the Rule of Law

In conjunction with the UK Constitutional Law Association

Reasoned Discussion of the High Court's Decision in Miller and What Might Happen Next

30 November 2016, 10:30 – 11:30

Committee Room 14, Houses of Parliament

Contents

Format	2
Attendance	2
Meeting Aim	2
Background	2
The Bingham Rule of Law Principles	4
Speakers' Presentations	5
Key Points from the Discussion	8
Expert Speakers' Biographies	12
Further Reading	13

Format

- 10:30 – 10:35 **The Rt Hon Dominic Grieve QC MP (Chair)** Introduction
10:35 – 10:50 **3 expert speakers** (5 minutes each)
10:50 – 11:10 **Questions and comment** – MPs and Peers
11:10 – 11:30 **Questions and comment** – open to the floor

Attendance

Chair: The Rt Hon Dominic Grieve QC MP

MPs and Peers: The Rt Hon Sir Edward Garnier QC MP; Lord Anderson; Baroness Ludford; Baroness Hayter; Lord Woolf; Alex Chalk MP; Helen Goodman MP; Joana Cherry QC MP; Margaret Ferrier MP.

Others in attendance included: Jessica Simor QC; Joanne Dee, Assistant Judge Takuma Ikemoto; John McEldowney; Jan van Zyl Smit; Alan Humphreys; Jake Lee; Julinda Beqiraj; Peter Moran; Andrew Warnes; Richard Gordon QC; Tom Pascoe; Paul Evans; Murray Hunt; Jolyon Maughm QC; Jack Simson Caird; Michael Olatokun; Sebastian Payne; Swee Leng Harris; Christopher McCorckindale; and a class of students from the University of Strathclyde.

Meeting Aim

To provide MPs and Peers with an opportunity to discuss the High Court of England and Wales decision in *Miller*, the Belfast High Court decision in *McCord*, the potential arguments in the Supreme Court, and the possibilities that might follow from the Supreme Court decision including legislative options.

Background

As is well known, the referendum on 23 June 2016 determined that the UK would leave the European Union. The process for withdrawal is governed by Article 50 of the Treaty on European Union.

A number of cases have been brought concerning the power to issue notice of a decision to leave under Article 50. One group of claimants had their claim upheld by the High Court of England and Wales in the case referred to as *Miller*. Another group of claimants did not succeed in the High Court in Northern Ireland, a case referred to as *McCord*. The High Courts' decisions are summarised below.¹

On 5 December, the UK Supreme Court will commence hearing appeals on *Miller* and *McCord*. The Supreme Court has granted leave to Scotland and Wales to intervene, amongst others.²

¹ The judgments are available at: <https://www.judiciary.gov.uk/wp-content/uploads/2016/11/r-miller-v-secretary-of-state-for-exiting-eu-amended-20161122.pdf> and [http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2016/\[2016\]20NIQB%2085/j_j_MAG10076Final.htm](http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2016/[2016]20NIQB%2085/j_j_MAG10076Final.htm)

² Alan Erwin, 'Northern Ireland Brexit challenge referred to supreme court' *The Irish Times* (18 November 2016) <http://www.irishtimes.com/news/crime-and-law/northern-ireland-brexit-challenge-referred-to-supreme-court-1.2873544> ; Supreme Court, 'R (on the application of Miller & Dos Santos) v Secretary of State

***R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768**

Issue

The question before the Court was whether the Government is entitled under the UK Constitution to give notice of a decision to leave the EU exercising the Crown's prerogative powers without reference to Parliament.

Under the UK Constitution, Parliament is sovereign and can make and unmake laws in the UK. The Crown cannot exercise prerogative powers to frustrate Parliament's legislation. However, normally the conduct of international affairs and the making of treaties are part of the Crown's prerogative powers.

The Government accepted that giving notice under Article 50 would affect domestic law — EU law that has become UK law via the enactment of the European Communities Act 1972 will cease to have effect after withdrawal from the EU. However, the Government argued that when enacting the 1972 Act Parliament must have intended that the Crown would retain prerogative power to withdraw from the EU, and therefore intended that the Crown would have the power to decide the continued effect of EU law in UK domestic law.

Decision

The Court did not accept the Government's argument. It held that the text of the 1972 Act did not support such an argument and it would be contrary to the fundamental principles of Parliamentary sovereignty. As such, the Court found that the Government does not have power to give notice of the UK's exit under the Crown's prerogative.

***McCord's (Raymond) Application* [2016] NIQB 85**

Background

The case involved two judicial review challenges in Northern Ireland to the manner in which the Government intends to trigger withdrawal from the EU. The first application was made by Raymond McCord and the second by multiple applicants, including members of the Northern Ireland Assembly, persons connected to the voluntary sector in Northern Ireland and human rights organisations. Both applications argued that legislation was required to trigger Article 50.

Issues

The applicants argued that:

- The relevant prerogative power to trigger Article 50 has been displaced by the Northern Ireland Act 1998 read with the Belfast Agreement and British-Irish Agreement, and other constitutional provisions. As such, an Act of Parliament is required to trigger Article 50.
- If an Act is required, the Northern Ireland Assembly must grant a Legislative Consent Motion before such legislation can be passed.
- In any case, there are various public law restraints on any exercise of prerogative power, including the requirement to take all relevant considerations into account and not to give excessive weight to the referendum result.

- The Northern Ireland office has failed to comply with section 75 of the Northern Ireland Act 1998 and its equality scheme.

Mr McCord further argued that Article 50 cannot be triggered without the consent of the people of Northern Ireland. This is because the Good Friday Agreement has created a legitimate expectation that there would be no change in the constitutional status of Northern Ireland without the consent of the people of Northern Ireland.

Decision

The Court dismissed both judicial review challenges. The Court found that the relevant prerogative power had not been displaced, and that if it had, legislation to trigger Article 50 would not concern a devolved matter and hence no Legislative Consent Motion would be needed. The Court further found that the giving of notice fits into the 'high policy' category of prerogative decisions that are unsuitable for judicial review, and therefore rejected arguments concerning public law restraints. In the Court's view, triggering Article 50 would not be a function carried out by the Secretary of State for Northern Ireland nor by the Northern Ireland Office, hence section 75 of the 1998 Act would not be engaged.

In relation to McCord's argument regarding a legitimate expectation that the consent of the people of Northern Ireland be obtained, the Court held that such an expectation cannot overwhelm the structure of the legislative scheme.

Rule of Law

Both *Miller* and *McCord* engage rule of law questions, particularly the rule of law principle that requires the proper exercise of power by the Government (principle number 4 below).

The Bingham Rule of Law Principles

Lord Bingham identified eight rule of law principles, which can be summarised as:

1. The law must be accessible and so far as possible, intelligible, clear and predictable;
2. Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion;
3. The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation;
4. Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably;
5. The law must afford adequate protection of fundamental human rights;
6. Means must be provided for resolving without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve;
7. Adjudicative procedures provided by the state should be fair; and
8. The rule of law requires compliance by the state with its obligations in international law as in national law.

Speakers' Presentations

These summaries were provided in writing by the speakers in advance of the meeting.

Professor Jeff King, Miller: The Judgment and its Fallout

The Case

In the *Miller* decision, the parties before the Divisional Court agreed to the following points:

1. That notice under article 50 is irrevocable or at any rate the Government has no intention to revoke notice; and
2. The issue before the court was justiciable insofar as it concerned the relationship between statute and the prerogative powers.

On the contentious issues, the Divisional Court found as follows:

1. The giving of notice would inevitably lead to the loss of statutory rights.
2. The statutory rights are those exercising EU law rights in the UK by virtue of section 2(1) of the European Communities Act 1972 (ECA 1972).
3. The ECA 1972 impliedly abrogates the prerogative power to give notice, because of the statutory scheme, including:
 - a. The fact that the Act is of crucial constitutional significance, and under the common law immune from implied repeal even by Parliament;
 - b. The long title of the Act envisages membership of the EU;
 - c. The scheme of section 2, which envisages 'General Implementation of the Treaties' (the heading).
4. Though this finding is evident through statutory construction alone, the common law cases concerning the control of the prerogative powers also support this interpretation.
 - a. The *De Keyser's Royal Hotel* (HL) case found that a statute may *explicitly* abrogate the prerogative powers, but left open the possibility that it may also *implicitly* do so;
 - b. The *Laker Airways* (CA) case found that the treaty-making prerogative is amenable to judicial control where it conflicts with a statute;
 - c. The *Fire Brigades Union* (HL) found it unlawful to use prerogative powers to frustrate a scheme set by Parliament in a statute even which is not entirely in force (i.e., where the Minister withheld the commencement order and substituted a non-statutory scheme); and
 - d. The *Rees Mogg* case (HC) is not authority for the non-reviewability of the foreign affairs prerogative when such power purports to alter domestic law.
5. Significant issues on appeal (other than devolution arguments) will include whether rights under section 2(1) are really statutory rights, or, by reason of the fact that section 2 recognizes rights that may

change 'from time to time,' they are in effect *contingent* upon the (judicially uncontrolled) exercise of foreign prerogative powers and thus not statutory rights.

Notice Legislation

If the Government's appeal is dismissed by the Supreme Court, there will be a need for legislation rather than a resolution to give notice under article 50 TEU.

1. The Great Repeal Bill should and will not be the legislative vehicle.
2. Two options for legislation:
 - a. *Minimalist option*: a bill with one provision authorizing the Crown 'notwithstanding the provision of any Act to the contrary' to give notice; or
 - b. *Conditions option*: this option attaches conditions to the legislation that authorizes notice.
3. In my contention, the primary conditions that could attach to this bill would include a scheme outlining rights of *notice, consultation* and *Government response* for both the Westminster Parliament and the devolved legislatures as well as governments.
4. A referendum on the exit agreement would be problematic and should not be insisted upon.
5. The Salisbury Convention is in my view engaged for the notice bill.
6. According to established principles identified by the Lords Constitution Committee, the notice bill ought not to be fast-tracked. The timeframe for the conditions option is manageable.

Sir Stephen Laws KCB QC, Concerns about the Miller Decision

1. The concerns are partly legal and partly about wider constitutional principles involving the relationship between Parliament and the courts.
2. Miller is not a blow for the rights of Parliament. Parliament is diminished - rather than strengthened - if it needs the courts to define and enforce its relationship with Government.
3. It is not, in practice, possible to leave the EU without the passage of an Act of Parliament providing prospectively for the removal, retention or modification of the EU rights of UK citizens. That is what the so-called Great Repeal Bill will do.
4. In the meantime, Parliament has ample powers to supervise the process of negotiating our exit from the EU, and should have been left to look after itself.
5. The Government needs to secure a negotiated settlement both with the other EU countries and with Parliamentary opinion. Both negotiations have involved timing disputes about when they should begin. The timing issues and the other issues in the negotiations are all interdependent. It is unhelpful for the courts to involve themselves in just one aspect of this complex process.

6. The practical effect of the High Court's decision is to impose specific requirements on the timing and manner of Parliamentary involvement in our exit from the EU, and to do so for the purpose of providing a more balanced decision-making process in Parliament. This is the wrong approach and conflicts with the fundamental constitutional principle in Art IX of the Bill of Rights 1688.
7. The legal approach to managing future uncertainty and change is to prescribe a process for the highly unlikely, worst-case scenario, in which we leave the EU against Parliament's wishes and with no conclusion to the negotiations, either with the EU or with Parliament. The political approach would be to work to get the best result from the most likely scenario. The Art 50 notice is only the initiation of a process that needs to be completed by Act of Parliament. The political approach is preferable, and law is an inappropriate tool for determining the way forward in an uncertain political situation, or for managing change.
8. There are existing non-legal constitutional principles about the pre-emption of Parliament that are relevant to the Art 50 situation, and show how it should best have been handled.
9. The High Court's reasoning makes a fundamental legal error about chronology. They asked the wrong question. Parliament's notional intentions in passing the ECA 1972 are not the determining factor. Later Acts prevail over earlier ones. The right question is about the intention of Parliament when passing the EU (Amendment) Act 2008, which incorporated the Art 50 qualification of EU rights into UK law. Did that Act really intend to change the procedure for the initiation of negotiations by the UK to leave the EU? How, in 2008, did Parliament envisage the Art 50 notice would be triggered?

Professor Aileen McHarg, The Role of the Devolved Legislatures in Triggering Article 50

If the Supreme Court (SC) holds that an Article 50 notification can validly be made under prerogative powers, any potential devolution implications will only arise later in the withdrawal process, when Parliament enacts the Great Reform Bill or other legislation giving domestic effect to withdrawal.

However, if it holds that legislation is required to authorise notification, the question arises whether such a Bill would require devolved consent under the Sewel Convention. This issue was not addressed in *Miller*, and was it was rejected for Northern Ireland in *McCord*. However there are good reasons to think that consent would be required at least from the Scottish Parliament, and the Scottish Government (SG) is intervening in the appeal to argue to that effect.

The basis of the argument is that, just as the Divisional Court held that triggering Article 50 would lead inexorably to the deprivation of rights conferred by the European Communities Act 1972 and thwart Parliament's intention that the UK would remain in the EU, so too it would frustrate Parliament's intention when enacting the devolution statutes. These give the devolved legislatures and executives responsibility for observing and implementing EU law within devolved competence, and prohibit them from acting contrary to EU law. The SG argues that the necessary effect of

withdrawal would be to alter the scope of devolved competence, affect the responsibilities of the devolved governments, and undermine devolved legislation predicated on EU law. Arguably, therefore, such changes equally require statutory authorisation.

It is unclear what form a Bill authorising notification under Article 50 would take. However, the SG argues that such legislation would necessarily impact on devolved matters, whether or not it did so expressly. They therefore argue that it would require the Scottish Parliament's consent.

The court in *McCord* found that consent is only required in Northern Ireland for legislation affecting matters within devolved competence. Since EU withdrawal is an excepted matter under the Northern Ireland Act 1998, consent is not required. In any case, as a matter purely of convention, any such requirement is not legally enforceable.

The SG argues persuasively that for Scotland (and probably also for Wales) the Convention is wider: consent has been required not only for legislation affecting devolved matters, but also for legislation affecting *the scope of* devolved legislative or executive competence. Although it accepts, notwithstanding section 2 of the Scotland Act 2016, that the consent requirement is not legally enforceable, it argues, again persuasively, that it is open to the SC to rule on the meaning of the Convention.

If its consent is required, this will give the Scottish Parliament a powerful tool with which to ensure that Scottish interests are taken into account in the Brexit process. Nevertheless, the wording of the Convention is that consent is "normally" required. It has been suggested that Brexit is, by definition, not "normal" and hence that consent can be dispensed with. It is unclear whether the SC will rule on this issue or leave it to be determined politically. It may be tempting to seek to bypass the additional obstacle of devolved consent. However, the adverse consequences of doing so are likely to be serious.

Key Points from the Discussion

There were questions and discussion following the expert speakers' presentations. The following paraphrases and summarises this discussion based on notes taken at the meeting, but should not be considered verbatim quotations.

Notice under Article 50

There was a question about whether a party other than the UK could refer the question of the revocability of notice under Article 50 to the Court of Justice of the EU (CJEU). Based on commentary on the Supreme Court cases, the question of revocability of Article 50 notice is unlikely to be addressed in the cases. If the UK triggers Article 50, are there other parties (such as the EU Commission or another EU member state) who can ask the CJEU whether it is revocable? Some took the view that the UK would be the only party that could seek an opinion on revocability because it is the country seeking to trigger Article 50. Others suggested that the issue would be moot unless the UK wanted to revoke its notice.

The determinative question for obtaining an opinion on the revocability of notice was whether a genuine case on the question could be established.

However, the CJEU does hear references from national courts on 'engineered' scenarios to answer genuine questions. There are two stages of analysis. First, does the national court hearing a case make a reference? Second, if so, will the CJEU choose not to answer it, as there are examples where an engineered case is not heard. If a case on revocability were to pass through both of these stages, any answer on revocability by CJEU would be binding on all members.

There was separate discussion on whether the UK could give qualified notice under Article 50. For example, give notice that the UK will leave the EU in 23 months as long as there is an agreement. The answer to this question was no it is not possible to give qualified notice as the whole point of Art 50 is to force people to come to a deal.

There are two possible kinds of revocability: revoking notice to stay in EU, or revoking notice to restart the clock on negotiations. The latter will not be allowed, but the former could be agreed politically.

Rights from EU law will not be lost as a result of notice under Article 50 as such, rather, rights will be lost as a result of legislation passed by Parliament in due course. But, on another view, the triggering of Article 50 is not merely a matter of chronology, rather, triggering Article 50 will inevitably result in a loss of rights and is therefore not a mere formality.

The Role of the Courts and Parliament

It would be difficult for the Supreme Court to find that the cases on triggering Article 50 are not justiciable. Since the Divisional Court's decision, sophisticated arguments have emerged that were not put before the Divisional Court. On the other hand, both sides in *Miller* wanted the Divisional Court to give a decision, and did not argue the question of justiciability. There may be good reasons for courts not to be involved in these kinds of disputes, but it is hard for the courts to refuse to make a decision when both parties ask for one.

The difficulty in the cases before the Supreme Court is that they are presented as cases on the scope of the prerogative rather than the exercise of the prerogative. Given the law on the prerogative, it is hard for the Court to declare a question on the scope of the prerogative non-justiciable.

Another view of the *Miller* case is that the argument concerned preconditions for the exercise of the power to issue notice under Article 50. There is a clear procedure for issuing notice under Article 50, which is that it is the Government (not Parliament) that issues the notice. Parliament's involvement will be enacting legislation to change domestic law. The real issue is the end of the process when the UK leaves the UK, but the Divisional Court's decision in *Miller* means that the tail (being the end of the two year negotiation process) is wagging the dog.

On this view, the arguments about the prerogative are not helpful. The power to issue notice arises in respect of Article 50 which was incorporated into UK law through the EU (Amendment) Act 2008.

The Government could perhaps give Parliament a vote on a resolution so that the question before the High Court would have been moot. No one offered a view on why the Government had not taken this course of action.

On the other hand, it is likely that the claimants in *Miller* would have pursued their claim even if a parliamentary resolution had been passed. Furthermore, based on the decision in *Miller* a resolution would not have been sufficient, rather, legislation is needed. There was also a suggestion that the Government should now seek to pass a Bill to ensure that it had permission to proceed with notice under Article 50 by the March 2017 timeline proposed by the Government.

In relation to Art IX of the Bill of Rights concerns, there was discussion of whether the arguments meant that the Courts should consider the political weight of the decision they are making, and thus invited the Courts to make political judgements about when to decide an issue. Sir Stephen clarified that he was arguing that it is contrary to Art for the Court to decide that Parliament will be forced to decide anything following notice under Article 50. Others took the view that Parliament's legislative action will have been determined by the Government's actions under Article 50, and that the Government needs Parliament's permission to issue Article 50 notice.

Sir Stephen further took the view that the principle that EU rights cannot be removed without an Act of Parliament does not mean that an Act is needed before Art 50 notice, but Professor King took the view that such notice makes it inevitable that the EU treaties would no longer apply after two years.

The Supreme Court could determine that issuing notice under Article 50 is a matter for Parliament to proceed on without any direct guidance from the Court as to how this might be achieved. Taking a generous view of interpreting legislation, often to avoid politically sensitive issues, was adopted by the courts when dealing with the Government of Ireland Act 1920. A number of cases³ are examples of how interpretation may assist the court in deferring to Parliament, particularly the Northern Ireland Parliament matters for their consideration. There are also a number of overseas cases.⁴

Parliamentary Scrutiny of Brexit

There was criticism by some of the Government's actions. It was argued that Secretary of State for Exiting the EU David Davis gave the undertaking to meet EU standards of parliamentary access to information on negotiations because he was embarrassed into it by Lord Teverson. The House of Lords EU Committee decided against recommending a scrutiny reserve in good faith in order to reach a compromise with the Government. The Committee is looking for reciprocity from the Government. Similarly, the Lords Constitution Committee report in September outlined the political and constitutional basis for Parliamentary scrutiny. The problem is the Government's failure to respond in kind.

³ *Gallagher v Lynn* [1937] AC 863 *Morton v Air Ministry* [1946] N.I. 136 *Duffy v Ministry of Labour and National Insurance* [1962] N.I. 6 *O.D. Cars Ltd. v Belfast Corporation* [1959] N.I. 62. *McEldowney v Forde* [1969] UKHL 6, [1971] 1 AC 632, [1970] NI 11, [1969] 2 All ER 1039.

⁴ *Edwards v Attorney General for Canada* [1930] A.C. 124 *Attorney General (Victoria) v The Commonwealth* 107 C.L.R. 529, *Attorney General for Alberta v Attorney General for Canada* [1939] A.C. 117, *Bank of New South Wales v The Commonwealth* (1948) 76 C.L.R. 1

By contrast, it was highlighted that the report by the EU Committee stated its reason for not recommending a scrutiny reserve as being that the reserved would be impracticable since bilateral negotiations will be happening in tandem. The Committee stated that it was prepared to reconsider, and if it were to do so it could examine the possibility of a scrutiny reserve limited to particular matters.

Parliament's capacity to scrutinise the Brexit process was questioned. Some observed that Parliament is not a good vehicle for detailed scrutiny, rather Parliament occasionally undertakes careful and detailed scrutiny when it is focused on a particular issue. This means that Parliament is not a body well suited to the scrutiny of the repeal of vast swathes of legislation. The fear with the Great Repeal Bill is that it will contain Henry VIII clauses delegating legislative power to the Executive. One MP voiced an anxiety that because of MPs' fear of the popular mood, MPs will be nervous to act and lay down parameters for the Brexit process.

A contrary suggestion was that neither Government nor Parliament knows what to do in relation to Brexit. The issue is portrayed as a risk of abuse of Executive power that must be addressed through parliamentary involvement in the process, but is this a mischaracterisation of the problem. It seems that no one knows what to do: neither Government nor Parliament. Parliament could lay down parameters for the Brexit process, but would it know what parameters to set?

However it was emphasised that Parliament is representative of a broader set of views than those within Government. For example, Scotland is not represented within Government. Therefore, it is important for Parliament to be involved.

Devolution

If rights of consultation were given to devolved legislatures, there could be risks of the devolved administrations delaying Brexit, sparking a devolution crisis. There was a distinction drawn between a solid veto right, and the possibility of delay. In terms of agreeing a scheme before the end of 31 March, if negotiations on a consultation scheme were to commence in Parliament now, there would be six months to agree the terms of a scheme, which could be finalised even after notice was given but before formal exit agreement negotiations commence. Once the scheme was in place, the Executive could override decisions when necessary. For instance, executive override was used against the EU Committee's scrutiny reserve powers over 140 times in 2015 alone.

Although the decision in *Miller* may only require a Bill that is effectively a mere formality, such a Bill may nonetheless engage the Sewel convention so that a legislative consent motion should be sought from devolved legislatures. This means that the stakes are high if there is a Bill because either legislative consent motions are obtained or not. However another view was that any effect of notice under Article 50 on devolution will be merely incidental and therefore the Sewel convention will not be engaged.

The Independent Workers Union of Great Britain as an intervener in the *Miller* case in the Supreme Court is making arguments based on Scottish constitutional law. In particular, the Union argues that in Scotland only prerogative powers that have been expressly conferred exist. However, the

prevailing view was that the Union's written case is not persuasive, and no authority is cited for that argument on the prerogative.

Potential Precedent on Future Withdrawal from Treaties

Some of the language used in the Government's written case, e.g. the ECA as a 'conduit', suggests that if Government were to win in the Supreme Court it could set a precedent for withdrawal from treaties. For example, if there was a referendum on withdrawal from ECHR, then the prerogative could be used to withdraw from the European Convention on Human Rights without a parliamentary vote. In that case, might the UK only retain the pre-HRA situation where courts use ECHR as interpretive tool?

There was general agreement that if the Government succeeds in the Supreme Court then the prerogative could be used to withdraw from other international agreements that Parliament has incorporated into domestic law. However, it was observed that section 10 of the Human Rights Act would be the only part of the Act that would be affected by withdrawal from ECHR.

On the other hand, it was argued that if the High Court's reasoning in *Miller* is upheld, the prerogative powers could not be used to withdraw from the Belfast Agreement/Good Friday Agreement because Parliament has enacted the Northern Ireland Act 1998 to give effect to that Agreement in UK law.

Speakers Biographies

Professor Jeff King

Professor King is a Professor of Law at the Faculty of Laws at University College London. He joined the Faculty of Laws as a Senior Lecturer in 2011, and is Co-Editor of *Current Legal Problems*. Previously, he was a Fellow and Tutor in law at Balliol College, and CUF Lecturer for the Faculty of Law, University of Oxford (2008-2011), a Research Fellow at the Centre for Socio-Legal Studies, Oxford (2008-2010), and a Research Fellow and Tutor in public law at Keble College, Oxford (2007-08). Professor King was formerly an attorney at Sullivan & Cromwell LLP in New York City.

Sir Stephen Laws KCB QC

Sir Stephen joined the Civil Service in the Home Office and transferred in 1976 to the Office of the Parliamentary Counsel ("OPC"). In 2006, he became the First Parliamentary Counsel, the Permanent Secretary responsible for leading the OPC and for the offices of Government's Parliamentary Business Managers, with a particular role advising on constitutional matters. He retired from the Civil Service in January 2012 and served from 2012 to 2013 as a member of the McKay Commission, on the consequences for the House of Commons of devolution. Presently, he is an Honorary Senior Research Associate at University College London, a Senior Associate Research Fellow at the Institute of Advanced Legal Studies, and an Honorary Fellow of the University of Kent Law School.

Professor Aileen McHarg

Professor McHarg is a Professor of Public Law at the School of Law at the University of Strathclyde, having previously worked at the University of Glasgow and before that at the University of Bristol. Professor McHarg is a member of the Law Society of Scotland's Constitutional Law Sub-Committee; an Executive Committee member of the UK Constitutional Law Association; a member of the Scottish Constitutional Futures Forum; and analysis editor (Public Law) of the Edinburgh Law Review.

Further Reading

The Supreme Court has established a 'hub' page for the cases, at which a number of the written cases for parties in *Miller* and *McCord* are available: <https://www.supremecourt.uk/news/article-50-brexite-appeal.html>