

Appreciating the Norwegian Constitution of AD1814

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1. Historically, what events catalyzed the Norwegian Constitution, and how did they do so?

POLITICAL CRISIS -- Napoleonic Wars winding down, with Denmark “giving” Norway to Sweden

Treaty of Kiel (1-14-AD1814) transfers Norway to Sweden, ending a 434 years alliance

The “Eidsvoll men” (4-10-AD1814) meet, for a new Norwegian limited monarchy constitution

The Eidsvoll (f/k/a Eidsvold) “deputies” agree to a new constitution (17 Mai); on 19 Mai, the Danish Prince Christian Frederik accepts this new constitution, in his new role as Norway’s king



Sweden, relying on the Treaty of Kiel, declares “war” on Norway (and its new king) a week later (26 May AD1814), and deployed soldiers to conquer Norway, to secure Norway for Sweden

Negotiations follow, and on 14 August the “Moss Convention” is agreed, with the new constitution of Norway being recognized subject to some adjustments needed to secure Norway as part of Sweden’s territories, with further terms being formalized 4 November AD1814, including Norway’s Storting’s declaration recognizing the abdication of King Christian Frederik, followed by the Storting’s recognition of Karl XIII (of Sweden) as the new king of Norway -- a “personal union” of the kingdoms of Sweden and Norway (similar to how, more than 200 years before, King James VI of Scotland became also King James I of England, thereby personally uniting England with Scotland)

During AD1905 the 2-kingdom alliance was dissolved, and Norway became “its own” kingdom.

2. What “revolutionary” events (and “republican” constitutions) influenced the Eidsvoll men?

NEGATIVE: unlimited democracy (“mobocracy”) shown by French Revolution/Reign of Terror disaster

“The experience for which other states must suffer has taught the Deputies of the Norwegian people to guard the Constitution equally against the marks of despotism as against the abuses of a popular government.” *King Christian Frederik* (19 May AD1814 acceptance speech)

POSITIVE: American constitutionally limited republic, with separated powers, checks & balances

CONSERVATIVE: examples: hereditary monarchy retained; Lutheran faith established/preferred

(Consider the following examples of the original Constitution of AD1814.)

Norw. Constttn. § 2 establishes the Evangelical Lutheran religion as the kingdom’s Church. (This was buttressed by banning monastic orders, Jesuits, and Jews.)

Norw. Constttn. § 3 deems the king as beyond blame; so only his council is deemed to commit wrongs.

Norw. Constttn. § 6 limits succession to the king's legitimate male issue. (Other contingencies are dealt with later.)

Norw. Constttn. §11 defines the king's oath of office: "I promise and swear to rule the kingdom of Norway according to its Constitution and laws; so help me, God and His holy Word".

Norw. Constttn. § 21 directs the king to appoint "all civil, ecclesiastical, and military" functionaries.

Norw. Constttn. § 44 defines the oath of office for Norwegian government administrators: "I promise and swear to administer the government conformably to the Constitution and laws; so help me, God and His holy Word".

Norw. Constttn. § 50 limits voting in the national legislature to 25-year-olds.

Norw. Constttn. § 56 mandated that the Constitution be read audibly in public, before elections: by the chief magistrate of the town, or by the parson in the country.

Norw. Constttn. § 79-81 provides a royal veto to legislature-passed bills, but this can be overridden. (*Sound familiar?*)

Norw. Constttn. § 92 limits appointments to the kingdom's highest court to those 30 and older.

Norw. Constttn. § 93 provides that "the offices of the state must only be employed [by] Norwegian citizens who profess the Evangelical-Lutheran religion, have sworn obedience to the Constitution and the King, speak the [Danish-Norwegian] language", and who satisfy certain residency/nationality requirements (specified in Section 93).

Norw. Constttn. § 100 provides for freedom of expression, within limits, as follows: "An entire liberty of the press shall take place. Nobody must be punished for any writing, of any argument whatsoever, which he has published (or caused to be printed), unless he has either willingly and evidently shown himself disobedient to the law or animated others to disobedience against the same, or to contempt against religion, or against morality, or against the constitutional powers, or to resistance against their orders, or has uttered false and injurious accusations against anybody. It is (otherwise) allowed everybody to freely deliver his opinions regarding government or any other subject." (*Sound familiar?*)

Norw. Constttn. § 101 provides that “new and constant restrictions in the liberty of trades must not be allowed to anybody for the future”. (*Sound familiar?*)

Norw. Constttn. § 102 prohibits “inquiries in private homes” except in “criminal cases”. (*Sound familiar?*)

Norw. Constttn. § 103 provides that future bankrupts are allowed “no refuge”.

Norw. Constttn. § 105 provides that “if the public welfare should require the sacrifice of anybody’s moveable or immovable property”, for public use, the property owner must be indemnified (i.e., compensated) out of the public treasury. (*Sound familiar?*)

Norw. Constttn. § 110 provides that the Constitution may be amended (and procedural requirements are defined to make the difficult yet doable), but only those amendments that are not “inconsistent with the principles of this fundamental law” and which “do not alter the spirit of this Constitution”.

3. How has the Norwegian Constitution of AD1814 been amended, ~ 400 times, in 200 years?

A FEW OF THE CONSTITUTIONAL AMENDMENTS (using Constitution’s current § numberings)

In addition to being a realm that is “free”, “independent”, and “indivisible”, Norway is now also defined as constitutionally “inalienable”. (1)

Although the king must profess the Evangelical-Lutheran faith (4), the Evangelical-Lutheran Church is no longer the state-established church, as before: “The basis of our values remains our Christian and humanist inheritance [legacy]. This Constitution is to ensure democracy, the rule of law, and human rights.” (2)

The king’s oath, while still referring to God, now omits reference to “His holy Word” (9 & 44).

The king neither appoints Norway’s Lutheran church officials nor governs that Church (21).

Unlike before, now Norway’s king may only declare “war” defensively (26).

Monastic orders and Jews were permitted long ago; since AD1956 Jesuits also (2).

In addition to all of the original powers it had, the national legislature now has a new power to appoint a type of civil-rights ombudsman: “to appoint a person, not a member of the Storting, in a manner prescribed by law, to supervise the public administration and all who work in its service, to assure that no injustice is done against the individual citizen” (75, subsection L)

The highest court now must at least 5 judges, in lieu of the original 7 (88).

Freedom of expression is expanded beyond the original qualifications, yet still included some limits, such as the following: “Everyone is free to speak his mind frankly on the administration of the State and on any other subject whatsoever; clearly defined limitations to this right may only be imposed when particularly weighty considerations so justify in relation to the grounds for freedom of expression. Prior censorship and other preventative measures may not be applied unless so required in order to protect children and young persons from the harmful influence of motion pictures. Censorship of letters may only be imposed by institutions.” (100).

Other constitutional amendments show concern for personal privacy rights (100), the promotion of education (106), worker rights to unionize (110), special concern for the Lapps – who are called the “Sami” (101a), the natural environment (110b), and human rights in general (110c).

Thank God for 200 years of the Norwegian Constitution!

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