

**Petition
by
Squadron Leader David
Bourne
1933—2021**

David Richard Bourne (born 1933) retired Squadron Leader, Royal Air Force, a resident of Winchelsea, retired as the town's postmaster in 2001. He was made a freeman of the town in 1990 and served as Deputy Mayor between Easter 1995 and Easter 1997. On 14 April 1997 he sent a detailed petition to the queen, in essence asserting that her majesty's coronation oath had been broken by the transfer of powers to the European Union. Buckingham Palace declined to accept this as a petition and referred the matter to the Prime Minister. Two further petitions led to the closure of the correspondence in 1998. The petitions are detailed and closely argued documents regarding the constitutional position of Her Majesty and the country. The correspondence later involved the Lord Chancellor Lord Mackay of Clashfern and his immediate successor Lord Irvine.

To the great regret of his colleagues, Squadron Leader Bourne felt that the Palace's response made it impossible for him to continue to take the oath of allegiance to the queen as a jurat (serving and voting member) of Winchelsea Corporation, and declined reappointment to that office. He remains a freeman (an appointment for life) and continues actively to assist the corporation in many ways.

TREASON DOTH NEVER PROSPER, WHAT'S THE REASON? FOR IF IT PROSPER,
NONE DARE CALL IT TREASON. (Sir John Harington 1561 - 1612)

Introduction.

Her Sovereign Majesty Queen Elizabeth II of the United Kingdom of Great Britain and Northern Ireland is constitutionally dead and has been since she gave the Royal Assent to the European Communities Act 1972 (ECA1972) and simultaneously surrendered our Sovereignty to the EU. The Sovereignty of the British People had become embodied in, and entrusted to her safe keeping, at the moment of the death of her father King George VI on 6th. February 1952. We confirmed our agreement to that embodiment and trust at her Coronation on 2nd. June 1953. However in surrendering our Sovereignty to the EU she accepted subjugation to the law and government of the EU, and to the supremacy of the European Court of Justice (ECJ), over her own judicial procedures within her own country. In effect she allowed Great Britain and N. Ireland to be annexed into the EU and in return she accepted mediatisation. That is she gave up all her constitutional power and responsibility for the government of the British People whilst retaining her titular, and privileged, position as Queen. At a stroke our system of government by a Constitutional Monarchy was reduced to mere pageantry and illusion. At no time from 1960 to 1972 did any political party publish a manifesto stating that such a surrender of our Sovereignty was their aim. At no time did the Queen in her Speech from the Throne at the State Opening of Parliament state that that was what her Government was going to do. Where once she had made her Declaration of Sovereignty at her Accession Privy Council on 8th. February 1952 she is now no longer prepared to make such a Declaration. I offer the following sequence of facts and events in proof of my contention that the Queen is constitutionally dead, and of the conclusions that I have reached.

Sequence of Facts and Events.

1. 6th. February 1952. King George VI died and at that moment the Sovereignty of the British People, which he had embodied up to that moment, passed to his rightful Heir, Princess Elizabeth. She immediately became our Sovereign Queen and the person who informed her of the death of her Father addressed her as "Your Majesty" which recognised the transfer to her of our Sovereignty. "The King is dead; long live the Queen". In order to preserve the continuity of our government, under our Constitutional Monarchy in Great Britain, the Sovereign never dies. There was no coercion placed on her to accept the Sovereignty and she could have rejected the role of Sovereign.

2. 8th. February 1952. The Queen called her Accession Privy Council. At the Council and, before all those witnesses that are listed in the London Gazette as being present, she made her Declaration of Sovereignty. No one present dissented from that Declaration or her claim to Sovereignty. Sir David Maxwell-Fyfe, who subsequently became Lord Kilmuir, was one of those witnesses. (See the copy of the London Gazette - Document 1) as was Lord Home who was to relinquish his title to become Sir Alec Douglas-Home MP and subsequently her Prime Minister.

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3. On 2nd.June 1953. Her Majesty's Coronation took place which was broadcast on TV and radio. In the initial part of this Ceremony she was Recognised by her people as their Rightful Queen and they Consented to her becoming their Sovereign Queen. (In effect she was elected for life as our Sovereign). In turn she swore her Coronation Oath (Document 2) to her Peoples. It is an express legal contract, both verbal and written, between her and each of her individual people as to how she would govern them in accordance with their respective laws and customs while abiding by the terms of the Coronation Oath and the maxims of the common law to observe and obey the law. "Customs" in this instance is the common law of the land. At the completion of the Coronation she was indisputably, and without dissent, our Sovereign Queen. That evening she broadcast her Coronation Speech to her people in which she reiterated the promises she had made to each of us in her Coronation Oath. (See copy Document 3).

4. The various paragraphs of Lord Halsbury's Laws of England Chapter 14 (Document 4) set out what had been, and is, required of her, and which she had fulfilled, in order to become our Sovereign. In particular note paragraph 894 which describes her Sovereign Supremacy and her duty to observe the terms of her Coronation Oath (which is a matter of Statute Law under The Coronation Oath Act 1 Wm & Mary Ch6 1689), and the maxims of the common law to observe and obey the law. Sovereignty is, by definition, indivisible. You are either Sovereign or you are not. In addition we are all, the Sovereign included, subject to the Law of the Land.

5. See Lord Halsbury's Laws of England Vol 11(1) Offences against the Sovereign paragraphs 76 to 88. Note particularly Para.77 the duty of natural allegiance and who is required to have allegiance to the Sovereign. Also that the essence of treason is the breaking of that natural allegiance. (See copies of the appropriate paragraphs. Document 5). On 4th.June 2001 I wrote to the Lord Chancellor on the topic of Treason. Mr.S.Hubbard, of the Home Office, replied on his behalf on 5th.July 2001 confirming that the Laws of Treason remain in force. A copy of his reply is included with Document 5.

6. In 1960 Lord Kilmuir (Sir David Maxwell-Fyfe) warned Edward Heath that to sign the Treaty of Rome would require some sacrifice of Sovereignty. At no time did he warn Heath that to sacrifice the Sovereignty of the British People, that was embodied in the Sovereign, would be an imagination of her death, which is an act of high treason, as the Sovereignty which she embodied was intended to stay embodied in her until the moment of her death. As ignorance of the law is no defence Heath and Kilmuir should have realised the inherent treason in Heath's proposed actions.

7. In 1964 the Queen, while on a State Visit, made a speech in Canada in which she succinctly summed up her duty as our constitutional monarch. She said: "The role of a constitutional monarch is to personify the democratic state, to legitimate authority, to assure the legality of its measures and to guarantee the execution of its popular will.". I have been unable

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to find any record of disagreement with this description and it bears out the accepted contention that "The People are the Sovereign and the Sovereign is the people"; and that she is both the source of all legitimate authority in government and in the institutions of state; and has a duty to her People to ensure that her Government operates within the Law in accordance with what the People have agreed to i.e. the appropriate manifesto on which the political party of Government was elected to power. The matrix of oaths of loyalty that are sworn to her by those who are thus given authority by her are meant to ensure that her role as our Constitutional Monarch is carried out in accordance with the Law.

8. Also in 1964, even before the United Kingdom joined the EEC, the forerunner of the EU, the European Court of Justice (ECJ) had asserted, without dissent, in the case of Costa v. ENEL (Case 6/64 [1964] ECR 585 and 593), the supremacy of Community Law over the domestic law of the member states. The ECJ stated: "The transfer by the States from their domestic legal systems to the Community legal system of rights and obligations arising under the Treaty carries with it a permanent limitation of their sovereign rights, against which a subsequent unilateral act incompatible with the concept of the Community cannot prevail.". Can that be interpreted as "cannot be allowed to prevail."? The Court also stated that: "The Community constitutes a new legal order of international law, for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only Member States but also their nationals.". This information with its treasonous implications for our sovereignty, embodied for her lifetime in Her Majesty the Queen, was available to those involved in our application for entry into the nascent EU yet they chose to ignore those treasonous implications.

9. In 1972 Prime Minister Heath was briefed by the Law Lords Wilberforce, Diplock and Simon about the supremacy of the European Court of Justice. Lord Wilberforce said that, because of the changes in European law that had been made since 1960 and the recognition of the supremacy of the European Court of Justice (ECJ) over our national judicial system, to sign the Treaty of Rome would cause a total loss of Sovereignty. He apparently did not warn Heath of the self-evident treason involved. It also appears that neither Heath nor the Law Lords warned the Queen of the treasonous implications of signing the Treaty of Rome which meant she would have to relinquish the Sovereignty, which is indivisible, of the British People to the EEC which was the nascent EU. She appointed Edward Heath, Alec Douglas-Home (formerly Lord Home) and Geoffrey Rippon as her Ambassadors Plenipotentiary to sign the Treaty on her behalf. If she was comprehensively briefed on the Treaty she would have realised the loss of Sovereignty and the inherent treason involved.

10. Parliament passed the European Communities Act 1972 (ECA 1972), ratifying the signing the Treaty of Rome, when the Queen gave the Act the Royal Assent. Heath claimed that there was "no loss of essential sovereignty" involved. As Sovereignty is indivisible there is no part which is not essential. Given the

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advice that he had received from Kilmuir and Wilberforce, Heath knowingly lied to us.

11. Our written Constitution is contained in several documents which span the centuries. One of our greatest Prime Ministers was William Pitt the Elder who became the First Earl of Chatham. In a speech in the House of Lords in 1770 on the State of the Nation he said "...the Constitution has its political bible, by which, if it be fairly consulted, every political question may and ought to be determined. The Magna Carta, the Petition of Right and the Bill of Rights form that code which I call the Bible of the English Constitution.". It is on this Constitutional foundation, and the Constitutional Law which flowed from it, that our Constitutional Monarchy has rested for many centuries and should rest inviolate for all time. The Law against Treason that was placed on the Statute Book in 1351 continues to give personal protection to the Sovereign and the Succession to the Throne of Great Britain and Northern Ireland. Yet on 19th. June 2008 the Queen gave the Royal Assent to the Bill before Parliament, thus making it an Act of Parliament, that will lead to the ratification of the Treaty of Lisbon by Great Britain. This will impose the Constitution for the European Union(EU), which will be a matter of EU Law and thus superior to British Statute Law in Great Britain, upon us without there having been any attempt to establish the "popular will" of the British people. It will, by virtue of the superiority of EU Law, over-ride and replace our original British Constitution. It is a criminal offence of high treason to destroy or attempt to destroy the British Constitution (Rex v. Thistlewood 1820) and all Members of both Houses of Parliament and the Queen are subject to the Law. Yet here the Queen, as our Sovereign, has, on the advice of her Ministers, broken the Law.

12. There has been, since 1972, a growing recognition of the surrender of our Sovereignty to the EU. I quote these examples:

(a) In "Constitutional and Administrative Law" by Stanley de Smith and Rodney Brazier, Eighth Edition, published by Penguin, pages 85/6, it is stated that the Merchant Shipping Act 1988 breached European Community Law and had been found "ineffective" on appeal, by the European Court of Justice (ECJ). The authors said " Thus was a statute, which had been passed, after United Kingdom accession to the European Community, held to be "ineffective" by a court outside the United Kingdom; thus in the Community legal order was the orthodox doctrine that Parliament is competent to make any law whatsoever on any matter whatsoever set to one side. Within the Community legal system the Queen in Parliament is not sovereign.".

(b) When District Judge Morgan gave his judgement, on 9th. April 2001, in what became known as the case of the "Metric Martyrs", he stated that "In passing the European Communities Act in 1972, Parliament surrendered its sovereignty to the European Union.". As the only Sovereignty within Parliament was that embodied in our Sovereign Queen this was to say, in effect, that the Queen was no longer Sovereign. He went on to say that we were no longer a Sovereign Nation but that as membership of the European Union

was not entrenched the ECA1972 may be repealed by Parliament. However he did not say how a nation or a Parliament that is not Sovereign, and which is subjugated to EU Law, could achieve such a repeal if the EU legislated to prevent that happening.

(c) In 1992, on the ratification of the Maastricht Treaty, Prime Minister John Major announced that the Queen was now an European Citizen like the rest of us with the associated duties and responsibilities to the EU that that status imposed upon us. Therefore she was demonstrably subject to EU Law in her own country and by definition could no longer count herself as Sovereign within her own country.

(d) On 29th. September 2003 the Lord Mayor of London, Alderman the Rt.Hon.Sir Gavyn Arthur, gave the "Denning Lecture" in Gray's Inn before an audience of distinguished lawyers and business men and women. His topic was "The City and the Law". He confirmed to me that he said that "The summarised description of the common law that I have just provided is in a certain sense out of date, for there are of course not one but two systems of law operating in the UK today. The enactment of the European Communities Act 1972 brought about a quiet revolution in our legal system, which was perhaps not fully appreciated until the House of Lords handed down its judgement in the Factortame case. Parliament is no longer sovereign, and where English law and the law of the EC conflict, it is the European rule that prevails.". I wrote and asked him if there had been any dissension expressed with those remarks from his audience either at the time or afterwards in any question time. He said that there had not. I then asked him that if the only person in Parliament who is Sovereign is the Queen, and that his statement indicated she was no longer Sovereign in Parliament, where could she be Sovereign? He declined to answer that question as, he said, he was a non-political office holder. Yet the treason, inherent, in what he had said must have been obvious to any trained lawyer but his audience ignored that treason and the offence of misprision of treason. This indicates that it is generally accepted within the legal fraternity that the Queen is no longer Sovereign and that there is a tacit agreement that the Laws of Treason can be ignored.

(e) On the 14th. November 2003 the Daily Telegraph printed a letter from Rt.Hon.Lord Brittan of Spennithorne QC in which he said "It seems strange that anti-Europeans who are so concerned with clawing back British sovereignty, would seriously contemplate that we follow an option which would mean that we would have less, not more, say over our affairs.". Thus he acknowledged that British Sovereignty had been surrendered to the EU. (See copy of the letter - Document 6)). Lord Brittan is both a Privy Councillor and a lawyer.

(f) In 2002 I had been advised that the Laws of Treason were no longer required examination knowledge for law students. I checked with Cambridge, Oxford and the London Metropolitan Universities to see if this was true. Oxford and London Metropolitan Universities confirmed that that was the case while Cambridge replied that the laws are not emphasised in the Constitutional Law syllabus and that they would be unlikely to form a whole question on the subject in the Tripos. Yet until 1999 treason

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was, and still is, at the head of all crime and merited capital punishment. (See copies of the replies - Document 7). Perhaps Aldous Huxley, a Fabian Socialist, was right when he posed the rhetorical question, "Do facts cease to exist because they are ignored?".

(g) On 24th. August 2006 I wrote to Lord Falconer as Secretary of State for Constitutional Affairs, and Mr. J. Copeland of the Department replied on 1st. September 2006 on his behalf. Copies of both letters are enclosed (Document 8). He stated, inter alia, that Parliament is no longer sovereign and has not been since it passed the ECA1972. Yet he says that the Queen is still Sovereign in her constitutional capacity! Again, I repeat, if she is no longer Sovereign in her own Parliament where can she be Sovereign? Copeland also pointed out that as a result British Courts now have the power to review Acts of Parliament, and by virtue of EU legislation, they can suspend British Statute Law. Thus the EU has placed her Courts above both the Queen and her Parliament. However the Queen, Sovereign in Parliament, is the only constitutional legal authority for establishing Statute Law, or repealing it in toto, or in part, by Royal Assent on the advice of her Ministers. However it would appear that the ECA1972 removed the sovereign legitimacy of Parliament and Parliament has ceased to exist legally since that date. Therefore it has no sovereign legitimacy to repeal ECA1972 nor has it had such legitimacy in any of its acts since it passed ECA1972.

13. On the 25th. October 2005 I wrote to the Queen on the question of Her being our Sovereign and therefore the embodiment of our Sovereignty until the moment of her death. I received no reply and wrote again on 22nd. January 2006. In reply I received a letter from, I presume, her Private Secretary to say that my enquiry had been passed to the Department for Constitutional Affairs for answer. To my surprise the Department furnished me with no reply but passed my letter to the Privy Council whose Clerk of the Council, Mr. A. K. Galloway, replied on their, and the Queen's, behalf on the 21st. March 2006. Galloway stated that "As we have already explained, we can answer only questions of fact, and cannot give an opinion on the interpretation of legal or constitutional matters. We simply have no locus to do so, and any opinion expressed by this Office (or indeed any other Government Department or Minister) would have no authority whatever. Interpretation of the law is a matter for the courts.". Yet this is the Office of the Privy Council which gave me a copy of the London Gazette recording Her Majesty's Declaration of Sovereignty which is a record of a very potent Constitutional fact that Her Majesty is our only Sovereign in this country. (See copies of the letters Document 9). Why was the Queen not able to state unequivocally, in accordance with her 1952 Declaration of Sovereignty, that she is still our Sovereign Queen; and why was the Department of Constitutional Affairs, or the Privy Council, unable to confirm her Sovereignty in this, her country, particularly as they are all sworn in allegiance to her to uphold her in her Sovereign status? Without her in that Sovereign status to give them legitimate authority they have no legitimate authority in their offices.

14. Article XXXVII of the XXXIX Articles of Religion of the Church of England. The Articles of Religion are the subject of a Declaration of Assent by any new Incumbent at their Installation to any Ecclesiastical Living within the Church of England. Article XXXVII is described as "Of the Civil Magistrates" and a copy of that Article is enclosed. It states, unequivocally, that our King or Queen, "is not, nor ought to be, subject to any foreign jurisdiction.". I wrote to the Archbishop of Canterbury and asked him for an explanation of this Article as it comes within the Canon Law of the Church. In replying Mr.A.Nunn, his secretary, said that as it was a matter of Constitutional Law the Archbishop declined to reply to my question as he was not prepared, on grounds of disproportionate cost, to ask his legal advisers. However Canon A7 in the current Canon of the Church of England states "We acknowledge that the Queen's excellent Majesty, acting according to the laws of the realm, is the highest power under God in this Kingdom and has supreme authority over all persons in all causes, as well as ecclesiastical as civil.". Clearly as the Queen is now subject to the foreign jurisdiction of the Law and Government of the EU within her own Country Article XXXVII is completely ignored, as is Canon A7, even within the Church. Which is a tacit acknowledgement by the Church of England that she no longer enjoys freedom from foreign jurisdiction within her own Country and cannot, by definition, still be Sovereign in our Country. (Copies of Article XXXVII and Canon A7 are at Document 10)

15. Please refer to Map 1009 published by the European Union in 1999. (A copy of part of that map is enclosed at Document 11.). The Title states unequivocally that it is a map of "The European Union". It displays, as it states in the legend to the left, the Member States, Regions and Administrative Units into which the EU is divided. We are said to live in a State of the EU called the "United Kingdom" but it does not state the United Kingdom of what. The United Kingdom of Great Britain and Northern Ireland was made up of England, N.Ireland, Scotland and Wales. If you look closely at the map you will see that N.Ireland, Scotland and Wales are designated as Regions of the EU not as separate nations or states. The land mass that was associated with England is divided up into a further nine Regions of the EU. Our former capital city, London, is designated merely as a Region of the EU. The England that originally comprised the land mass of these nine Regions has no status within the EU as it is neither a State, Region nor an Administrative Unit of the EU. To an extent this is confirmed as you re-enter the United Kingdom, a State of the EU, from abroad, via Gatwick or Heathrow airports. As you approach Immigration you are directed into the appropriate passport streams and the only flag that is displayed is that of the EU (see Document 12). This indicates to the observant travellers that they are entering a first point of entry into the EU and not the United Kingdom. It also indicates that it is internationally accepted that the homeland of each citizen of the EU is the EU, while ignoring the State from which they originated. This again confirms the inferior and mediated status of the Queen in her own Country. Without England there cannot be a United Kingdom of Great Britain and N.Ireland within the EU.

16. in the Encyclopaedia Britannica of 2004 England is defined as "England - Outside the British Isles, England is often erroneously considered synonymous with the island of Great Britain (England, Scotland and Wales) and even the entire United Kingdom. Despite the political, economic and cultural legacy that has secured the perpetuation of its name, England no longer officially exists as a governmental or political unit, unlike Scotland, Wales and Northern Ireland, which all have varying degrees of self government in domestic affairs."

17. In 2007 the Education Service of the Houses of Parliament published a series of seven documents for use in schools under the general heading of "Parliament Explained", The first, and un-numbered, of these documents is entitled "An Introduction to Parliament". On page 14 is a description of "The Monarchy", There is listed the powers of the monarch. The document says "The power of the monarch to act without consulting Parliament is known as the Royal Prerogative. In the past the monarch was able to act without reference to Parliament but over time these powers have become very restricted and are today mostly exercised by the Government.". It conveniently gives the impression that the Queen has been absolved of her Coronation Oath to us and has no powers left to her should she need to act if her Parliament or Government usurp powers that are not legally theirs. It then lists the Royal Prerogatives but only after it states "The theoretical powers of the monarch include:". This directly implies that our once Sovereign Queen has been reduced to a theoretical rôle in the government of our country and is no longer Sovereign. Thus our children are being taught that this is the case despite the obvious treason that is involved. The documents can be obtained from the Education Service, Houses of Parliament, London, SW1A 2TT or by telephone on 0207219 4496, Fax: 02072190818 or by E-mail: education@parliament.uk. If the Queen is now Queen only in theory, have those of our Armed Defence Forces of the Crown who have died for "Queen and Country" merely died in theory?

Conclusion.

From the foregoing it is readily apparent that it is generally, but tacitly, agreed that the Queen is no longer Sovereign in her own country. Yet in 1952/3 there was no doubt that she was our Sovereign Queen. Therefore I can only conclude that at some time between 1952 and the present day there has been a change in her Sovereign status within our country. As the Sovereignty is the Sovereignty of the British People; and it came into her safe keeping at the moment of George VI's death; and that the embodiment of that Sovereignty within her was confirmed at every stage of the process that made her our Sovereign Queen; there should be no problem in confirming that she is still our Sovereign Queen without any necessity for recourse to a legal judgement. That is now patently no longer possible. It would seem that the signing of the Treaty of Rome was the watershed between these two constitutional situations. If the Sovereignty of the British People is no longer embodied in the Queen but is now lodged within the EU then the Queen has either abdicated her Sovereign responsibilities, as did her uncle Edward VIII in 1936,

or she has been stripped of the Sovereignty by treasonous actions on the part of her Government Ministers. If it is the former case then she should have been officially required to abdicate as did Edward VIII. However when she dies she will have no Sovereignty to pass on to her Rightful Heir to make him or her our Sovereign. The Succession to the Throne has been destroyed and with it our Constitutional Monarchial system of government. If it is the latter then her Ministers have treasonously betrayed their Oaths of Allegiance to her. In either case high treason has been done and those involved should be subjected to the appropriate legal process because Treason is at the head of all crime. It is not possible for the Queen to engage in or condone such unlawful acts, or pardon those involved, as she is required to abide by her Coronation Oath to us, and the maxims of the common law to observe and obey the law.

In either case we have not had a Sovereign Queen, and therefore no one with the constitutional powers that allow them to call a Parliament; dissolve a Parliament thus setting in train a lawful General Election; or appoint a Prime Minister; or give the Royal Assent to any Bills passed by Parliament to make them Acts of Parliament; since she gave the Royal Assent to the ECA1972. The ramifications go even further with the illegal appointments since 1972 to all the Offices of State outside and inside of Parliament which all draw their legitimate authority for their office from our Sovereign. Neither has she been able to raise anyone to the peerage, or give other awards, since 1972. In addition only a Sovereign can commission and enlist members into the Armed Defence Forces of the Crown thus all such commissionings and enlistments since ECA1972 have been illegal.

I suspect that what Karl Marx and Frederick Engels foretold in their Communist Manifesto(1848) has come true. They said "Finally, when the class war is about to be fought to a finish, disintegration of the ruling class and the old order of society becomes so active, so acute, that a small part of the ruling class breaks away to make common cause with the revolutionary class, the class which holds the future in its hands." Sir Gavyn Arthur used the term "revolution", although he said it was a quiet one, in his Denning Lecture and that it stemmed from the passing of the ECA1972. Has the Queen headed a small part of the ruling class and made common cause with the revolutionaries? If so then our Constitutional Monarchy has been wilfully destroyed by the very people in whom we put our trust at the Coronation, and at subsequent elections which have produced Her Majesty's Governments. Who, then, can gainsay my contention and conclusion that our "Queen" has been constitutionally dead since she gave the Royal Assent to the last legitimate Bill, the ECA1972, from the two Houses of Parliament in 1972. In doing so she surrendered the Sovereignty of the British People to the EU; and destroyed our system of government by a Constitutional Monarchy. Treason has been done; continues to be done; and is planned to continue to be done. There has been high treason, misprision of treason and sedition on an unprecedented scale; and contempt of the Sovereign and of Statute would appear to be the order of the day. All of which are criminal offences under the law. In order to avoid a charge of misprision of treason I therefore place this

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information before you, as an appropriate authority under the law.

DARE YOU CALL IT TREASON TO AN APPROPRIATE AUTHORITY UNDER LAW?
THE OFFENCE OF MISPRISION OF TREASON (SEE HALSBURY'S LAWS OF
ENGLAND VOL11(1) PARA83 - DOCUMENT 5) DOES NOT ALLOW YOU TO DO
OTHERWISE IF YOU EVEN NOW ONLY SUSPECT THAT TREASON HAS BEEN OR
IS PLANNED TO BE DONE,

Addendum.

This is the seventh version of this paper. It has been amended and extended as more information has come to light or events have occurred which I have considered relevant to my argument.

I used the first version to discharge my duty under the Law in order to avoid a charge of misprision of treason. I placed that version before several authorities but all have ignored the information on treason that it contained. None have contested what I have concluded or have told me that my conclusions are wrong.

Having referred to several modern textbooks on constitutional and administrative law I have been unable to find any reference to the criminal offence of treason except in the Oxford Dictionary of Law which gave, almost word for word, Lord Halsbury's definition of the offence. "Sovereignty" is also avoided and in one it stated that for the sovereignty of Parliament the term "legislative supremacy" was now used. Which seems odd when Parliament has accepted the legislative supremacy of the EU.

Cicero, of Ancient Rome, warned 2000 years ago: "A nation can survive its fools, and even the ambitious. But it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and carries his banners openly. But the traitor moves within the gate freely, his sly whispers rustling through the alleyways, heard in the very halls of government itself. For the traitor appears no traitor; he speaks in the accents familiar to his victims, and he wears their face and their garments, and he appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation; he works secretly and unknown in the night to undermine the pillars of the city; he infects the body politic so that it can no longer resist. A murderer is less to be feared.". It is as relevant today as it was when he wrote it. (See Document 13).

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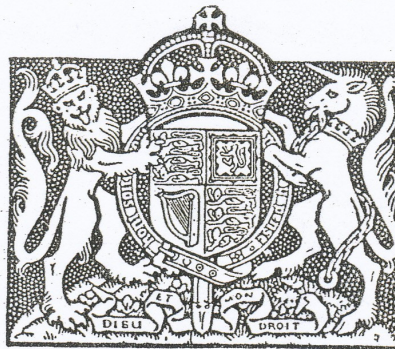
Dated: 3rd.July 2011

LIST OF ACCOMPANYING DOCUMENTS.

1. Document 1. The London Gazette Extraordinary, Second Supplement of Wednesday, 6th. February 1952.
2. Document 2. The Queen's Coronation Oath with a Historical ~~Oath~~ ^{Note} attached.
3. Document 3. The Coronation Broadcast.
4. Document 4. Para 894 Vol 14 of Lord Halsbury's Laws of England.
5. Document 5. Paras 76 to 88 of Vol 11(1) of Lord Halsbury's Laws of England.
6. Document 6. Lord Brittan's letter to the Editor of the Daily Telegraph 4th. November 2003.
7. Document 7. Letters from London(Metropolitan), Oxford, Cambridge and Kent University regarding the teaching of the Laws of Treason.
8. Document 8. Correspondence with Lord Falconer, The Secretary of State for Constitutional Affairs.
9. Document 9. Correspondence with Her Majesty and the Privy Council regarding her Sovereign status.
10. Document 10. Article XXXVII of the XXXIX Articles of Religion and Canon A7 of the Church of England.
11. Document 11. Map 1009 of the EU published by the EU.
12. Document 12. Passport Holders Direction Board at Gatwick.
13. Document 13. Cicero's warning against treason and the traitor within the gates.

Numb. 39463

837



SECOND SUPPLEMENT TO
The London Gazette
 EXTRAORDINARY
 OF WEDNESDAY, 6th FEBRUARY, 1952
 Published by Authority

Registered as a Newspaper

FRIDAY, 8 FEBRUARY, 1952

At the Court at *St. James's*, the 8th day of February, 1952.

PRESENT.

The QUEEN'S Most Excellent Majesty
 in Council.

Her Majesty, being this day present in Council, was pleased to make the following Declaration:—

“Your Royal Highnesses, My Lords, Ladies and Gentlemen:

By the sudden death of my dear Father, I am called to assume the duties and responsibilities of Sovereignty.

At this time of deep sorrow, it is a profound consolation to me to be assured of the sympathy which you and all my Peoples feel towards me, to my Mother, and my Sister, and to the other members of my Family. My Father was our revered and beloved Head, as he was of the wider Family of his subjects; the grief which his loss brings is shared among us all.

My heart is too full for me to say more to you to-day than that I shall always work, as my Father did throughout his Reign, to uphold constitutional government and to advance the happiness and prosperity of my Peoples, spread as they are all the world over. I know that in my resolve to follow his shining example of service and devotion, I shall be inspired by the loyalty and affection of those whose Queen I have been called to be, and by the counsel of their

elected Parliaments. I pray that God will help me to discharge worthily this heavy task that has been laid upon me so early in my life.”

Whereupon the Lords of the Council made it their humble request to Her Majesty that Her Majesty's Most Gracious Declaration to Their Lordships might be made public, which Her Majesty was pleased to Order accordingly.

F. J. Fernau.

At the Court at *St. James's*, the 8th day of February, 1952.

PRESENT.

THE QUEEN'S MOST EXCELLENT
 MAJESTY.

His Royal Highness The Duke of Gloucester.

His Royal Highness The Duke of Edinburgh.

Lord Chancellor.

Archbishop of York.

Prime Minister.

Lord President.

Mr. Speaker of the House of Commons.

Lord Privy Seal.

Earl Marshal.

Master of the Horse.

Duke of Buccleuch and

Queensberry.

Sir Frank Soskice.
Sir John Singleton.
Sir Alfred Denning.
Mr. H. A. Marquand.
Dr. Edith Summerskill.
Sir David Jenkins.
Mr. John Dugdale.
Sir Lionel Leach.
Sir Ronald Ian Campbell.
Mr. P. Gordon-Walker.
Mr. Maurice Webb.
Honourable Sidney Holland.
Sir Francis Hodson.
Mr. Alfred Robens.
Mr. G. A. Brown.
Sir John Morris.
Honourable Kenneth Younger.
Sir Walter Monckton.
Mr. Buchan-Hepburn.
Captain Peter Thorneycroft.
Mr. J. P. L. Thomas.
Mr. David Eccles.
Sir Thomas Dugdale.
Mr. A. T. Lennox-Boyd.
Mr. A. G. Bottomley.
Mr. Douglas Jay.
Mr. R. J. Taylor.
Mr. Charles Williams.

Her Majesty at Her first coming into the Council, was this day pleased to declare that, understanding that the Law required She should at Her Accession to the Crown take and subscribe the Oath relating to the security of the Church of Scotland, She was now ready to do so at this first opportunity, which Her Majesty was graciously pleased to do according to the Forms used by the Law of Scotland, and subscribed two Instruments thereof in the

presence of the Lords of the Council, who witnessed the same. And Her Majesty was pleased to order that one of the said Instruments be transmitted to the Court of Session, to be recorded in the Books of Sederunt, and afterwards be forthwith lodged in the Public Register of Scotland, and that the other of them remain among the Records of the Council and be entered in the Council Book.

F. J. Fernau.

At the Council Chamber, *Whitehall*, the 7th day of *February*, 1952.

BY THE LORDS OF HER MAJESTY'S MOST HONOURABLE PRIVY COUNCIL.

PRESENT.

Archbishop of
Canterbury.
Lord President.

Bishop of London.
Secretary Sir David
Maxwell Fyfe.

It is this day ordered by Their Lordships that His Grace the Lord Archbishop of Canterbury do prepare Special Forms of Service in Commemoration of His late Majesty King George of Blessed and Glorious Memory to be used in all Churches and Chapels in England as defined in the Interpretation Measure, 1925, either on the day of His late Majesty's funeral or on the most convenient day within the octave.

And it is hereby further ordered that Her Majesty's Printer do forthwith print a competent number of copies of the said Forms of Service, that the same may be forthwith sent round, and read in the several Churches and Chapels of England.

F. J. Fernau.

LONDON

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1952

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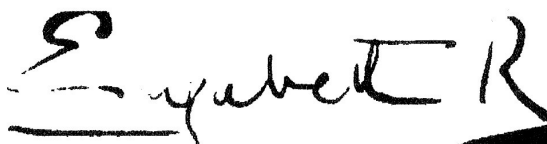

S.O. Code No. 65-39463

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 Earl of Shaftesbury.
 * Earl of Home.
 Earl Stanhope.
 Earl De La Warr.
 Earl of Drogheda.
 Earl of Bessborough.
 Earl Winterton.
 Earl Howe.
 Earl of Listowel.
 Earl of Selborne.
 Earl of Halifax.
 Earl of Gowrie.
 Earl Mountbatten of Burma.
 Earl Jowitt.
 Viscount Mersey.
 Viscount Swinton.
 Viscount Samuel.
 Viscount Davidson.
 Viscount Weir.
 Viscount Simon.
 Viscount Stansgate.
 Viscount Templewood.
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 Viscount Bruce of Melbourne.
 Viscount Hudson.
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 Bishop of London.
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 Lord De L'Isle and Dudley.
 Lord Leathers.
 Lord Denman.
 Lord Stanmore.
 Lord Hardinge of Penshurst.
 Lord Alness.
 Lord Wigram.
 Lord Kennet.
 Lord Hailey.
 Lord Chatfield.
 Lord Porter.
 Lord Hankey.
 Lord Nathan.
 Lord Reith.
 Lord Merriman.
 Lord Cherwell.
 Lord Killearn.
 Lord Ammon.
 Lord Goddard.
 Lord Courthope.
 Lord Altrincham.
 Lord Pethick-Lawrence.
 Lord Henderson.
 Lord Morrison.
 Lord Shepherd.
 Lord Citrine.
 Lord Normand.
 Lord Oaksey.
 Lord Morton of Henryton.
 Lord Clydesmuir.
 Lord Reid.
 Lord Macdonald of Gwaenysgor.
 Lord Radcliffe.
 Lord Wilmot of Selmeiston.
 Lord Silkin.
 Lord Ogmores.
 Lord Tucker.
 Lord Asquith of Bishopstone.
 Lord Cohen.
 Lord Milner of Leeds.

Home Secretary Sir David Patrick *
 Maxwell Fyfe.
 Mr. Secretary Eden.
 Mr. Secretary Lyttelton.
 Mr. Secretary Head.
 Mr. Secretary Stuart.
 Sir William Forbes Erskine.
 Major the Honourable Gwilym Lloyd George.
 Mr. Amery.
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 Mr. F. J. Bellenger.
 Mr. Creech Jones.
 Mr. Hector McNeill.
 Mr. Clement Davies.
 Mr. Arthur Henderson.
 Sir Francis Evershed.
 Mr. Harold Wilson.
 Mr. Hugh Gaitskell.
 Honourable Sir Malcolm Macnaghten.
 Mr. G. Buchanan.

* Subsequently Sir Alec Douglas-Home - Prime Minister

* Subsequently Lord Kilmeris - Lord Chancellor.

I solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand and the Union of South Africa, Pakistan and Ceylon, and of my Possessions and the other Territories to any of them belonging or pertaining, according to their respective laws and customs.

I will to my power cause Law and Justice, in Mercy, to be executed in all my judgements.

I will to the utmost of my power maintain the Laws of God and the true profession of the Gospel. I will to the utmost of my power maintain in the United Kingdom the Protestant Reformed Religion established by law. And I will maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England. And I will preserve unto the Bishops and Clergy of England, and to the Churches there committed to their charge, all such rights and privileges as by law do or shall appertain to them or any of them.

The things which I have here before promised, I will perform and keep.

So help me God.

CORONATION OATH - HISTORICAL NOTE.

The Liber Regalis is the Royal Book of instruction for the crowning and anointing of an English King. It is attributed to Nicholas Lytlington who was the Abbott of Westminster in the 14th. Century. He collated a form of service which had been used at least as early as the Coronation of King Edgar at Bath in 973 who is considered to be the first truly English King as he took for his title Emperor Augustus of all Albion. At his Coronation he was required to make his promise, before the Altar, to the people saying:

"Three things I promise in Christ's name to the Christian People Subject to me: First, the Church of God and the whole Christian People shall have true peace at all time by our judgement; Second, that I will forbid extortion and all kinds of wrong doing to all orders of men; Third, that I will enjoin equity and mercy in all judgements, that God who is kind and merciful, may vouchsafe His mercy to me and to you."

There have been attempts by the new Sovereign to avoid making their Coronation Oath or changing the content. However the Oath has remained the solemn compact between the new Sovereign and the people at the beginning of each new reign from Saxon times. The changes in the form of the Oath bring into focus the religious and social pressures at each period in England's history. The dispute between the barons and the King about the use of the royal power at the beginning of the reign of Edward I, for example, was reflected in the oath which the King had to accept as the condition of his Coronation in 1274. "The barons" says the contemporary record "treated the king on the oath before they would proceed with his election.". Note the term "election".

Finally the Coronation Oath was established in our Statute Law under William and Mary in the Coronation Oath Act 1 Wm & M Ch 6 1689. Sir William Blackstone, that most eminent of 18th. Century jurists, stated that the Coronation Oath "However and in what form it so ever be conceived, this is most indisputably a fundamental contract....and to reduce that contract to a plain certainty. So that whatever doubts might formerly be raised by weak and scrupulous minds about the existence of such an original contract, they must now entirely cease; especially with regard to every prince who has reigned since the year 1688.". Therefore the Queen's Coronation Oath of 2nd. June 1953 is an express legal contract between her and each one of her subjects as to how she will govern them. Note- how she will govern them; not Parliament; not the House of Lords; nor the House of Commons. A ring has been used at every Coronation since Edgar in 973. It has been called the Wedding Ring of England, the bond that unites Sovereign and People.

After the Queen's Anointing the Archbishop invoked the same blessing as that made on King Edgar thus: By his holy Anointing pour down upon your Head and Heart the blessing of the Holy Ghost, and prosper the works of your Hands: that...you may govern and preserve the Peoples committed to your charge in wealth, peace and godliness...".

THE CORONATION BROADCAST

When I spoke to you last, at Christmas, I asked you all, whatever your religion, to pray for me on the day of my Coronation—to pray that God would give me wisdom and strength to carry out the promises that I should then be making. Throughout this memorable day I have been uplifted and sustained by the knowledge that your thoughts and prayers were with me. I have been aware all the time that my peoples, spread far and wide throughout every continent and ocean in the world, were united to support me in the task to which I have now been dedicated with such solemnity. Many thousands of you came to London from all parts of the Commonwealth and Empire to join in the ceremony, but I have been conscious too of the millions of others who have shared in it by means of wireless or television in their homes. All of you, near or far, have been united in one purpose. It is hard for me to find words in which to tell you of the strength which this knowledge has given me.

The ceremonies you have seen to-day are ancient, and some of their origins are veiled in the mists of the past. But their spirit and their meaning shine through the ages never, perhaps, more brightly than now. I have in sincerity pledged myself to your service, as so many of you are pledged to mine. Throughout all my life and with all my heart I shall strive to be worthy of your trust.

In this resolve I have my husband to support me. He shares all my ideals and all my affection for you. Then, although my experience is so short and my task so new, I have in my parents and grandparents an example which I can follow with certainty and with confidence. There is also this. I have behind me not only the splendid traditions and the annals of more than a thousand years but the living strength and majesty of the Commonwealth and

Empire; of societies old and new; of lands and races different in history and origins but all, by God's Will, united in spirit and in aim. Therefore I am sure that this, my Coronation, is not the symbol of a power and a splendour that are gone but a declaration of our hopes for the future, and for the years I may, by God's Grace and Mercy, be given to reign and serve you as your Queen.

I have been speaking of the vast regions and varied peoples to whom I owe my duty but there has also sprung from our island home a theme of social and political thought which constitutes our message to the world and through the changing generations has found acceptance both within and far beyond my Realms. Parliamentary institutions, with their free speech and respect for the rights of minorities, and the inspiration of a broad tolerance in thought and expression—all this we conceive to be a precious part of our way of life and outlook.

During recent centuries, this message has been sustained and invigorated by the immense contribution, in language, literature, and action, of the nations of our Commonwealth overseas. It gives expression, as I pray it always will, to living principles, as sacred to the Crown and Monarchy as to its many Parliaments and Peoples. I ask you now to cherish them—and practice them too; then we can go forward together in peace, seeking justice and freedom for all men.

As this day draws to its close, I know that my abiding memory of it will be, not only the solemnity and beauty of the ceremony, but the inspiration of your loyalty and affection. I thank you all from a full heart. God bless you all.



BUCKINGHAM PALACE

13th April, 2006

Dear Mr. Bourne,

Thank you for your letter of 10th April addressed to Mrs. Bonici, which has been passed to me for reply.

I have pleasure in enclosing a transcript of The Queen's Coronation Broadcast, as requested, which I hope you will continue to enjoy.

Yours sincerely,

Michele Edwards

MISS MICHELE EDWARDS
Information Officer, Press Office

Mr. David Bourne

850. Statutory conditions of tenure. The descent of the Crown in the present line of succession is subject to certain statutory conditions as follows:

(1) any person who shall be reconciled to, or hold communion with, the see or Church of Rome, or profess the popish religion, or marry a papist, is excluded from inheriting, possessing or enjoying the Crown, and in such case the people are absolved of their allegiance, and the Crown is to descend to such person or persons, being protestants, as would have inherited it in case the person so reconciled etc. were dead¹;

(2) every person inheriting the Crown must take the coronation oath in the form provided by statute²;

(3) every king or queen must make, subscribe and repeat, sitting on the throne in the House of Lords, either on the first day of the meeting of the first Parliament after the accession, or at the coronation, whichever shall first happen, a declaration that he or she is a faithful protestant, and will, according to the true intent of the enactments which secure the protestant succession to the throne, uphold and maintain those enactments to the best of his or her powers according to law³;

(4) any person coming into possession of the Crown must join in communion with the Church of England⁴; and

(5) it is also provided as a fundamental term of the union of England with Scotland that every person who succeeds to the Crown must take and subscribe the oaths for the preservation of the Established Church in England and the Presbyterian Church in Scotland⁵.

854. The ceremonies. The forms and ceremonies observed at the coronation have differed somewhat at the coronations of various Sovereigns¹, but the ceremonies² at the coronation of Queen Elizabeth II were:

(1) the presentation of the Sovereign to the people by the Archbishop of Canterbury accompanied by the Lord High Chancellor, the Lord Great Chamberlain, the Lord High Constable and the Earl Marshal, with Garter King of Arms preceeding them, and the recognition of the Sovereign by the people³;

(2) the taking of the coronation oath in the form provided by statute⁴;

861. The Crown's duty towards the subject. The essential duties of the Crown towards the subject¹ are now to be found expressed in the terms of the oaths which every Sovereign is required to take before or at the coronation. The duties imposed by the coronation oath² are:

(1) to govern the peoples of the United Kingdom of Great Britain and Northern Ireland, and the dominions etc. belonging or pertaining to them according to their respective laws and customs³;

(2) to cause law and justice in mercy to be executed in all judgments, to the Sovereign's power;

(3) to maintain the laws of God, the true profession of the Gospel, and the protestant reformed religion established by law, to the utmost of the Sovereign's power;

(4) to maintain and preserve inviolable the settlement of the Church of England, and its doctrine, worship, discipline and government as by law established in England

894. Supremacy of the Sovereign. The law of the constitution clothes the person of the Sovereign with supreme sovereignty and pre-eminence¹. She is, however, bound by the terms of the coronation oath and the maxims of the common law to observe and obey the law².

920. Subjection to the law. Claims made by the Crown cannot be supported by mere pretence of prerogative, since the courts have power to determine the extent and the legality or otherwise of any alleged prerogative¹; nor may illegal acts be rendered justifiable by the plea of the Sovereign's commands² or of state necessity³. The Crown is bound to observe the law both by statute and by the terms of the coronation oath, which embodies the contract between the Crown and people upon which the title to the Crown originally depended, and still in large measure depends⁴. Upon any doubtful point of prerogative the Crown and its ministers must, therefore, bow to the decision of the courts

2. OFFENCES AGAINST THE GOVERNMENT AND THE PUBLIC

(1) OFFENCES AGAINST THE SOVEREIGN

(i) Treason

76. Acts constituting treason. By statute a person¹ is guilty of treason who:

- (1) levies war against the Sovereign² in Her realm, or is adherent to the Sovereign's enemies in Her realm giving them aid and comfort in the realm, or elsewhere³;
- (2) compasses or imagines the death of the Sovereign⁴;
- (3) within the realm or without, compasses, imagines, invents, devises, or intends the death or destruction, or any bodily harm tending to the death or destruction, maiming or wounding, imprisonment or restraint of the Sovereign, Her heirs and successors, and who expresses, utters, or declares any such compassings, imaginations, inventions, devices, or intentions by publishing any printing or writing or by any overt act or deed⁵;
- (4) compasses or imagines the death of the King's wife or of the Sovereign's eldest son and heir⁶;
- (5) violates the King's wife or the Sovereign's eldest daughter unmarried or the wife of the Sovereign's eldest son and heir⁷;
- (6) endeavours to deprive or hinder any person who is next in succession to the Crown for the time being⁸ from succeeding after the demise of the Sovereign to the Crown and the dominions and territories belonging to the Crown and attempts the same maliciously, advisedly and directly by overt act or deed; or, knowing such offence to be done, is an abettor, procurer and comforter of the offender⁹;
- (7) slays the chancellor, treasurer, or the king's justices¹⁰, being in their places, doing their offices¹¹.

Marital coercion is not a defence to a charge of treason¹².

¹ I.e. a person under a duty of allegiance to the Sovereign: see para 77 post.

² In any Act a reference to the Sovereign reigning at the time of the passing of the Act is to be construed, unless the contrary intention appears, as a reference to the Sovereign for the time being: Interpretation Act 1978 s 10. The Sovereign de facto for the time being is within the provision of the Acts relating to treason and protected thereby: see 3 Co Inst 7; Bac Abr, Prerogative (A). The Sovereign de jure is not within the provision of the Acts: see 1 East PC 54. See, however, 1 Hale PC 103 where it is stated that an act of hostility against the de facto Sovereign in assistance of the rightful heir to the Crown who afterwards obtains the Crown is not treason. Cf *Sir Harry Vane's Case* (1662) 5 State Tr 120 (treason to prevent Sovereign's restoration to rightful throne). As to service in war under the de facto Sovereign see para 79 post.

³ Treason Act 1351; and see paras 79, 80 post.

⁴ Treason Act 1351; and see para 81 post.

⁵ Treason Act 1795 s 1 (amended by the Treason Felony Act 1848 s 1); Treason Act 1817 s 1; and see para 81 post.

⁶ Treason Act 1351. As to the extent to which the Act applies to the Sovereign's spouse and to the Sovereign's heir who is not Her first-born son see 3 Co Inst 8, 9; 1 East PC 64.

⁷ Treason Act 1351 (as amended). As to this provision of the Treason Act 1351 see Vin Abr, Prerogative (Be); 3 Co Inst 8, 9; 1 East PC 65.

⁸ I.e. according to the Bill of Rights (1688) and the Act of Settlement (1700): see CONSTITUTIONAL LAW vol 8 paras 849, 850.

⁹ Treason Act 1702 s 3.

- 10 'Chancellor' means the Lord Chancellor. 'Treasurer' means the Lord High Treasurer; the office has been in commission since 1714: see CONSTITUTIONAL LAW vol 8 para 1165. The Treason Act 1351 (as amended) refers to 'the King's justices of the one bench or the other, justices in eyre, or justices of assise, and all other justices assigned to hear and determine'. These descriptions of the Queen's justices are no longer applicable and it is not clear how the statute might now be held to apply.
- 11 Treason Act 1351 (as amended).
- 12 See para 25 ante. As to whether duress may be a defence to a charge of treason see para 24 note 3 ante and para 79 note 8 post.

77. Duty of allegiance. The essence of the offence of treason lies in the violation of the allegiance owed to the Sovereign¹. Natural allegiance is due from all British subjects² at all times wherever they may be³; local allegiance is owed by an alien under the protection of the Crown so long as he is resident within the realm and by a resident alien who goes abroad leaving his family or effects within the realm or goes abroad in possession of a British passport⁴. An alien enemy may also be convicted of treason if he accepts British protection during a war⁵. An ambassador who is not a subject of the state to which he is accredited does not owe any temporary allegiance to that state⁶.

- 1 See *Joyce v DPP* [1946] AC 347 at 365, 31 Cr App Rep 57 at 85, HL per Lord Jowitt LC.
- 2 For the meaning of 'British subject' see the British Nationality Act 1981 s 51 (1) and BRITISH NATIONALITY AND ALIENAGE. A British subject is not, however, exempt from the penalties of treason because he holds a commission in the enemy forces: see *Napper Tandy's Case* (1800) 27 State Tr 1191; *Macdonald's Case* (1747) Fost 59, 183, 18 State Tr 857; *R v Townley* (1746) Fost 7, 18 State Tr 329; *R v Lynch* [1903] 1 KB 444. As to the limitation of liability of British subjects who are not also citizens of the United Kingdom and colonies for offences against the law of the United Kingdom committed elsewhere see BRITISH NATIONALITY AND ALIENAGE vol 4 para 904.
- 3 See *R v Casement* [1917] 1 KB 98 at 137, 12 Cr App Rep 99 at 119, CCA.
- 4 *Joyce v DPP* [1946] AC 347 at 367, 31 Cr App Rep 57 at 87, 88, HL per Lord Jowitt LC. An alien who goes abroad may withdraw from his allegiance, possibly even though he holds a passport; but an act of treason cannot itself constitute such a withdrawal: see *Joyce v DPP* supra at 371 and at 89, 90 per Lord Jowitt LC. The duty of allegiance is not dependent upon a person's having taken the oath of allegiance: see *R v Arrowsmith* [1975] 1 All ER 463 at 469, 60 Cr App Rep 211 at 216, 217, CA. As to allegiance generally see CONSTITUTIONAL LAW vol 8 paras 862–864.
- 5 *Joyce v DPP* [1946] AC 347 at 374, 375, 31 Cr App Rep 57 at 96–99, HL per Lord Porter.
- 6 As to ambassadors and diplomatic agents generally see FOREIGN RELATIONS. Ambassadors and persons attached to embassies are, it seems, amenable to the English laws of treason only if they are British subjects: see Fost 187; 1 Hale PC 96; 1 Hawk PC c 2 s 5; *Story's Case* (1571) 3 Dyer 300b; *R v Owen (alias Collins)* (1615) 1 Roll Rep 185.

78. Penalty for treason. The penalty for treason is death by hanging¹.

- 1 See the Treason Act 1790 s 1 (amended by the Offences against the Person Act 1828 s 1; the Forfeiture Act 1870 s 31); the Treason Act 1814 s 1 (amended by the Forfeiture Act 1870 s 31). A male traitor may no longer be beheaded: see the Treason Act 1814 s 2 (repealed). As to disqualifications consequent upon a conviction for treason see para 1340 post; and as to the death penalty see para 1199 post.

79. Levying war against the Sovereign. The treason of levying war against the Sovereign in Her realm¹ may be of two kinds: (1) express and direct, as where war is raised against the Sovereign or Her forces with a view to injure Her person or to imprison Her or to force Her to remove any of Her ministers or counsellors; or (2) constructive, as where there is a rising for some general public purpose². A rising for a limited or local purpose³, or directed against private persons, does not amount to a levying of war⁴.

A bare conspiracy or consultation with a view to a levying of war is not a levying of war⁵. To constitute a levying of war it is not, however, necessary that there should be an engagement; it is sufficient if there is arming, enlisting and marching, or if large numbers assemble with warlike intent⁶, or if a small number use sufficiently violent means in carrying out their treasonable intent⁷.

In an actual insurrection it is a levying of war to join with rebels in any act of rebellion⁸. In the case of war levied directly against the Sovereign, all persons assembled and marching with the rebels are guilty of treason, whether they are aware of the purpose of the assembly, or aid and assist in committing acts of violence, or not⁹. Service in war under the Sovereign *de facto* is not an act of treason against the Sovereign *de jure*¹⁰.

- 1 See para 76 ante. 'The realm' formerly included only the realm of England and Wales: see 1 Hale PC 154, 155; 1 East PC 76, 77; *Lord MacGuire's Case* (1645) 4 State Tr 653. The Treason Act 1351 (as amended) was extended to Ireland (see Poyning's Law 1495) and to Scotland (see the Treason Act 1708 s 1) but not to the Channel Islands or the colonies (see 1 Hale PC 156). The Treason Act 1795 was extended to Ireland by the Treason Felony Act 1848 s 2. The Republic of Ireland is not, however, part of Her Majesty's dominions: see COMMONWEALTH vol 6 para 883. A person committing acts of war in any part of Her Majesty's dominions or abroad in conjunction with a foreign enemy would be guilty of the treason of adhering to the Queen's enemies (see para 80 post): *R v Vaughan* (1696) 13 State Tr 485; *R v Lynch* (1903) as reported in 67 JP 41 at 44.
- 2 Fost 210, 213; 1 Hale PC 131, 132. Among general public purposes instanced are: to effect an alteration of the law; to alter religion established by law; to open all prisons; to pull down all meetinghouses: see Fost 210, 213; 1 Hale PC 131, 132. Constructive levying of war is in truth more directed against the government than the person of the Sovereign: 1 East PC 72. See also *R v Dammariee* (1710) 15 State Tr 521; *R v Purchase* (1710) 15 State Tr 651 at 699; *R v Lord George Gordon* (1781) 21 State Tr 485 at 644; *R v Thistlewood* (1820) 33 State Tr 681 at 684, 955.
- 3 Eg to maintain a private claim or right, to release particular persons (unless persons imprisoned for treason), to destroy the machinery of a particular trade: see Fost 210; 1 Hale PC 133, 143, 149. Release of a person imprisoned for treason may constitute treason: see para 82 note 2 post.
- 4 Fost 208, 210; 1 Hale PC 131, 133, 143, 149. See also *R v Hardie* (1820) 1 State Tr NS 609 at 765; *R v Frost* (1839) 4 State Tr NS 85 at 444. It is the treasonable purpose which distinguishes treason from riot: see *R v Hardie* supra.
- 5 1 Hale PC 131; 3 Co Inst 9. It may, however, amount to an overt act of compassing the Sovereign's death: see para 81 post.
- 6 Fost 208; 1 Hale PC 131, 144; *R v Vaughan* (1696) 13 State Tr 485 at 532; *R v Dammariee* (1710) 15 State Tr 521 at 606. Open violence may amount to levying war though there are no regular operations: 3 Co Inst 9.
- 7 *R v Gallagher* (1883) 15 Cox CC 291 at 315, 317. 'If three men with . . . explosive materials did the same acts with the same objects as it required 3,000 men to do in an earlier period when it was a levying of war, it seemed . . . that the acts of the three men were equally a levying of war': *R v Gallagher* supra at 315 per Lord Coleridge CJ.
- 8 3 Co Inst 10; Fost 216; 1 East PC 70. It appears uncertain whether duress affords a defence (see para 24 note 3 ante); but, if the joining with rebels is from fear of present death and while the party is under actual force, such force and compulsion will excuse him: see 1 Hale PC 70. However, mere apprehension of loss of property or injury not endangering the person is not an excuse: see *M'Crowthers Case* (1746) 18 State Tr 391; 1 East PC 71; *R v Gordon* (1746) 1 East PC 71. The orders of a superior officer afford no excuse for consorting with rebels: see *R v Axtell* (1660) 5 State Tr 1146 at 1175; 1 East PC 71.
- 9 See *R v Earls of Essex and Southampton* (1600) 1 State Tr 1334; *R v Purchase* (1710) 15 State Tr 651. However, in the case of a constructive levying of war, only those who actually aid and assist in doing those acts of violence which form the constructive treason are traitors; the rest are merely rioters: *R v Messenger* (1668) 6 State Tr 879 at 913; see also *R v Willis* (1710) 15 State Tr 613 at 650.
- 10 11 Hen 7 c 1 (Treason) (1495) s 1; and see para 76 note 2 ante.

80. Adherence to the Sovereign's enemies. A person commits the treason of adherence to the Sovereign's enemies¹ if he is adherent to the Sovereign's enemies

by giving them aid or comfort in Her realm or if he is adherent to the Sovereign's enemies elsewhere by giving them aid or comfort elsewhere². Adherence must be evidenced by an overt act done with intent to aid and assist the Sovereign's enemies³.

A person is adherent to the Sovereign's enemies who does an act which strengthens or tends to strengthen the Sovereign's enemies in the conduct of a war against the Sovereign or which weakens or tends to weaken the power of the Sovereign and of the country to resist or attack the enemies of the Sovereign and the country⁴; or who sends the Sovereign's enemies money or provisions or renders them any kind of aid or comfort which, when given to a rebel within the realm, would make the subject guilty of levying war⁵; or who, in conjunction with the Sovereign's enemies, commits hostile acts upon an ally of the Sovereign who is also at war with the Sovereign's enemies⁶.

Communications with the Sovereign's enemies⁷ from which they may derive information to shape their attack or defence constitutes an adherence to the enemy⁸. A British subject adheres to the Sovereign's enemies if he takes an oath of fidelity to them, or makes a declaration of willingness to take up arms on their behalf, or becomes naturalised in the hostile state while it is at war with the Sovereign, unless he acts under compulsion and returns to his allegiance as soon as possible⁹. Acts of piracy committed in wartime, if there is an intention to take the Sovereign's ships as well as those of subjects, may be charged as treason¹⁰.

A person does not adhere to the Sovereign's enemies by giving assistance to rebels within the realm¹¹; or, unless war results from the incitement, by inciting a foreign state not at war with the Sovereign to invade the realm¹²; or by mere acts of submission to force majeure in case of an invasion¹³; or by refusing to give personal assistance to the Sovereign or Her forces against an invading enemy¹⁴.

1 See para 76 ante. 'Enemies' means foreign states in actual hostility against the Sovereign (see 1 East PC 77; but see also 1 East PC 78 ('if the subject of a foreign state in amity with us acts in a hostile manner against us without commission from his Sovereign or under commission from a state at enmity with us, he is so far an enemy that a subject . . . adhering to him is a traitor')). There need not have been any formal declaration of war: 1 Hale PC 162. Whether a particular state is in actual hostility or not is a question of fact for the jury, which may judge of the matter from public notoriety: Fost 219; 1 East PC 77. A certificate of the Secretary of State given on behalf of the Crown as to the existence of a state of war involving the Sovereign is, however, conclusive evidence: see *R v Bottrill, ex p Kuechenmeister* [1947] KB 41, [1946] 2 All ER 434, CA.

2 Treason Act 1351; *R v Casement* [1917] 1 KB 98, 12 Cr App Rep 99, CCA. See also *Joyce v DPP* [1946] AC 347, 31 Cr App Rep 57, HL; *R v Lynch* [1903] 1 KB 444; *R v Vaughan* (1696) 13 State Tr 485. As to trading with the enemy see the Trading with the Enemy Act 1939 and *WAR* para 148 et seq.

3 See *R v Ahlers* [1915] 1 KB 616, 11 Cr App Rep 63, CCA (jury not directed that it must consider whether German consul who was British subject acted with intention of assisting enemy or in belief that duty to assist German subjects; conviction quashed).

4 *R v Casement* [1917] 1 KB 98, 12 Cr App Rep 99, CCA; see also *Joyce v DPP* [1946] AC 347, 31 Cr App Rep 57, HL.

5 1 East PC 78; Fost 217. As to treason by levying war against the Sovereign see para 79 ante.

6 1 East PC 79; Fost 220; *R v Vaughan* (1696) 13 State Tr 485 at 530.

7 It is immaterial that the communications are intercepted and do not reach the enemy: *R v Hensey* (1758) 19 State Tr 1341 at 1372; *R v De la Motte* (1781) 21 State Tr 687 at 808; *R v Gregg* (1708) 14 State Tr 1371; *R v MacLane* (1797) 26 State Tr 721. Communications which are intercepted may constitute treason by compassing the Sovereign's death: see para 81 post.

8 Fost 217; *R v Grahme* (1691) 12 State Tr 645; *R v Gregg* (1708) 14 State Tr 1371; *R v Hensey* (1758) 19 State Tr 1341 at 1344; *R v MacLane* (1797) 26 State Tr 721 at 796, 797; *R v Tyrie* (1782) 21 State Tr 815; *R v Jackson* (1795) 25 State Tr 783; *R v Sheares* (1798) 27 State Tr 255. See also *R v Stone* (1796) 25 State Tr 1155; *R v M* (1915) 11 Cr App Rep 207 at 214 (attempt to communicate information calculated to be useful to the enemy in contravention of the regulations made under the Defence of the Realm

(Consolidation) Act 1914; truth or falsity of information immaterial except as to possible defence of intention to mislead).

9 1 Hale PC 167; *R v Lynch* [1903] 1 KB 444.

10 *R v Evans* (1782) 1 East PC 80.

11 1 Hale PC 159; 3 Co Inst 11; *R v Sheares* (1796) 27 State Tr 255 at 388. Such assistance would, however, be an overt act of levying war or of compassing the Sovereign's death: *R v Townley* (1746) Foster 7, 18 State Tr 329.

12 1 East PC 78; Foster 217. Such incitement would, however, be an overt act of compassing the Sovereign's death: 1 East PC 78; *Story's Case* (1571) 3 Dyer 298b.

13 Foster 217.

14 1 East PC 80.

81. Compassing death of the Sovereign. The treason of compassing, imagining, inventing, devising, or intending the death of the Sovereign, or any bodily harm tending to death, maiming or wounding, imprisonment or restraint of the Sovereign¹ must be proved by overt, that is open, acts or by published writings expressing such compassings etc². It is an overt act of compassing the Sovereign's death, wilfully and deliberately to do or attempt anything whereby the Sovereign's life may be endangered or to conspire, combine, confederate or agree to carry out that purpose³ or to assent to any overtures for that purpose or to meet with others to kill the Sovereign though no agreement is then come to⁴. It is therefore an overt act of the treason of compassing the death of the Sovereign to enter into measures for deposing or imprisoning Her, or to place Her person in the power of conspirators against Her, or to agree with foreigners to invade Her dominions with force or to go into a foreign country to that end or to levy or conspire to levy war against Her⁵ or to raise an insurrection against Her⁶ or to destroy the constitution of the country⁷, or to enter into communications with the enemy from which he may derive information assisting his attack or defence although the communications are intercepted⁸.

Arguments and words of advice or persuasion, uttered in contemplation of some traitorous purpose actually on foot or intended, and in prosecution of it, and consulting together for such a purpose, are also overt acts⁹.

1 See para 76 ante.

2 See the Treason Act 1795 s 1 (amended by the Treason Felony Act 1848 s 1). Proof by overt acts was also required of the treason under the 1351 Act of compassing or imagining the death of the Sovereign: see 3 Co Inst 12. Documents, even if not published, may be evidence of treason, if they are connected with other treasonable practices charged in the indictment: Foster 198. See *R v Grahme* (1691) 12 State Tr 645 at 709; *R v Gregg* (1708) 14 State Tr 1371 at 1375; *R v Layer* (1722) 16 State Tr 94 at 205; *R v Hensley* (1758) 19 State Tr 1341.

3 *R v Vane* (1622) 6 State Tr 120; *R v Tonge* (1662) 6 State Tr 225; *R v Parkyns* (1696) 13 State Tr 63; *R v Rookwood* (1696) 13 State Tr 139; *R v Vaughan* (1696) 13 State Tr 485; *R v Layer* (1722) 16 State Tr 94; *Downie's Case* (1794) 24 State Tr 1; *R v Hardy* (1794) 24 State Tr 199; *Watt's Case* (1794) 23 State Tr 1167 at 1186, 1187; *R v Howley* (1803) 28 State Tr 1183; *R v MacIntosh* (1803) 28 State Tr 1215; *R v Lynch* [1903] 1 KB 444.

4 1 East PC 59; *R v Despard* (1803) 28 State Tr 346 at 349, 350.

5 A constructive levying of war (see para 79 ante) is not an overt act of compassing the Sovereign's death: Foster 213; 1 Hale PC 123; *R v Darrel* (1715) 10 Mod Rep 321.

6 See *R v Earls of Essex and Southampton* (1600) 1 State Tr 1334 at 1355 ('In every rebellion the law intends as a consequence the death and deprivation of the Queen').

7 Foster 197, 210; 1 Hale PC 108–128 (where the earlier authorities are fully cited); *R v Hardy* (1794) 24 State Tr 199; *R v Home Tooke* (1794) 25 State Tr 1; *R v Freind* (1696) 13 State Tr 1; *R v Charnock, King and Keyes* (1696) 12 State Tr 1377; *R v Rookwood* (1696) 13 State Tr 139; *R v Thistlewood* (1820) 33 State Tr 681 at 685; *R v Ings* (1820) 33 State Tr 957.

8 *R v Hensley* (1785) 19 State Tr 1341. Such communications also constitute adherence to the Sovereign's enemies: see para 80 ante.

- 9 *Fost* 200; *R v Charnock, King and Keyes* (1696) 12 State Tr 1377 at 1452; *R v Parkyns* (1696) 13 State Tr 63 at 132. Cf *Pine's Case* (1628) 3 State Tr 359 ('loose words, not relative to any act or design . . . are not overt acts').

82. Aiding and abetting treason. All persons who incite, aid or abet an act of treason, or who receive¹ or protect a traitor, are themselves guilty of treason².

- 1 If the husband commits treason and his wife knowingly receives him, she does not herself become guilty of treason: 1 Hale PC 45. There appears to be no authority as to whether she is guilty of misprision of treason (see para 83 post) in these circumstances. However, since treason is an arrestable offence within the meaning of the Police and Criminal Evidence Act 1984 s 24 (1) (see para 703 post), a wife who, knowing or believing her husband to be guilty of treason, does an act with intent to impede his apprehension or prosecution, may be guilty of an offence under the Criminal Law Act 1967 s 4 (as amended): see para 51 ante. As to non-disclosure due to a claim of right made in good faith as applying to the former offence of misprision of felony see *Sykes v DPP* [1962] AC 528 at 564, 45 Cr App Rep 230 at 250, 251, HL per Lord Denning.
- 2 *Fost* 341; 1 Hale PC 233. This rule is stated not to have applied to kinds of treason which did not involve the legal notion of compassing the death of the King, Queen or heir apparent: *Fost* 342; 4 Bl Com (14th Edn) 36. A gaoler who voluntarily permits a person imprisoned for treason to escape, and anyone who rescues such a person, is himself guilty of treason: *Fost* 344. Although a person who receives and harbours a traitor is himself said to be guilty as a principal traitor, he must be indicted specially for such receiving and harbouring, and not for the principal treason; and he cannot be tried on a separate indictment for the receiving and harbouring, until after the traitor alleged to have been received is convicted; if the receiver is tried for the receiving and harbouring upon the same indictment with the principal offender as he may be, the jury must first be charged to inquire as to the guilt of the latter, and, if he is acquitted, the receiver must also be acquitted: 1 Hale PC 238; *Fost* 345.

(ii) Misprision of Treason

83. Misprision of treason. It is an offence at common law, punishable by fine and imprisonment at the discretion of the court¹, for a person who knows² that treason is being planned or committed not to report it as soon as he can to a justice of the peace or other authority³.

- 1 See paras 1200, 1232 post. The offence was formerly also punishable by loss of profits of land during life and forfeiture of goods: see 1 Hale PC 374. Although the abolition of forfeiture under the Forfeiture Act 1870 s 1 (as amended) did not apply to misprision of treason, subsequent provisions to abolish so much of the punishment for an offence as consisted in any general forfeiture of land or of goods and chattels (see the Criminal Law Act 1967 s 7 (5) (repealed)) and the abolition of the distinctions between felony and misdemeanour (see s 1 and para 42 ante) have raised questions as to whether forfeiture is still applicable to misprision of treason.
- 2 Ie without being a party or consenting to the treason: 1 East PC 139; *R v Tonge* (1662) 6 State Tr 225.
- 3 1 Hale PC 372; 1 East PC 139. See *Regicides' Case* (1660) 5 State Tr 947 at 985; *R v Tonge* (1662) 6 State Tr 225; *R v Walcot* (1683) 9 State Tr 519 at 553; *R v Thistlewood* (1820) 33 State Tr 681 at 690, 691. To constitute the offence there must be a knowledge of the persons concerned and of the design or offence; merely to be told that there will be a rising and to conceal the information is not misprision of treason: *Kel* 21; 1 East PC 139.

(iii) Treason and Misprision of Treason; Evidence and Procedure

84. Procedure. The procedure on trials for treason or misprision of treason is the same as that on trials for murder¹. An indictment for treason or misprision of treason committed in any part of the United Kingdom must be signed within three years from the commission of the offence², except in the case of the treason of

designing, endeavouring or attempting the assassination of the Sovereign where there is no limitation of time³. Treason committed abroad may be tried in England⁴.

¹ Criminal Law Act 1967 s 12 (6). As to treason being an exception to the general rule of convicting for an offence other than that charged see para 1029 post.

² See the Treason Act 1695 s 5; the Treason Act 1708 s 1; the Treason (Ireland) Act 1821; the Administration of Justice (Miscellaneous Provisions) Act 1933 s 2 (8), Sch 2, para 1; *Fost* 249.

³ Treason Act 1695 s 6.

⁴ See para 634 post.

85. Treason; proof by overt acts. The treason alleged must be proved by overt acts¹. It seems that the overt acts upon which it is intended to rely must be expressly alleged in the indictment² and that no evidence is admissible of any overt act that is not so alleged unless it affords direct proof of the overt acts that are laid³. Where the overt acts alleged in the indictment include acts of conspiracy, evidence may be given of acts committed by co-conspirators in execution of the common design even if committed after the date of the overt acts alleged and after the accused's arrest⁴.

¹ See 3 Co Inst 12.

² Provision to this effect was contained in the Treason Act 1695 s 8 (repealed). *Quaere* whether overt acts must be alleged in order to comply with the Indictments Act 1915 s 3 (1): see para 923 post. If the overt acts alleged consist of words or documents, it is sufficient to set out their effect: *R v Francia* (1717) 15 State Tr 897; *R v Watson* (1817) 2 Stark 116 at 132; *R v Vaughan* (1696) 13 State Tr 485 at 498. Several overt acts may be laid in one count: see para 931 note 5 post.

³ See the Treason Act 1695 s 8 (repealed); *R v Rookwood* (1696) 13 State Tr 139 at 217; *R v Layer* (1722) 16 State Tr 94 at 223; *R v Deacon* (1746) 18 State Tr 365; *R v Thistlewood* (1820) 33 State Tr 681 at 686 per Abbott CJ.

⁴ *R v Horne Tooke* (1794) 1 East PC 98; *R v Hardy* (1794) 1 East PC 99; *R v Watson* (1817) 2 Stark 116 at 127; *R v McCafferty* (1867) 10 Cox CC 603, CCA; *R v Stone* (1796) 25 State Tr 1155.

(iv) Treason Felony

86. Treason felony. Any person who (1) within the United Kingdom¹ or without, compasses, imagines, invents, devises or intends (a) to deprive or depose the Sovereign from the style, honour or royal name of the Crown of the United Kingdom or of any other of Her Majesty's dominions and countries²; or (b) to levy war³ against Her Majesty within any part of the United Kingdom in order by force or constraint to compel Her to change Her measures or counsels or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament; or (c) to move or stir any foreigner or stranger with force to invade the United Kingdom or any other of Her Majesty's dominions or countries; and (2) expresses, utters or declares such compassings etc by publishing any printing or writing or by any overt act⁴ or deed, is guilty of an offence and liable on conviction on indictment to imprisonment for life or for any shorter term⁵.

¹ 'United Kingdom' means Great Britain and Northern Ireland: Interpretation Act 1978 s 5, Sch 1. 'Great Britain' means England, Scotland and Wales: Union with Scotland Act 1706 preamble, art 1; Interpretation Act 1978 s 22 (1), Sch 2 para 5 (a). Neither the Channel Islands nor the Isle of Man are within the United Kingdom.

² *R v Mitchel* (1848) 6 State Tr NS 599; *R v Gallagher* (1883) 15 Cox CC 291; *Mulcahy v R* (1866) IR 1 CL 12; *affd* (1868) LR 3 HL 306; *R v Davitt* (1870) 11 Cox CC 676.

- 3 *R v Gallagher* (1883) 15 Cox CC 291; *R v Mitchel* (1848) 6 State Tr NS 599; *R v Dowling* (1848) 3 Cox CC 509; *Mulcahy v R* (1866) IR 1 CL 12; affd (1868) LR 3 HL 306.
- 4 Some overt act must be committed within the Sovereign's dominions: see *R v Meany* (1867) 10 Cox CC 506, CCR. Where the accused has conspired with others to commit any offence under the Treason Felony Act 1848 and a co-conspirator commits acts within the Sovereign's dominions in furtherance of the common purpose, it is a sufficient overt act to allege the conspiracy: *R v Meany* supra. See also *Mulcahy v R* (1866) IR 1 CL 12; affd (1868) LR 3 HL 306; *R v Davitt* (1870) 11 Cox CC 676; *R v Deasy* (1883) 15 Cox CC 334. Several overt acts may be alleged in one count: *Mulcahy v R* supra.
- 5 Treason Felony Act 1848 s 3; Penal Servitude Act 1857 s 2; Penal Servitude Act 1891 s 1; Criminal Justice Act 1948 s 1; Criminal Law Act 1967 s 12 (5) (a). The Treason Felony Act 1848 does not lessen the force of, or in any manner affect anything enacted by, the Treason Act 1351 (see para 76 ante): Treason Felony Act 1848 s 6. If matters alleged in an indictment or proved at the trial for any offence under s 3 amount in law to treason, this does not render the indictment defective or entitle the accused to be acquitted; but an acquittal or conviction for any such offence is a bar to a prosecution for treason on the same facts: s 7; *R v Mitchel* (1848) 6 State Tr NS 599.

(v) Assaults on and Contempt of the Sovereign

87. Assaults on the Sovereign. Any person who (1) with intent to injure the person of the Sovereign or to break public peace or whereby the public peace may be endangered or to alarm the Sovereign (a) wilfully discharges or attempts to discharge or points, aims, or presents at or near to the person of the Sovereign any gun, pistol or any other firearm or other arms, whether the same does or does not contain any explosive or destructive material, or discharges or causes to be discharged or attempts to discharge any explosive substance or material near to the Sovereign's person; (b) wilfully strikes or strikes at or attempts to strike or strike at the Sovereign with any offensive weapon or in any other manner whatsoever; (c) wilfully throws or attempts to throw any substance, matter or thing at or upon the person of the Sovereign; or (2) wilfully produces or has near the person of the Sovereign any gun, pistol or any other description of firearm or other arms whatsoever, or any explosive, destructive, or dangerous matter or thing whatsoever, with intent to use the same to injure the person of the Sovereign or to alarm Her is guilty of high misdemeanour¹ and liable on conviction on indictment to imprisonment for a term not exceeding seven years².

1 The anomalous term 'high misdemeanour' is not apparently affected by the Criminal Law Act 1967: see further para 42 ante.

2 Treason Act 1842 s 2 (amended by the Criminal Administration Act 1914 s 44, Sch 4; the Criminal Justice Act 1948 s 83 (3), Sch 10 Pt II); Penal Servitude Act 1857 s 2; Penal Servitude Act 1891 s 1; Criminal Justice Act 1948 s 1.

88. Contempt of the Sovereign. Contempt of the Sovereign¹ is an offence at common law punishable by fine and imprisonment at the discretion of the court².

1 See 1 Hawk PC c 6; 2 Hawk PC c 25, s 4; 4 Bl Com (14th Edn) 122; 3 Co Inst 140, where contempts against the King's palaces or courts of justice or against His person, title, prerogative or government are listed under the headings of 'contempts' or 'misprisions'. As to criminal contempt of court see CONTEMPT vol 9 para 97 et seq. No prosecution for a contempt of the Sovereign appears to have been brought since 1840: see *R v Price* (1840) 11 Ad & El 727.

2 See paras 1200, 1232 post.

(2) OFFENCES AGAINST PUBLIC ORDER

(i) Seditious Words and Libel

89. Nature of sedition. Sedition in the common law consists of any act done, or words spoken or written and published, which has or have a seditious tendency and is done or are spoken or written and published with a seditious intention¹. A person may be said to have a seditious intention if he has any of the following intentions and acts or words may be said to have a seditious tendency if they have any of the following tendencies:

- (1) to bring into hatred or contempt, or to excite disaffection against, the Sovereign or the government and constitution of the United Kingdom or either House of Parliament, or the administration of justice²; or
- (2) to excite the Sovereign's subjects to attempt, otherwise than by lawful means, the alteration of any matter in church or state by law established; or
- (3) to incite persons to commit any crime in disturbance of the peace; or
- (4) to raise discontent or disaffection amongst the Sovereign's subjects; or
- (5) to promote feelings of ill-will and hostility between different classes of those subjects³.

An intention is not seditious if the object is to show that the Sovereign has been misled or mistaken in Her measures, or to point out errors or defects in the government or constitution with a view to their reformation, or to excite the subjects to attempt by lawful means the alteration of any matter in church or state by law established, or to point out, with a view to their removal, matters which are producing, or have a tendency to produce, feelings of hatred and ill-will between classes of the Sovereign's subjects⁴.

The character of the words used may be good evidence of the nature of the intention⁵.

¹ As to seditious words and seditious libel see para 90 post. It is an offence for an alien to attempt to do any act calculated or likely to cause sedition: see the Aliens Restriction (Amendment) Act 1919 s 3 and BRITISH NATIONALITY AND ALIENAGE vol 4 para 955. For these purposes, 'alien' does not include a British protected person: British Nationality Act 1948 s 3 (3). For the meaning of 'British protected person' see the British Nationality Act 1981 s 50 (1) and BRITISH NATIONALITY AND ALIENAGE.

² See *R v Lambert and Perry* (1810) 2 Camp 398; *R v Tutchin* (1704) 14 State Tr 1095, CCR; *R v Cobbett* (1804) 29 State Tr 1; *R v Wilkes* (1769) 4 Burr 2527, HL; *R v Harvey* (1823) 2 B & C 257; *R v M'Hugh* [1901] 2 IR 569.

³ *R v M'Hugh* [1901] 2 IR 569 at 578. As to offences relating to racial hatred see para 154 et seq post.

⁴ See Stephen, Digest of the Criminal Law (9th Edn) 92. The corresponding passage, in substantially the same terms, in the first edition at 55, 56, was adopted in *R v Burns* (1886) 16 Cox CC 355 at 359, 360 per Cave J, and in *R v M'Hugh* [1901] 2 IR 569 at 578. See also *R v Sullivan*, *R v Pigott* (1868) 11 Cox CC 44. As to the difference between treason and sedition see 1 East PC 48.

⁵ *R v M'Hugh* [1901] 2 IR 569 at 578. Formerly it was held that if the words used had a direct tendency to cause unlawful meetings and disturbances and to lead to a violation of the laws, they were seditious, as the accused was taken to have intended the natural consequences of what he had done (*R v Lovett* (1839) 9 C & P 462 at 466 per Littledale J; *R v Sullivan*, *R v Pigott* (1868) 11 Cox CC 44 at 58; see also *R v Home* (1778) 20 State Tr 651 at 762, HL; *R v Aldred* (1909) 74 JP 55, 22 Cox CC 1); but as to the subjective test see now the Criminal Justice Act 1967 s 8 and para 1061 post.

90. Seditious words and seditious libel. It is an offence at common law, punishable with imprisonment or fine at the discretion of the court¹, to publish orally seditious words with a seditious intention² or to publish matter contained in anything capable of being a libel³ with a seditious intention. In the case of seditious

libel there must be an incitement to disorder and violence⁴. Free comment, criticism and censure must, however, be distinguished from seditious words or seditious libel⁵.

The defences of absolute⁶ and qualified⁷ privilege appear to apply to a charge of seditious libel. Qualified privilege ceases if the publication was made with malice⁸. It is uncertain whether the composition of a seditious writing with the intention that it should be published, but without actual publication, constitutes a seditious libel⁹.

1 See paras 1200, 1232 post. On a conviction for a seditious libel, the court may make an order for seizure of all copies of the libel: Criminal Libel Act 1819 s 1. As to powers of entry, search and seizure see para 668 et seq post.

2 For the meaning of 'seditious intention' see para 89 ante.

3 The libel may be in writing or print or may be contained in a drawing or engraving, or painted picture, or sculpture, or any permanent representation: *R v Sullivan, R v Pigott* (1868) 11 Cox CC 44 at 55.

4 *R v Collins* (1839) 9 C & P 456; *R v Aldred* (1909) 74 JP 55, 22 Cox CC 1; *R v Caunt* (1947) unreported noted in 64 LQR 203.

5 See *R v Sullivan, R v Pigott* (1868) 11 Cox CC 44 at 49 (the freest public discussion, comment, criticism, and censure, either at meetings or in the press, in relation to all political or party questions, all public acts of the servants of the Crown, all acts of the government, and all proceedings of courts of justice are permissible, and no narrow construction is to be put upon the expressions used in such discussion etc, but the criticism and censure must be without malignity, and must not impute corrupt or malicious motives). See also *R v Collins* (1839) 9 C & P 456 at 460, 461 per Little Dale J ('every man has a right to give every public matter a candid, full and free discussion; something must be allowed for feeling in men's minds and for some warmth of expression, but an intention to incite the people to take the power into their own hands and to provoke them to tumult and disorder is a seditious intention'); *R v Burdett* (1820) 1 State Tr NS 1 at 50; *R v Aldred* (1909) 74 JP 55, 22 Cox CC 1.

6 As to statements to which absolute privilege attaches see LIBEL vol 28 paras 98–107.

7 As to statements to which qualified privilege attaches see LIBEL vol 28 paras 108–130.

8 For the meaning of 'malice' see LIBEL vol 28 paras 145–151.

9 *R v Burdett* (1820) 1 State Tr NS 1 at 122, 138. In every case in which any verdict or judgment by default is had against any person for composing, printing or publishing any blasphemous libel (see para 348 post) or any seditious libel tending to bring into hatred or contempt the person of Her Majesty or the government and constitution of the United Kingdom as by law established, or either House of Parliament, or to excite Her Majesty's subjects to attempt the alteration of any matter in Church or State as by law established, otherwise than by lawful means, it is lawful for the judge or the court before whom or in which such verdict has been given, or the court in which judgment by default is had, to make an order for the seizure and carrying away and detaining in safe custody, in such manner as shall be directed in such order, of all copies of the libel which are in the possession of the person against whom such verdict or judgment has been had, or in the possession of any other person named in the order for his use, evidence upon oath having been previously given to the satisfaction of such court or judge that a copy or copies of such libel is or are in the possession of such other person for the use of the person against whom such verdict or judgment has been so had: Criminal Libel Act 1819 s 1. In every such case it is lawful for any justice of the peace, or for any constable or other peace officer, acting under any such order, or for any person or persons acting with or in aid of any such justice of the peace, constable or other peace officer, to search for any copies of such libel in any house, building or other place whatsoever belonging to the person against whom any such verdict or judgment is had, or to any other person so named, in whose possession any copies of any such libel, belonging to the person against whom any such verdict or judgment is had, are; and in case admission is refused or not obtained within a reasonable time after it has first been demanded, to enter by force by day into any such house, building or place whatsoever, and to carry away all copies of the libel there found, and to detain the same in safe custody until the same are restored under the Criminal Libel Act 1819, or disposed of according to any further order made in relation thereto: s 1. As to powers of entry, search and seizure see para 668 et seq post; and as to the power of a constable to use reasonable force see para 659 post.

If in any such case judgment is arrested or if, after judgment has been entered, the same is reversed upon any writ of error, all copies so seized must forthwith be returned to the person or persons from whom the same have been so taken free of all charge and expense, and without the payment of any

fees whatever; and in every case in which final judgment is entered upon the verdict so found against the person or persons so charged with having composed, printed or published such libel, then all copies so seized must be disposed of as the court in which such judgment is given orders and directs: s 2. Writs of error were abolished by the Criminal Appeal Act 1907 s 20 (1) (repealed). As to the right to apply to the court for judgment to be arrested see para 1045 post.

The Criminal Libel Act 1819 s 1 appears to treat the composition, printing and publishing of a seditious libel as separate offences. As to evidence of publication see para 91 post.

91. Indictment and evidence in cases of seditious words or seditious libel. In an indictment for seditious words or seditious libel, the words alleged to be seditious must be specified¹. So much of the words alleged as will support the charge of sedition must be proved at the trial; but, if what is proved substantially constitutes sedition, it is immaterial that a portion is unproved².

If the manuscript of a seditious libel is proved to be in the handwriting of the accused, and it is also proved that the same libel was in fact published, this is prima facie evidence for the jury of a publication by the accused, though no evidence is adduced that he directed the publication³. To prove that the publication was with an unlawful intent or was not accidental, evidence of the publication of other libels is admissible, provided they expressly refer to the subject matter of the libel which is charged in the indictment⁴. If words spoken or published are seditious, it is no defence that they are true, and evidence to prove their truth is inadmissible⁵.

1 See the opinion of the judges in *R v Sacheverell* (1710) 15 State Tr 1 at 466; *R v Sparling* (1722) 1 Stra 497; *Bradlaugh v R* (1878) 3 QBD 607 at 619, CA. It is not essential that the indictment should allege that the words were spoken or published 'seditiously', if it alleges an intent which the law defines to be a seditious intention: *R v M'Hugh* [1901] 2 IR 569.

2 *R v Fussell* (1848) 3 Cox CC 291 at 294. If any part of the speech or writing varied or controlled the sense of the words alleged to be seditious, the onus is on the accused to show it: see *R v Crowe* (1848) 3 Cox CC 123. Where an alleged seditious libel is contained in a newspaper, the accused is entitled to have read in evidence any passage from the same newspaper tending to show his intention in publishing the passage complained of: *R v Lambert and Perry* (1810) 2 Camp 398.

3 *R v Lovett* (1839) 9 C & P 462; *R v Aldred* (1909) 74 JP 55, 22 Cox CC 1. As to what amounts to a publication see further LIBEL.

4 *R v Pearce* (1791) Peake 106, where Lord Kenyon CJ admitted such evidence even to prove the fact of publication and that the accused was the author of a libel; but see *Finnerty v Tipper* (1809) 2 Camp 72; *Chubb v Westley* (1834) 6 C & P 436; *Plunkett v Cobbett* (1804) 5 Esp 136; *Pearson v Lemaitre* (1843) 5 Man & G 700 at 719, 720.

5 *R v Aldred* (1909) 74 JP 55, 22 Cox CC 1. The Libel Act 1843 s 6 and the Newspaper Libel and Registration Act 1881 s 4 (see LIBEL vol 28 para 282) do not apply to seditious libels: *R v Duffy* (1846) 2 Cox CC 45; *Ex p O'Brien* (1883) 15 Cox CC 180; *R v M'Hugh* [1901] 2 IR 569.

(ii) Inciting Disaffection among Her Majesty's Forces and the Police

92. Incitement to mutiny. Any person who maliciously and advisedly¹ endeavours (1) to seduce any person serving in Her Majesty's forces by sea, land or air² from his duty and allegiance to Her Majesty; or (2) incites or stirs up such a person to commit any act of mutiny³ or to make or endeavour to make a mutinous assembly, or to commit any traitorous or mutinous practice, is guilty of an offence and liable on conviction on indictment to imprisonment for life or for any shorter term⁴.

1 It must be proved that the accused knew that the person whom he attempted to seduce was a person serving in Her Majesty's forces: *R v Fuller* (1797) 2 Leach 790. However, see also *R v Bowman* (1912) 76 JP 271 (published article addressed to 'persons serving in His Majesty's forces').



Home Office

Sentencing and Offences Unit

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Mr David Bourne
11, High Street
Winchelsea
TN36 4EA

Our Ref
Your Ref
Date

5 July 2001

Dear Mr. Bourne.

Thank you for your letter of 4 June to the Lord Chancellor, about treason which has been passed to this Office for reply. I am unable to comment on individual cases, so can only outline the law on treason. As treason is a criminal offence, all complaints would be first dealt with by the police.

There are at least eight Treason Acts still in force, the most important of which is the Treason Act 1351, which defines the main circumstances in which high treason is committed; the Act also defined the former offence of petty treason (essentially the killing of a feudal overlord or religious superior, or a wife's killing of her husband), which was abolished in 1829. There is also a common law offence of misprision of treason, which consists of failing to inform of any treason committed or threatened by others, or of attempting to rescue any traitor from justice; it is punishable by life imprisonment.

High Treason consists of compassing or imagining the death of the Sovereign, his wife, or the Heir Apparent; violating the King's wife, his eldest daughter unmarried, or the wife of the Heir Apparent; levying war against the Sovereign in his realm, or being adherent to his enemies in the realm, giving them aid and comfort in the realm, or elsewhere; and slaying the Lord Chancellor, the Treasurer (when there is a Lord Treasurer), or the King's Justices being in their places doing their offices. The mandatory penalty for high treason is now life imprisonment; anyone who is convicted of treason is barred by the Forfeiture Act 1870 from holding any military or civil office under the Crown or other public employment, from sitting in either House of Parliament, from voting in any election, from holding any ecclesiastical benefice, and from receiving any pension payable from public funds.

Treason must be accompanied by an overt act, but writing down the details of a plot is a sufficient overt act. Compassing or imagining the death of the Sovereign includes any plot or attempt to overthrow the constitutional order of the realm, and is not confined merely to attempted assassinations. Treason can only be committed by someone owing allegiance to the Crown, but nationals of friendly foreign countries do owe such allegiance while they are within the realm, as do foreign nationals abroad who have British passports.

Yours sincerely

Stephen Hubbard
Violence and Disorder Section.

Letters to the Editor

1 Canada Square, London E14 5DT Telephone: 020 7538 5000 Fax: 020 7538 6455 E-mail: dtletters@telegraph.co.uk
We accept letters by post, fax and e-mail only. Please include name, address, work and home telephone numbers.

ID cards an affront to British liberty

SIR – It is amazing that David Blunkett should choose Armistice Day to unveil his plans for a national ID card (report, Nov 12). It has obviously not occurred to him that Britain's history in the 20th and 21st centuries – through two world wars, and on to the continuing operations in Iraq – is predicated not least on its citizens never having to suffer the challenge: "Ausweis Bitte!"

Johnny Dobbyn
Purley, Surrey

SIR – My passport says my eyes are blue. They were, but the iris in one is now green, and it is not stable. I have glaucoma, and my iris is already peppered with little iridotomy holes. My eye pressure pumps up and down like an old gasometer.

Millions of us have cataracts, and David Blunkett, of all people, should have sympathy for those with eye diseases. Yet we are now faced with amending our passports every few months to get the iris scan changed, or with interrogation by disbelieving immigration officers each time we fail the iris identification test, or with giving up international travel.

I am a scientist, and work with measurement instruments, yet I know the limits of computers. There are better ways to face the problems of crime, the health service, and immigration; ways that involve not out-dated software, but real recognition of real people.

E.G. Nisbet
Egham, Surrey

Free Arab debate

Counting the cost of EU membership

SIR – As you report (Nov 10), a cross-party group of peers has called on the Lords to undertake a cost-benefit analysis of membership of the EU.

Such a committee could, according to my Conservative colleague Lord Vinson, "show that withdrawal would be both unrealistic, impractical and economically and politically damaging. Alternatively, it might indicate that – as with Norway and other countries – an associate relationship would be both achievable and advantageous".

Coincidentally, this latter alternative has been in the news this week with the announcement that Liechtenstein, Norway and Iceland have signed the European Economic Area (EEA) Treaty, expanding the EEA to include the 10 new EU members.

By all means let us have a debate about the economic benefits of EU membership, but anti-Europeans are deluding themselves if they think that quitting the EU and joining Liechtenstein, Norway and Iceland in the EEA would be better for Britain.

Under the new agreement, Norway, for example, has seen its budgetary contributions into the EEA coffers soar, without addressing the key weakness in the EEA model, namely that, in not being full members of the EU, the EEA countries often find themselves having to comply with rules and regulations over which they have had no say. In Norway, the system is known as "fax democracy", because new laws simply arrive on the fax from Brussels.

It seems strange that anti-Europeans, who are so concerned with clawing back British sovereignty, would seriously

contemplate that we follow an option which would mean that we would have less, not more, say over our affairs.

Lord Brittan (Con)
London SW1

SIR – Lucy Powell's claim (Letters, Nov 11) that eastern European nations are clamouring to join the EU may well be true – after all, poor nations have a lot to gain – but she neglects to mention that Norway and Switzerland, the two richest nations in Europe, had the good sense to stay out. Maybe that is why they are rich.

Rev Richard Sigrist
Plymouth

SIR – Lucy Powell provides the usual blend of misleading statistics and unsubstantiated generalisations. She neglects to mention that 60 per cent of our trade in services goes outside the EU, which, combined with the export of goods, makes the balance close to 50 per cent between trade with the EU and the rest of the world. Nor does she mention that we trade with the EU at a substantial deficit.

Ms Powell suggests that membership gives us "more clout" in international trade negotiations.

The reality is that we hand over our negotiating powers to the EU, which negotiates what is best for the larger Continental countries. The accession countries will sooner or later lose their enthusiasm, when they realise that they have been conned by a deluge of EU propaganda.

Jeffrey Titford MEP (UKIP)
Chelmsford, Essex

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4th December 2002

Dear Mr. Bourne,

I am responding to your letter of the 29th November 2002.

The law of treason does not form part of the constitutional law course.

The laws relating to treason are archaic, and in fact many text books on Constitutional law, do not even mention treason. One text that does deal with treason is O'Hood Philips and Jackson, Constitutional and Administrative law, 8th Edition, sweet and maxwell. (It has 5 pages out of over 800!!)

Treason dates from a time when the monarch was under a real threat of attack, and in modern law is probably not appropriate.

The earliest statute on treason is 1351, subsequent acts are 1495, 1702, 1708, 1795, and 1817. The last two, being replaced with the Crime and Disorder Act of 1998.

The present law of treason is in need of reform, which was recognised by the law commission of 1977, but other than the death penalty being abolished (crime and disorder act 1998) there has been no reform.

Further, Britain has only given up its Sovereignty in relation to EC law, in particular if there is conflict between EC law and British law then EC law will prevail.

However, I think treason would be specific to the UK under our treason laws, and would really have little to do with EC law.

I hope that helps with your query. Dr. Micheal Arnheim is Unit leader for Constitutional Law, and any further query should be sent to him.

Yours Sincerely

Justine Fisher
Senior Lecturer

UNIVERSITY OF OXFORD

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12th December 2002

Mr D R Bourne
11 High Street
Winchelsea
East Sussex
TN36 4EA

Dear Mr Bourne

Thank for your letter received on the 2nd December 2002. I apologise for the delay in getting back to you.

I can confirm that the Laws of Treason do not form an integral part of the Constitutional Law course.

I hope that this is helpful to you.

Yours sincerely

P.F. M. Campbell

**Mrs Simonne Samuelson
Faculty Administrator**

Professor J Beatson QC, FBA
Rouse Ball Professor of English Law
Chairman, Faculty Board of Law

Mr D R Bourne
11 High Street
Winchelsea
East Sussex
TN36 4EA



UNIVERSITY OF
CAMBRIDGE

Faculty of Law

25 November 2002

Dear Mr Bourne

Thank you for your letter dated 22 November. You ask about Treason and its part in the Law Tripos. The Laws of Treason fall within Constitutional Law (taken in Part IA of the Tripos) but so far as I know they are not emphasised by the lecturers dealing with this very large subject and it would be unlikely that there would be a whole question on the subject in the Tripos.

Yours sincerely

Jan Beatson

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Mr D R Bourne
21 Abbott Way
Tenterden
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24 September 2009

Dear Mr Bourne,

Thank you for your letter of 14th August. I do apologise for the late reply but I have been very busy preparing for the start of term.

In answer to your question, no we do not cover treason as part of our core curriculum. It may be that aspects of it are touched upon in relation to our option modules.

I do hope that this helps.

Yours sincerely



Joanne Conaghan



THE QUEEN'S
ANNIVERSARY PRIZES
2007

Mr.D.R.Bourne,
11,High Street,
Winchelsea,
East Sussex. TN36 4EA.
24th.August 2006.

Lord Falconer of Thoroton QC,
Secretary of State for
Constitutional Affairs,
Selborne House,
54,Victoria Street,
London. SW1E 6QW.

My Lord,

The Rt.Hon.Alderman Sir Gavyn Arthur, then Lord Mayor of London, gave the "Denning Lecture" of 2003 before a distinguished audience of lawyers and business people on the 29th.September 2003, at Gray's Inn, on the subject of "The City and the Law". You may well have been present.

At the outset he gave a summary of our Common Law. He continued saying that that summary was in a certain sense out of date. In fact, he said, there are two systems of law operating in the UK today and that since the enactment by Parliament of the European Communities Act 1972 there had been a quiet revolution in our legal system. He went on to say that it was not until the House of Lords handed down their judgement on the Factortame case that it became apparent that where English Law and the Law of the European Community(EC) conflicted that the EC Law prevailed. From that he drew the conclusion that Parliament was no longer sovereign. As you will know Parliament is made up of Her Majesty the Queen, who is the only person Sovereign in Parliament, and the two Houses which are not sovereign and never have been. Thus such a statement as made by Sir Gavyn places the Sovereignty of Her Majesty in doubt.

In their book "Constitutional and Administrative Law", 8th.edition, Stanley de Smith and Rodney Brazier reached the same conclusion on pages 85/6. As you will know the European Court of Justice found, at appeal, the Merchant Shipping Act 1988 ineffective. As a result de Smith and Brazier concluded "Thus was a statute, which had been passed after United Kingdom accession to the European Community, held to be ineffective by a court outside of the United Kingdom; thus in the Community legal order was the orthodox doctrine that Parliament is competent to make any law whatsoever on any matter whatsoever set to one side. Within the Community legal system, the Queen in Parliament is not Sovereign."


These are but two of several authorities which have made similar statements that place in doubt the Sovereignty of the Queen since the ECA1972 was given the Royal Assent by Her. I would be most grateful to you if you could tell me whether the Queen remains Sovereign in this country as She was when She received that Sovereignty from Her Father, King George VI, on his death on 6th.February 1952? After all She, as a citizen of the European

2.

Union, is subject to the law and government of the EU in our Country as are we all since Parliament passed the ECA1972. Or has She accepted mediatisation, and become merely our titular Head of State, as a result of Her Parliament passing the ECA1972? To mediatise is defined by the Oxford Dictionary as to "Annex (principality) to another State, leaving the former Sovereign his title and some rights of government.". While "annex" is defined as "Add as a subordinate part" which would seem to describe exactly our position within the EU as described by Sir Gavyn.

Signing up to the Treaty of Rome set in train a sea change in our sytem of government by constitutional monarchy. I shall be most grateful to you if you could explain the present situation particularly as it affects Her Majesty's statutory position as our Sovereign Queen.

Yours sincerely,

O.S. CTC  7/2/07



dca

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Mr D.R. Bourne
11 High Street
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1 September 2006

Dear Mr Bourne,

Monarchy and the European Communities Act 1972

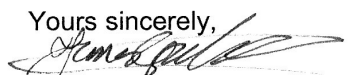
Thank you for your letter to Lord Falconer, dated 24 August 2006, regarding the position of the Monarch since the enactment of the European Communities Act 1972. Your letter has been passed to the Constitution Directorate, the lead area on Constitutional matters.

I can confirm that the Queen is Head of State, Head of the Executive, Head of the Judiciary, Commander in Chief of all the armed forces of the Crown and Supreme Governor of the Church of England. However, as a result of a long period of evolution the Monarch's absolute power has been progressively reduced. Ministers of the Crown in the name of the Sovereign govern the United Kingdom. The powers of the Crown, that is the Sovereign in Her constitutional capacity – are executed almost exclusively by Ministers. The enactment of the European Communities Act 1972 has not altered this.

However, as outlined in your letter, one of the most significant new sources of the British Constitution in recent years has been the EU. When Britain signed the Treaty of Rome and passed the European Communities Act 1972, the superiority of European Law was accepted, and Parliament was no longer sovereign (although the UK can leave the EU any time it wishes). As a result, British Courts ~~no~~ have the power to review Acts of Parliament and in light of EU legislation, suspend Statute Law. *

Thank you for taking an interest in the work of the Department for Constitutional Affairs.

Yours sincerely,


James Copeland
Constitutional Settlement



INVESTOR IN PEOPLE

* In a later letter Mr Copeland confirmed that the missing letter was "w"

crc B 7/2/07

david.bourne@talktalk.net

From: "Anne Palmer" <anne_stgeorge@hotmail.com>
To: <david.bourne@talktalk.net>
Cc: "Anne Palmer" <anne_stgeorge@hotmail.com>
Sent: 10 February 2008 09:33
Subject: Magna Carta and Lord Falconer

In the reply to your letters from the Lord Chancellor of the day date 1.9.2006 which stated that Parliament was no longer sovereign, I have recently tied it up with another statement from the same Lord Chancellor in a lecture (The Magna Carta Lecture Sydney Australia date 13th September in which he says quite clearly "Our Constitution is based on the principle of Parliamentary sovereignty. He goes on to say "Parliament is able, by primary legislation, to make or unmake any law, **with the sole exception of those which offend our EU obligations.**".

See page 7.

<http://bhc.britaus.net/News/newsdefault.asp?id=732>

So how can it be said that Parliament is sovereign? Anne

But see also Sect 2(1) of the EEC Treaty. It states that Acts of Parliament shall "have effect subject to" directly applicable rules of Community Law. Legislation already in existence on 1st January 1973 or (after that date) when the Community regulation is made will be impliedly repealed by the latter to the extent that the two sets of rules are irreconcilably in conflict.

This must mean that all of the body of British Law can be impliedly repealed at the whim of the EU; and that Parliament, and thus the Queen Sovereign in Parliament, have not been Sovereign since the signing of the EEC Treaty.

12/02/2008

Your Majesty,

I, David Richard Bourne of 11, High Street, Winchelsea, East Sussex, give you loyal greeting.

I was fortunate to be a Flight Cadet at the Royal Air Force College, Cranwell at the time of your Coronation and was lining the route in Parliament Square on the day. It was a tremendous privilege despite the awful weather and I was extremely proud to be part of the occasion. Now that I am of the age for reflection and wishing to pass on to my children, grandchildren and great grandchildren something of that day I have been researching the whole Coronation process.

Your Privy Council Office has very kindly provided me with a copy of the Second Supplement to the London Gazette Extraordinary of Wednesday, 6th. February 1952 which gives the public report of your Declaration of Sovereignty at your Accession Privy Council. Having just lost your dear Father it must have been a harrowing ordeal for you but, as you so stoically said, you had been called to assume the duties and responsibilities of Sovereignty. From my researches I am under the impression that those duties and responsibilities had passed to you immediately on the death of your Father and that your Declaration was your recognition of that transfer of Sovereignty from him to you? That it was the first public recognition by your Privy Council, who witnessed your Declaration, that "The King is dead; Long live the Queen".

Am I right, therefore, in concluding that, as your Father had been the embodiment of the Sovereignty of the British people up to the moment of his death, that you assumed that embodiment at that moment? That in fact you have been the physical embodiment of the Sovereignty of the British people throughout your reign and that embodiment allows you the style and title of our Sovereign Majesty Queen Elizabeth II of Great Britain and Northern Ireland; and that you will be the embodiment of the Sovereignty of the British people until the moment of your own natural death when it will pass to the the next rightful Heir to the Throne?

Am I also right in believing that the Laws of Treason are there specifically to protect you and your heirs and successors? I take as my guide in the matter of the Laws of Treason Lord Halsbury's Laws of England Vol 11(1) part 2 section (1) Offences against the Sovereign paras 76 to 88? I realise that capital punishment is no longer allowed even in the proven cases of treason.

I shall be most grateful to you if would help me in my researches.

Original Signed

D.R. Bourne.

C.T.C


[Signature] 15/7/06

Dated 25th. October 2005

Your Majesty,

I wrote to you on the 25th.October 2005 regarding your Declaration Of Sovereignty at your Accession Privy Council held on 8th.February 1952. To date I have had no reply. I have, therefore, enclosed with this letter a copy of my original letter to you asking for your help with my researches into that Declaration and associated subjects. I shall be most grateful to you if you can provide an answer to my questions in that original letter.

Sincerely,

O.S. C.T.C. 2/3/06 

Mr.D.R.Bourne,
11.High Street,
Winchelsea,
East Sussex. TN36 4EA. 22nd.January 2006



BUCKINGHAM PALACE

The Queen has asked the Private Secretary to thank Mr. Bourne for his letter and to say that it has been passed to the Department for Constitutional Affairs so that this approach to Her Majesty may be known and consideration given to the points raised in the letter.

21st February, 2006



PRIVY COUNCIL OFFICE
2 CARLTON GARDENS LONDON SW1Y 5AA

Tel 020 7210 1040
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Alex.Galloway@pco.x.gsi.gov.uk
www.privycouncil.gov.uk

From the Clerk of the Council

21 March 2006

Our ref (please quote): 970(490)

Mr D R Bourne
11 High Street
Winchelsea
East Sussex
TN36 4EA

Dear Mr Bourne,

Your letter of 22 January to The Queen was passed to the Department for Constitutional Affairs, who have in turn passed it to this Office.

As we have already explained, we can answer only questions of fact, and cannot give an opinion on the interpretation of legal or constitutional matters. We simply have no locus to do so, and any opinion expressed by this Office (or indeed any other Government Department or Minister) would have no authority whatever. Interpretation of the law is a matter for the courts.

I am sorry to have to give you a reply that I know will disappoint you. As we have already informed you, further correspondence on this matter will only be acknowledged.

Yours sincerely,

A. K. GALLOWAY



Mr.D.R.Bourne,
11,High Street,
Winchelsea,
East Sussex. TN36 4EA,
23rd.March 2006.

Your Ref: 970(490)

Mr.A.K.Galloway,
Clerk of the Council,
The Privy Council Office,
2,Carlton Gardens,
London. SW1Y 5AA.

Dear Mr. Galloway,

Thank you for your most interesting letter of 21st.March 2006. However I am not re-assured that you understood my letter. I did not ask for any interpretation of the law or of constitutional matters either from Her Majesty; or from the Department for Constitutional Affairs; or indeed from the Privy Council. I asked for confirmation of facts.

I asked:

1. Was there a transfer of the Sovereignty of the British People, on the death of George VI, to Her Majesty, as the rightful Heir to the Throne? Her Declaration of Sovereignty on 8th.February 1952 would seem to confirm that such a transfer had taken place.
2. The Privy Council were present at that Declaration, as witnesses, to the fact that Her Majesty now embodied that Sovereignty and was thus our Sovereign Queen. As a witnessed fact did the Privy Council agree that there had been a transfer and embodiment of that Sovereignty in Her majesty thus making Her our Sovereign?
3. My final question was are the Laws of Treason there to protect Her Majesty and Her Heirs and Successors and through Her the Constitution of Great Britain and its People?

These are all facts and could be easily confirmed without recourse to interpretation of any law. I agree that these are Constitutional Matters but the mere confirmation of Her Majesty's Sovereignty, how She became our Sovereign and the name of the set of Laws that protect Her, should be the automatic actions of Her Privy Council whom I presuppose are all sworn to uphold Her in Her State as our Sovereign, and are Right Honourable men and women. However your ambivalent answer throws that all into doubt?

Yours sincerely,

O.S.

CTC

[Signature] 26/8/06



PRIVY COUNCIL OFFICE
2 CARLTON GARDENS LONDON SW1Y 5AA
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Philip.swan@pco.x.gsi.gov.uk
www.privycouncil.gov.uk

Mr D. R. Bourne,
11 High Street,
Winchelsea,
East Sussex,
TN36 4EA

Dear Mr Bourne,

I acknowledge receipt of your letter dated 23 March 2006.

Yours sincerely

A handwritten signature in dark ink, appearing to be "P. Swan", with a stylized flourish at the end.

Philip Swan



INVESTOR IN PEOPLE

Serving Crown, Parliament and People

Article XXXVII of the XXXIX Articles of Religion of the Church of England.

Of the Civil Magistrates.

The King's Majesty hath the chief power in this Realm of England, and other his dominions, unto whom the the chief Government of all Estates of this Realm, whether they be Ecclesiastical or Civil, in all causes doth appertain, and is not, nor ought to be, subject to any foreign jurisdiction.

Where we attribute to the King's Majesty the chief government, by which Titles we understand the minds of some slanderous folks to be offended; we give not to our Princes the ministering either of God's Word, or of the Sacraments, the which thing the Injunctions also lately set forth by Elizabeth our Queen do most plainly testify; but that only prerogative, which we see to have been given always to all godly Princes in holy Scriptures by God himself; that is, that they should rule all estates and degrees committed to their charge by God, whether they be Ecclesiastical or Temporal, and restrain with the civil sword the stubborn and evildoers.

The Bishop of Rome hath no jurisdiction in this Realm of England.

The Laws of the Realm may punish Christian men with death, for heinous and grievous offences.

It is lawful for Christian men, at the commandment of the Magistrates, to wear weapons and serve in the wars.

CANON A7. My Rector provided me with a copy of Canon A7 it reads:

"We acknowledge that the Queen's excellent Majesty, acting according to the laws of the realm, is the highest power under God in this Kingdom and has supreme authority over all persons in all causes, as well as ecclesiastical as civil".

He went on to point out that "Canon A7 reflects more than Art. XXXVII the present legal position in that the monarch can only act within the law i.e. we have a constitutional monarchy that can only act within the legal framework of the United Kingdom i.e. with and on the advice of her ministers. This was not the situation in the 16th. Century when the articles were drawn up."

THE EUROPEAN UNION

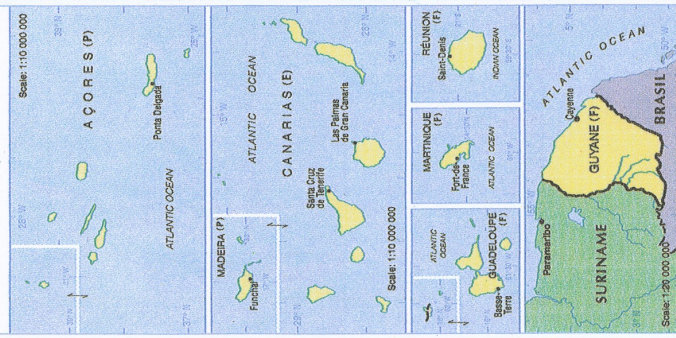
MEMBER STATES REGIONS AND ADMINISTRATIVE UNITS

Map 1009 1995 version. England was printed in feint.
Map 1009 1996 version. England was omitted altogether.

MAP 1009 1999 version. England has been re-inserted but in the same printing case as that for the regions, but it is neither State, Region or Administrative Unit. It has no function within the UK Economic Planning Region. Meanwhile London, our capital city is merely recorded as a region. No county boundaries are marked.



NON-CONTINENTAL AND OVERSEAS TERRITORIES OF MEMBER STATES



KEY

- Union boundary
- Headquarters of EU institutions
- National frontier (1)
- National capital
- Seat of government
- Regional boundary (2)
- Regional capital or CCR headquarters (Portugal) (3)
- EU Member States
- Main waterways

(1) The non-continental and overseas territories of Member States are shown as insets.
(2) National designations of regions:
B-Region: D-Land;
E-Region: E-Autonomous community;
F-Region: FR-Provinces;
I-Region: A-Bundesland;
P-Autonomous region or regional coordinating commission area (CCP);
UK-economic planning region;
UK-Lt-No corresponding division.
FR-Lt-No corresponding division. Because of their size and importance, the overseas territories are shown with their capitals.
(3) CCR = Regional coordinating commission area.

BASIC STATISTICS OF THE EUROPEAN UNION AND ITS 15 MEMBER STATES: COMPARISON BETWEEN THE EUROPEAN UNION (EU-15), THE UNITED STATES AND JAPAN

| AREA | POPULATION | GRGDP | GRGDP PER CAPITA | GRGDP PER EMPLOYED |
|-----------------------|------------|----------------------|----------------------|----------------------|
| 1 000 km ² | million | 1 000 million (US\$) | 1 000 million (US\$) | 1 000 million (US\$) |
| EU-15 | 385 | 10 000 | 26 000 | 26 000 |
| USA | 265 | 75 000 | 28 000 | 28 000 |
| JAPAN | 375 | 55 000 | 23 000 | 23 000 |

(1995 figures)

Passport Holders' Direction Board on the Approach to Immigration
Gatwick Airport



6 A nation can survive its fools, and even the ambitious. But it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and he carries his banners openly. But the traitor moves among those within the gate freely, his sly whispers rustling through all the alleys, heard in the very halls of government itself. For the traitor appears no traitor; he speaks in the accents familiar to his victims, and he wears their face and their garments, and he appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation; he works secretly and unknown in the night to undermine the pillars of a city; he infects the body politic so that it can no longer resist. A murderer is less to be feared 9.

CICERO



EDUCATION SERVICE

Parliament Explained

An Introduction to Parliament

Parliament is responsible for making and repealing laws in the UK and for scrutinising the work of the Government.



| | |
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| Parliament and Government | 2 |
| The House of Commons | 3 |
| How laws are made | 8 |
| The House of Lords | 11 |
| The Government | 13 |
| The Monarchy | 14 |

The Monarchy

What type of monarchy do we have?

At one time the monarch was the most powerful person in the country but gradually these powers have been passed to Parliament as a result of successive social and political changes. The UK now has what is known as a constitutional monarchy which is also hereditary. The monarchy is financed from the Civil List. This is money voted by Parliament to enable the monarch to carry out official duties.

What are the powers of the monarch?

The power of the monarch to act without consulting Parliament is known as the Royal Prerogative. In the past the monarch was able to act without reference to Parliament but over time these powers have become very restricted and are today mostly exercised by the Government.

The theoretical powers of the monarch include:

- **Appointing the Prime Minister after a general election.** Today each of the political parties have their own processes for electing their leaders. After a general election the monarch invites the leader of the party which has won the most seats in the House of Commons to become Prime Minister and to form a government.
- **Appointing government ministers.** These are chosen by the Prime Minister who will discuss his or her choices with the monarch.
- **Summoning, proroguing or dissolving Parliament.** This is done on the advice of the Prime Minister.
- **Opening Parliament with the Queen's Speech.** This is written by the Prime Minister and his or her team and outlines what the Government intends to do in the forthcoming session of Parliament.
- **Giving Royal Assent to legislation.** This is given as a formality and has not been refused since 1707.
- **Power of patronage in making official appointments and conferring honours.** With rare exceptions such as the Order of the Garter, these are made on the advice of the Prime Minister who will have consulted widely with interested parties.
- **Power to declare war and to make peace.** Decisions such as these are all made by the Government.
- **Head of the Commonwealth.** A position which carries considerable influence but all foreign affairs are conducted by the Government in accordance with its foreign policy.

Maintaining the position of the monarch within our constitutional system provides a figurehead outside of political influence who can command respect and authority. The monarch can also provide the benefit of his or her knowledge, having dealt with many individual officials and foreign leaders, and can offer advice based on past experience (to date 11 Prime Ministers have served the Queen since she succeeded her father in 1952).



Find out more

Parliamentary Archives

Archives from 1497, including original Acts of Parliament, are kept in the Parliamentary Archive, which is open to the public. To view records on request tel: 020 7219 3074.
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Hansard

The day's proceedings are printed in the Official Report, (separate volumes are produced for the Commons and Lords) referred to as Hansard after its original printer. It is also available at : www.parliament.uk by 8.00 the following morning.

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The televising of Parliament was pioneered by the House of Lords in 1985, followed by the House of Commons in 1989. Proceedings of both Houses can be seen on BBC Parliament or online at: www.parliamentlive.tv

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Summited royal?
Summited authority?

⁴
The extract on The Monarchy forms the inside back page
of this booklet. It is published by

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House of Parliament

London SW1A 2TT

Tel: 020 7219 1496

The Code of Conduct for Members of Parliament

Prepared pursuant to the Resolution of the House of 19th July 1995

I. Purpose of the Code

1. The purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the House, their constituents and the public at large by:
 - a) Providing guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing
 - b) Providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those duties.

II. Scope of the Code

2. The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.

III. Public Duties of Members

4. By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.
5. Members have a duty to uphold the law, including the general law against discrimination, and to act on all occasions in accordance with the public trust placed in them.
6. Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.

IV. General Principles of Conduct

7. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office.¹ These principles will be taken into consideration when any complaint is received of breaches of the provisions in other sections of the Code.

¹ Cm 2850-I, p 14.

“Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.”

V. Rules of Conduct

8. Members are expected in particular to observe the following rules and associated Resolutions of the House.

9. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

10. No Member shall act as a paid advocate in any proceeding of the House.²

11. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.³

12. In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.

13. Members must bear in mind that information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain.

14. Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.

15. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.

VI. Registration and Declaration of Interests

16. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.⁴

VII. Duties in respect of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges

17. The application of this Code shall be a matter for the House of Commons, and for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.

18. Members shall cooperate, at all stages, with any investigation into their conduct by or under the authority of the House.

2 Resolution of 6 November 1995.

3 Resolutions of 2 May 1695, 22 June 1858, and 15 July 1947 as amended on 6 November 1995 and 14 May 2002.

4 Resolutions of the House of 22 May 1974, 12 June 1975 as amended on 19 July 1995, 12 June 1975, 17 December 1985, 6 November 1995 as amended on 14 May 2002, and 13 July 1992.

19. No Member shall lobby a member of the Committee on Standards and Privileges in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code.

Extract from The Code of Cond.
for MPs. 2009. HC 735
Available from the Stationery Office
at www.tsoshop.co.uk.
email: customer.services@tso.co.uk.

Reading this should cause a wry
smile at least particularly the General
Principles of Conduct. Selflessness.

End