# CONSTITUTIONAL CONSIDERATIONS AND COUNTER ARGUMENTS TO POSSIBLE OBJECTIONS

## The Law is The Law And Not Even The Crown Is Above It

### The Meaning of Democracy

The following hypothetical example will commence our wafer thin examination of constitutional principles which we are seeking to overthrow with our purge of elitism in public office. Are we living in a democracy or a dictatorship?

Are we living in a monarchist totalitarian regime subsisting within the illusion of democratic self – control? Are we living in a dictatorially delegated faux democracy with the veil of constitutional monarchy draped over it, or some hybrid version of that, or in fact are we possibly being ruled via a covert interior government with a ”puppet” regime masquerading as the ostensible government in control: or non of the above?

Is the influence of the Monarch the fiction it is professed to be, when every tax penny is collected in the name of Her Majesty, where every bank note contains her picture, where every Privy Councillor, police officer and military officer has to swear an Oath of Allegiance to the Monarch and NOT to the state? Where the only person who can sue on behalf of the country for peace or war is still the monarch in council, and where parliament cannot be assembled or dissolved without the Royal Assent? Can it really and truthfully be considered a parliamentary dictatorship? Is there anyone who still believes Lee Harvey Oswald killed JFK?

We take democratic values for granted and blindly accept that we already possess them, but nothing could be further from the truth. We have no democracy, and we never did have. It’s a slight of hand trick, a con, and the public have taken it hook, line and sinker, and as anyone who has seen the film, “The Sting” will tell you the best cons always require the person conned never to know he’s been conned.

### How So?

Well, let’s begin with the following hypothetical example. It assumes that the constitution of the countries concerned provide that simply that laws shall be made by referendums, in which all adult citizens are granted one vote each. A law is passed if 50% + 1 of those citizens who vote support the proposal. Let us further assume that that a majority of citizens in both countries A and B decide that they are not prepared to tolerate the poverty caused by an economic depression which has left 20% of the adult population unemployed.

**In country A,** the law is amended to provide for a very generous scheme of unemployment benefits, which are financed by heavy income taxes on the wealthiest 30% of the population. In doing this, the law frees the poorest members of society from the threat of or reality of homelessness and starvation. But it also deprives the richest citizens of a substantial slice of their income, which they had planned to spend in pursuit of their own favoured forms of happiness.

**In country B,** the law is also amended to require the government to deport unemployed citizens to an inhospitable and uninhabited island where they are left to survive according to their own devices. The cost of the scheme is met by fining the deportees themselves for being unemployed via the sale and confiscation of their chattels and property .In doing this, the law rids the country of the problem of unemployment at no financial cost to the majority of the population, but exposes the formerly unemployed citizens to the dangers and isolation of a new homeland.

How would we decide if these laws were “democratic?” Should we ask only if the law has majority support and if yes go no further? Or should we demand that there be an inter-relationship between the level of support a law attracts and the severity of its consequences for particular minorities – the more severe the law, the greater the degree of support it must attract in order to be “democratic?”

If we accepted that principle could we then agree that deporting the poor is more “severe” than taxing the rich? If so, could we then further agree that deportation would be democratic if 60%, 80% or even 90% of the electorate voted for it, while we could settle for 50% + 1 sufficiency for “democratic” tax rises? Or thirdly could we agree that there are some laws whose consequences would be so severe that they may never be enacted by a democratic society, even if they attract 100% of the vote?
Alternatively, let us suppose that **Country C** declares war on countries D, E and F.

**Country D** immediately passes a law forbidding any criticism of its government’s war effort and providing for the execution of citizens who do so, for fear that such freedom of speech could undermine the morale and so increase the risk of defeat. Country E enacts a law which allows the government to imprison (without trial and for an indefinite period, but in humane conditions) anybody suspected by a designated group of government employees of having connections with the enemy country, for fear that such people might be spies or saboteurs.

Both laws achieve the desired effect and country C’s attacks are repelled. In country F, the majority decides that it must accord priority to freedom of speech and liberty of the person, and enacts neither of those measures. Subsequently, enemy agents (whose sympathies are suspected but unproven) succeed in sabotaging military facilities and undermining the citizens’ morale so that country F is defeated and subjugated by country C.

The bottom line to all of these seemingly unanswerable questions is that
WE’RE MAKING IT UP AS WE GO ALONG! It’s all knitted together like a patch-work quilt and knitted together very badly at that.

A constitution is a form of contract between the people and the governors. This is not a new way of thinking for even in 1776 Jean-Jaques Rousseau had explored the concept of “direct democracy”. He used a small idealised city state where all citizens participated personally oin fashioning the laws under which said city/state would be governed. Rosseau stated that his better social order was derived from agreements between every individual citizen and the citizenry as a whole from which the government was formed. All government action therefore had a “contractual basis”. The citizens’ rights were reciprocated with obligations and vice versa with the governing elect and the constitution derived from covenants that they willingly made. This is Informed Consent and the true basis of all “so called” democratic government. Without the full picture, without the vote, without the constant educated Informed Consent of the people you have NO Informed Consent and you have no longer any right to say you have a mandate to govern. You are then nothing but a usurper of the concept of guide, leader or politician

Now, John Locke in his celebrated *Second Treatise on Government,* first published in *1690, (*two years after the Glorious Revolution, and 4 years before the Bank of England was privatised by William of Orange and Mary as joint reigning monarchs), pursued the concept of constitutions as contracts in a slightly different form. Locke was more of the opinion that society was subject to a form of natural or divine law which imposed limits on individual behaviour. Both philosophers were of course engaging in idealised solutions to practical problems but the underlying concept of a contract is ever present in ALL countries’ constitutional frameworks and could be said to be so blindingly obvious as to go completely un-noticed!

The model for democracy can work to a point and up to a certain limited size of population or territory size but, what if numbers climb too high or the distances are too great or the cultures too diverse. Look at say an Empire on Earth. The rules for the citizens of Tunbridge Wells will not be acceptable for those people living in the Hindu Kush or Papua New Guinea. Let’s extrapolate further. What of a system of planetary laws overseen by the United Nations for Earth but Earth being just one planet in a galactic Empire. Can inter-planetary democracy ever be thought of being an attainable practicality? I’d suggest the answer in all cases to be a resounding, NON!

Locke presented the emergence of government as a perquisite for the protecting of individual citizens’ “property”, a concept which he construed broadly as encompassing their lives, their physical and spiritual liberty, and their land and possessions. These matters could thus be construed as entitlements which the citizen derived from “natural law” and are an obvious source of inspiration for Thomas Jefferson’s notion of “inalienable rights”.

Though these terms are too vague for many purposes if we focus on the specific grievances of the American revolutionaries then, we will see that the same sentiments echo throughout the corridors of entrapment in this very country today. The Declaration of Independence by the American Revolutionaries of 1775 was a table of complaints against the British government concerned both with the way that laws were made and also their content. The general thrust of the argument was that Britain was trying to establish, "*an absolute Tyranny over the States*", but there were many more specific complaints. Don't that these people had fled to the Americas in the first place to escape the penal taxation and unfair (as they saw them) laws of the country. Jefferson accused the British of, for example, of "imposing taxes on us without our consent." How interesting to know nothing has changed. To conclude this part, 232 years ago, it took a revolutionary war for the American colonists to rid themselves of what they considered to be an unacceptable constitutional order. The new constitution which the colonists fashioned marked a radical departure from "traditional" British understandings of the appropriate way for a country to regulate its relationship between its people and its government: its principles have been widely copied by many nations who have created or redesigned their own constitutional arrangements in the modern era. It wasn't perfect by a long chalk, but it was better. Unfortunately it just might be time again, this side of the Atlantic this time, to rekindle that colonial spirit – It's revolting!

Another category of complaints suggested that there were some laws to which "the people" could not give their consent even if they wished to. The Americans were outraged, for example, that Britain had subjected them to laws which "deprive[ed] us in many cases of the benefits of Trial by Jury" and "transport us beyond seas to be tried for pretended offences". The presumption that one's guilt in criminal matters be established by a jury of one's peers, and that the scope of the criminal law be clear and stable, were seemingly regarded as fundamental principles of social organisation by the colonists. Jefferson also complained of the fact that Britain was keeping standing armies amongst them in time of peace without consent of the legislatures. Jefferson is not arguing against taxation and standing armies per se but against the fact these events were being imposed upon them without their consent – democracy calls for that remember!

The main problem facing the deliberations of the framers of the American constitution could be described as an" *all pervasive distrust of human nature*". One major problem that was foreseen by James Maddison, a key drafter of the Bill of Rights, was that of factionalism, majoritarianism and the will of the majority. He argued that a simple majority vote was no safeguard for the nation as a whole because repressive or irrational ideas can take a hold in the people and without due deliberation they may pass laws which is the short term appear palliative but in the mid to longer prove disastrous. Majorities may proceed on the basis of false information, (WMD), be temporarily persuaded to abandon their better judgement by the seductive rhetoric and steam-rollering through the legislature of oppressive legislation (Civil Contingencies Act) or simply prepared to sacrifice their country's longer term future and welfare in order to gain short term sectional advantage(selling off via privatisation the "national treasures" of coal, gas, railways and oil in the Thatcherism Greed Frenzy of the 1980's). Oh how history repeats itself. For all their beauty and simplicity though he American Constitution and it's Bill of Rights was not built to withstand flagrant, malevolent and systematic under-mining by elements of the black nobility, who's sole purpose has always been to resist, fight, deceive and murder in the crib each and every initiative which the common man has ever raised to the table of discussion. These are facts and cannot be denied except by those that will always choose to see the side of oppression and control in favour of openness, trust and clarity.

The politician and banker has always hidden his ulterior or truer purpose behind a raft of small-print and devilish detail and secrets. Secrets upon secrets, with no freedom of information and 40 year National Security gestation periods! What for? To protect the liars and the cheats. How possibly can the government, elected by the people, made up by the people's own particles of brotherhood, dare keep from the "people" that which it laboured for and sweated for and built with its very hands and minds FROM THE PEOPLE ITSELF. What is the concept of state? Where do you look for it? Where do you find it when you look for it? In truth it does not exist and cannot be found anywhere as no one person can ever be said to be it: it is an assembly of 64 million and to ask "it" to identify itself with pictures and retinal scans is like asking your own body, *"Who are you stranger? Identify yourself".* Or "biting your own teeth" It's absolutely ludicrous, impossible and reeking of the insanity of the asylum. But now the politicians would have YOU doubt who you are. Would have you forced to identify yourself to yourself, as they (the govt) that you put in situ to look after you, your property and your inalienable rights, sit there on their swivel chairs, bulking-up at the trough, peering into their surveillance monitors, to tell

you what you should do. Now we have true insanity, with 650 MP's, correction! 12 people meeting secretly weekly in cabinet, correction! one man, telling the country what to do. Enough!! "The Emperor is not wearing any clothes!" The elitist Masonic Teutonic Zionist elite have succeeded in putting the citezens' cart before the horse. It is no longer consumer led, its technologically driven and it's a runaway train!

## The Political Source of Parliamentary Sovereignty

For the purposes of analysing the way the British constitution works we need to briefly look to the past. An analysis of early 17th Century English case law reveals several judgements in which the courts suggested that there were certain values that were so fundamental to the English constitution that they could not be changed by any process at all. For example in *Dr. Bonham's case (1610) 8 Co Rep 114a at 118a*, Chief Justice Coke had said:

"*And it appears in our books that in many cases the common law will controul Acts of Parliament, and sometime adjudge them to be utterly void: for when an Act of Parliament is against common right or reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such Act to be void"*.

That my friend is the law! And that's as it should be, and the judges as "Lions Under The Throne" in this country, not as squeaking, timid mice under civil servants' chairs, to which this and previous governments would have you succumb.

These days we seem not seem to recognise that these natural, divine, or inviolable laws exist for us for we are drowning under a wave of illegal, non consented statue law. We as a people, no longer have any degree of societal homogeneity. With millions of foreign economic migrants swamping the land we have now become truly "conquered by division" and we must remember that a socially homogenous collective of people with a common language, history and outlook is much more difficult to destabilise than what we have been gifted by our ever so clever politicians of the past 20 years. And the malaise is Europe wide and has been witnessed by my very ears in Spain, Germany France, Holland and Scandanavia but especially on the streets of England.

**Coup d'Etat - 1688**

The political source Parliamentary Sovereignty was the so called Great Revolution of 1688. We had the Civil war, the execution of Charles the First, the brief rule of Cromwell, the restoration of Charles the Second to the throne, followed by the overthrow of his brother James the Second and in 1688 the throne being offered (at a price) to William of Orange (James' nephew by the way) and his wife Mary as joint Monarchs, so installing a protestant king. 1694 then saw the Bank of England Act the bank being created and remaining to this very day, a private corporation, limited by shares.

Since 1688 there is an ever declining body of evidence to suggest that the common sense and practically sensible approach to the obvious principles of common law are on the descendant. Legislation is being run off the factory floor at an alarming rate and there is practically no consensus from the citizens – and I do not mean the voters here. Remember, that in the last general Election more people failed to turn out than did!

## Parliament is not sovereign
## Oppression, Taxation without Consent and Oppressive laws –UK 2008

Since 1997 Gordon Brown, as Chancellor, has introduced 100 stealth taxes into the economy without reference once to "the people". With fuel at nearly £5 per gallon and with beer (made predominantly from free heaven sent water) at approximately £23 per gallon and the minimum wage at £5.80p per hour, this leaves a little room for explanation, as our national assets are stripped away via international stock-market capital. The current state of governing is not governing at all, it is stealthing legislation and therefore non-informed, non-consensual government and contrary to the rule of law. In a word it is "illegal". A question concerning the entrenching of legislation that slips past many constitutional lawyers is that relating to the assumed Sovereignty of Parliament. Most take it for granted that Parliament acting as commons and Lords is supreme, but how can that be if there is one thing that Parliament cannot do? And that one thing it can never do is to pass an Act which is "binding upon its successor". Parliament is either therefore "ever continuing" or "self-embracing". Can their ever be laws enacted which are immune to repeal?

## The Rule of Law and the Separation of Powers

The "rule of law" is another taken for granted element of the British unwritten constitution, which is often invoked – as is "democracy" – to convey the essential adequacy of Britain's constitutional arrangements. But the "rule of law" is not a legal rule, but a political or moral principle to guide us. And please remember that rules as laws come from belief systems and politicians "seemingly" create these laws nowadays, but political beliefs are no more than the individuals highest held spiritual beliefs – in effect how he wishes to pre-sent himself to the world. In a nutshell it could be said that the rule of law is concerned with what government can do, and how government can do it.

Many legal and political theorists have danced with the seemingly insurmountable philosophical question and conundrum, usually resulting in circular reasoning, as to how it is best to control or govern a large mass of primitive, uneducated and potentially unruly individuals. They miss the point entirely in that they seek to govern the effects and not he cause, they try to set rules for the billowing clouds of smoke from the fire, instead addressing the fundamental insight that society is that way because "they" the historical rulers have "made" it that way. There's never enough of anything because the principle of lack and scarcity has been inculcated into people since well before Roman times. If I have something, goes the moral pretext, and give you some part of it, then by definition I must now have less. Men have been encouraged to want more and be greedy in order that they would work harder, for longer, and more compliantly in order that the slave-holders, their bosses, could benefit exponentially.

**But regard!**

Our world is nothing more than a creation of our minds: a simple set of thoughts which, become ideas, many of which are then written down, voiced or otherwise proposed or communicated to others. These ideas, if seemingly rational and acceptable are "accepted" as societal norms by others and shared again. And so this sharing of ideas, just like the sharing of a good joke, does not leave the joke teller depleted; he still has the original joke and the credit for the telling. How, therefore, can it ever have come to pass that giving could be equated with losing? Our problem lies with our accepted system of ideas not with humanity or human nature per se. So the question should perhaps be, "Who's ideas are we following? "Where are these ideas emanating? What fraternities or societal strata have predominated as the "law givers" for the past (say) 2,000 years? As the First Panchen Llama states,

"*Look not at their glib smiles or there momentary sound-bites for the mouth of man lies with supreme ease, but look to their wake. Like the wake of a ship, surely you can look back in time and see exactly where their path lay, and from where their truth emanated. A little projection thereafter will show you where they're trying to take you. Trust not the man who seeketh power for he is never and can never be your friend, for his is the way of the world and all affairs of the world are transient and in the domain of self-interest, self-aggrandisement and vanity*!" Cool words. "Qui bono", who has benefited the most by our acceptance of these cruel laws? Who's steering the ship, who's conjuring up this consistent recipe of "moral values?" Who is in charge of our "official reality program?" It's not you!

**The Diceyan Perspective**

In a short passage from the Law of the Constitution Dicey says, *"We mean, in the first place, that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of the law established in the ordinary legal manner before the ordinary courts of the land..[And] we mean in the second place … that every official, from Prime Minister down to constable or collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen"*. See Dicey A., (1915, 8th edn.) Introduction to the study of the law of the constitution. (London: Macmillan pp110 and 114).

This definition can be broken down into three parts.

Firstly, *"no man can lawfully be made to suffer in body and goods".* This indicates Dicey's primary concern is with protecting the individuals rights and liberties. Dicey stressed that this protection had to be effective against both other citizens and against the government….

Secondly, "except for a distinct breach of the law"… This reinforces the conclusion that the government has to operate within a framework of laws in some way superior to the mere actions of government officials: behaviour does not become lawful simply because a government official claims it is so.

The third factor is that the law, if breached, "must be established in the ordinary manner before the ordinary courts of the land". The implication of this is it is the courts, rather than the government, that have the power to determine whether or not the law has been broken. In combination these three elements of Diceyan rule of law lead us to another "taken for granted" myth of the constitution, and that is the separation of powers.
These are generally to be taken as: the legislature, the executive and the judiciary.
One of the best studies of such accepted separation can be best studied in the celebrated late eighteenth century case of ***Entick v. Carrington (1765) 19 State Tr 1029.***

**The Independence of the Judiciary**
One must observe that the Act of Settlement 1700 only secured the independence, so called, of the judiciary against the Crown, not against parliament and so it is with some trepidation today that a clear path to an open court and fair trial for those needing to be so brought, will be obtained. The controlling elite are still the gate-keepers and it is they that hold all the keys. We must find our way around the blocks that they will inevitably attempt to use in order to de-rail these cases.

**The Royal Prerogative – Is the Monarch above the law?**
In its initial form, pre 1688, the Royal Prerogative comprised the personal powers of the Monarch and despite the apparent wishes of some of the Stuart kings, the English monarchy was never absolutist – medieval kings had neither the financial or military resources to rule without the active support of the nobility. The origins of current constitutional doctrines are often found in seventeenth century political history, and the law relating to the prerogative powers of the monarch is no exception. Before the Great Revolution of 1688 the commonly accepted vision of the Monarchs position was that whilst he was not subject to any man he was subject to the law of the land.

**So what exactly is a prerogative power, can we say?**
There are two schools of thought on this matter. First, the narrow or restrictive interpretation advanced by Blackstone. For Blackstone, prerogative powers were only those singular and eccentric to the King himself – that is things which only the King could do such as declaring war, suing for peace, granting peerages, dissolving parliament, assenting or dissenting to Acts of Parliament or Ministerial proclamations.

The second, wider definition comes from Dicey. In Dicey's view everything that government can lawfully do that does not have its roots in a statute, but which could be enforced in the courts was a prerogative power. Dicey's usage is generally accepted today, but the area is very grey and therefore subject to a vast sea of ignorance. The most important could be listed as:- the conduct of foreign affairs, the declaring of war, the signing of treaties, the dissolution of parliament, the appointment of ministers, the granting of peerages, appointing judges, giving of pardons to convicted criminals or stopping criminal proceedings and the terms and conditions on which civil servants were employed were all components of this residual source of legal authority. This list is not exhaustive but it is sufficient to convey the point that prerogative power remains a tangible and very important and therefore very real, not fictitious, source of government legal authority; and only one person out of 64 million has it – Elizabeth Alexander Mary Windsor, formerly Mountbatten, formerly Battenberg, formerly Saxe-Coburg Gotha.

## The relationship between statute, the Prerogative and the Rule of Law

Case of *Ship Money (R v Hampden) 1637 3 State Tr 826* we see that it was generally accepted that the monarch possessed the power to compel coastal areas of the country to furnish him with ships and crews in times of military emergency in order to better defend his realm. In the 1630's Charles the first sought to establish that his power in this regard extended to all parts of the country and permitted him to charge a sum of money (in effect a tax) rather than simply insist on the provision of a ship. When Charles tried to levy this charge in 1637 on one John Hampden, an MP and an opponent of the king's policies, Hampden refused to pay. The judges, no doubt to other pressures came ot 10of 12 resolving in the kings favour that it was only the king who could decide what was a national emergency and what was not, and only he had the legal competence.

*Re Petition of Right (1915) 3 KB 649, CA*. This case involved the seizure of a commercial airfield for military purposes in time of war, the government maintaining that compensation was not payable, as it was in time of "national emergency" invasion being imminent. The judges accepted that the notion of invasion was to be interpreted in the light of modern military technology. A German plane or airship

flying into British airspace was as much an invasion in 1915 as the disembarkation of belligerent troops at Dover would have been in 1637. This interpretive principle is of great importance for it means that the practical reach of the supposedly residual prerogative could legitimately be extended – as a result of a changing social, political or technological development – into areas it had not hitherto affected.

In the Ship Money case earlier, we will remember that the question in deciding what was "necessary" to protect national security was held to be the sole preserve of the Monarch; it was an issue that the court considered itself unable to address. In *Petition of Right*, the courts seemed to require that the government demonstrate that an "invasion situation" actually existed and the requisition of the property was necessary in order to counter the threat. This did no appear to be too onerous a burden on the government.

**Parliamentary privilege doesn't extend to criminal acts - Article 9 of The Bill of Rights 1689**
*What is the Source of The Commons Procedural Rules?*
To many members of the electorate and general citizenry of the United Kingdom it comes as very frustrating but little surprise that time after time after time an MP or governmental minister will be alleged to have committed some form of indiscretion or crime, only for him to deny, deny and yet again deny until he admits that yes, after all I was accidentally guilty or forgetful. He bows out of political life for a few months only to be brought back in to government via the back door in order to recommence his jostle towards the trough.
Why is there no external accountability or machinery for their removal? Why is it left to the old school-tie brigade to oust one of their own? Why do they seldom do so? Answer, because they understand the rules and they know there but for the grace of God go I. They're all as culpable as each other, so they let it slip.
Parliament has passed little legislation controlling the Commons' proceedings. Nor has there been any significant judicial intervention through the common law in this area, the area of procedure. The courts have generally considered that each house enjoys unfettered control over its own affairs as a concomitant aspect of Parliament's sovereignty. Such questions have unfortunately been left primarily to the house itself. Its rules currently derive from three main sources: traditional customs or ancient usage; various "Standing Orders" passed by the house; and Speakers' rulings. In the absence of any controlling legislation the house may amend any of its procedures by a simple majority vote.

## Constitutional Conventions – The principle of Informed Consent

The American revolutionaries attached much importance to the principle that the proceedings of Congress and especially the speeches and voting behaviour of legislators, should be matters of public record. The presumption that the people should be furnished with the information need to make informed choices about their preferred representatives was afforded explicit legall protection within the Constitution's text. At that time on the other hand in this country neither the Commons nor Lords were under any statutory or common law obligation to do likewise. Spiritually and morally and rationally they were, but that counted for little then, and this is the attitude that was the mid-wife to our present system of lunacy and secret keeping.
In 1762, the house for example declared:
*"That it is an high Indignity to, and a notorious breach of the Privilege of this House….for any printer or Publisher of any printed Newspaper…to give therin any Account of the Debates or other proceedings of this House…and this House will proceed with the utmost severity against such offenders*". Marshall G. (1954).

## What is parliament?

To this very day there is still no legal obligation or requirement for either house, Lords or Commons to publish any record of its business, and as a result of that it is often only when forced to do so in committees of enquiry or via press leaks that any truth at all is gleaned from their many chambered and behind closed door meetings. Please be aware that even as Black Rod opens and closes parliament and as closed debates allow no member of the public to be present , heralded with the cry that "*strangers are present*", we see the vestiges and overflow from the Masonic Temples of this country that regulate the life force of the citizenry.
To date also there has been no indication that the courts consider themselves able to force the publication of any aspect of either house's proceedings, and also if the government of the day does, via public pressure deign to so publish, then it can also claim national security interest to trump any call

under the freedom of information laws in order to place a many decade restriction to access upon the documents or reports.
The question of what use the courts might subsequently make such records has been, and remains, an issue of appreciable importance and controversy amongst constitutional lawyers. One question that may fairly be asked, therefore, is: "*What are proceedings in Parliament?"*
If an MP discusses business with another MP on a train from London to Edinburgh, is that a proceeding in Parliament? Or are we going to adhere to a stricter more local definition as to only proceedings that take place per discussion or written form within the confines of the Palace of Westminster? If we adhere to this stricter geographical definition then how do we justify and/or reconcile a separation of thought and the processes of reasoning which take place 24hours per day and 999.9% of the time off Parliamentary soil within the individual members' cerebrum, with the physical act of "being there on the day" so to speak? What also of proceedings in Parliament prior to the enactment of legislation in a statute? Can the courts look to the intentions of the drafters or any pre-enactment part of the proceedings in order to derive a meaning or more rational explanation? If they can go that far, the courts, then what's stopping them, other than common sense, from proceeding to look at the obvious malicious intent of a parliament to control and subjugate its citizenry by a series of draconian pieces of legislation that are passed with no regard to the wishes of the people, or the judiciary, and are totally justifiably said to be passed without "informed consent"? See for example the sneaking through Parliament of the Civil Contingencies Bill to Act, and the application under prevention of terrorism legislation to jail without trial and indefinitely those trapped within the web of injustice.

What of Foreign Policy then? What of discussions in the Chamber of the U.N. in New York? Is that a proceeding in Parliament; and what of a secret meeting on January 31st 2003 in the White House between a rogue Prime Minister and a certifiable psychopath! Is that too a Proceeding in Parliament?

A British Embassy or Consular building or British war ship on the High Seas is regarded as sovereign territory. Therefore it follows that these places are equivalent to British soil, if they are and any proceedings in or on a conveyance in the UK mainland is deemed a "Proceeding in Parliament" then perhaps so too are actions in the aforementioned places.
I mention the above as the hors d'oeuvre to the main course and that is we maintain that the government of this country is constitutionally illegitimate and has become so over the past several decades substantively due to the fact that it has consistently, systematically and with the Victorian dogma of inertia in believing itself to be a "boys club" above the law. It's an Eton and Harrow common room for grown ups. As a result we maintain that the government is professing to govern but is doing so without "informed consent."

**Re-Defining parliament – Pepper v. Hart**

*Why you should look at Hansard and verify the fact that the Attorney General did in fact change his mind on the advice he had previously given to parliament, and why you have the authority to do so.*

Old school legal teaching traditionally exposes the pupil to believe that a judge should not refer to the records of debates in Hansard in order to clarify the meaning of ambiguous or nonsensical legislative terminology. This is called the "exclusionary rule" and its legal parentage is not known, possibly evidence of the "making it up as we go along" paradigm. It may be though something to do with the common law rule relating to the admissibility of evidence and the accuracy of the report and uncertainty of stenographic error but in this day and age with almost every conversation recorded, then as to what was or not said should prove no problem.
The rule's significance is significant when considering whether and how it might be revised.
Four reasons are advanced in recent cases to allow the status quo to adhere:-
1. Lord Wilberforce in Beswick v. Beswick (19680 AC 58, (1967) 2 All ER 1197 HL fastened on a question of "*constitutional principle*". The task of interpreting legislation rested soley on the courts; for the judiciary to allow their of the meaning of a statute to be determined by the speech of a Minister made during the bill's passage would in effect delegate their interpretative role to the minister. And what if the Minister was not available, or dead? This would turn parliamentary sovereignty into government sovereignty and would cut out of the loop boith potentially the judiciary and the second chamber.

2. In the same case Lord Reid identified "*purely practical reasons*" for the rule. Access to Hansard would increase the time and expense spent in and on litigation, since lawyers would feel compelled to

read debates in their entirety inpursuit of statements supporting their clients' case. This too seems a bit of a weak justification The same reasoning might plausibly apply to law reports.

3. Lord Scarman offered a third justification in *Davis v. Johnson* (1979) AC 264, HL. He suggested that Hansard was an unreliable guide to a statutes meaning. As it was made of the content of debate fused with the need to score party political points, and so would be unable to convey governmental intent precisely. This formulation must therefore mean taken to its absolute logical conclusion that Hansard does not make sense and is in no way representative of the outcomes of discussions in parliament. He's probably right but for the wrong reasons, those reasons being most decisions are still made before discussion ever takes place in the chambers and done so behind closed doors.

4. A fourth reason, noted by Lord Diplock in *Fothergill v Monarch Airlines Ltd* (1981) AC 251, (1980) 2 All ER 696, HL was that "*elementary justice*" demanded that all the materials on which the citizen might depend in litigation should be readily accessible. Lord Diplock felt Hansard did not meet this criterion. This is also a weak argument. One could doubt that citizens would find Hansard any more esoteric or inaccessible than the All England Law Reports. In so far as Lord Diplock's point raises a valid informed consent issue, it amounts to an argument not for excluding Hansard from the courts but for ensuring that its contents are more widely known and more easily available.

Sporadic challenges to the position were made in the 1960's and 1970's to the traditional position with Lord Denning also appearing reluctant to accept the rule, he admitted that on occasions he disregarded the rule in its entirety and circumvented it by referring not only to Hansard itself but to extracts from debates reproduced in legal textbooks or periodicals and looking at Hansard when not in court. A true judge if ever one walked the earth.

From a practical if not legal perspective the Commons resolved in 1980 that the courts need no longer petition the house for permission to make reference to Hansard. The Commons seemed to root the rule in **Article 9 of the Bill of Rights**.

*Pepper v. Hart* (1993) AC 593, (1993) 1 All ER 42, HL was triggered by a textual ambiguity in legislation concerning the taxation of a particular benefit, the taxpayer maintaining that a Minister had made a clear statement during a debate which favoured their interpretation. This argument could not be sustained without reference to Hansard. The taxpayers were therefore asking the court to overturn the "exclusionary rule".
Lord Browne-Wilkinson leading judgement departed substantially if cautiously from previous orthodoxy, his central conclusion being:

*"..reference to parliamentary material should be permitted as an aid to the construction of legislation which is ambiguous or obscure or the literal meaning of which leads to an absurdity…where such materials clearly discloses the legislative intention lying behind the ambiguous or obscure words*." (1993) 1 All ER 42 at 64, HL

There fore see attached appendix … **Advice on the Legality of Military Action against Iraq without a further Security Council Resolution, Attorney General, & March 2003**.

SECRET

**Collective and Individual Ministerial Responsibility**
*"An extraordinary affair. I gave them orders and they wanted to stay and discuss them."*
Evidently the words of the Duke of Wellington, remarked after his first cabinet meeting, when after an illustrious military career he became Prime minister. Richard Crossman in The Crossman Diaries argued that the Prime Minister effectively dominated the Cabinet rather than being a "first amongst equals". Prime Ministers achieved this through three main powers. Firstly, by being able to appoint and dismiss Ministers; secondly, by setting the agenda of Cabinet discussions , which permitted the Prime Minister to avoid challenges over particular issues leaving them off the agenda altogether (Iraq!); and finally by controlling the remit and membership of cabinet committees, where particular policies were discussed in more detai.l

**Alistair Cambell's Diari**es June 2007: states, former spin doctor and press secretary for Tony Blair:-

*"Tony Blair pressed ahead with the invasion of Iraq without betraying any uncertainty to even his closest colleagues, all of whom had "severe moments of doubt", his former communications chief",* Alastair Campbell, reveals today.

Mr Campbell records how one of Mr Blair's staunchest allies, **John Reid**, and the deputy prime minister, **John Prescott**, *looked "physically sick*" when cabinet met on the day before the Commons vote to endorse the war.

*Mr Reid, then party chairman, "said never underestimate the instincts for unity and understand that we will be judged by the Iraq that replaces Saddam's Iraq, and by the Middle East",* Mr Campbell wrote in the first publication of extracts from his long-awaited, but heavily edited, diaries.

*The next day, March 18 2003, Mr Blair called his staff in to thank them after the government had won the vote at the end of a highly charged Commons debate, albeit with the* ***rebellion of 139 Labour MPs.***

*"His own performance today had been superb. All of us, I think, had had pretty severe moments of doubt but he hadn't really, or if he had he had hidden them even from us.* Now there was no going back at all," Mr Campbell wrote.

## Procedural Grounds for Judicial Review

1. Illegality
2. Irrationality
3. Proportionality

The grounds on which the courts have traditionally been prepared to conclude that a government action may be unlawful have been allude to earlier in this document. The various grounds of review fall essentially into two spheres.
**Substantive grounds** of review are concerned with the *content or outcome* of the decision made, **Procedural grounds** in contrast address the question of *the way in which* a decision is made.

SUBSTANTIVE: The courts have traditionally recognised two such grounds – illegality and irrationality, irrationality being the contemporary usage of the concept once referred to as Wednesbury unreasonableness.

ILLEGALITY
The notion that a government body'd decision is unlawful because the body has attempted to exercise a power that it simply does not have might be thought a very easy process to apply. In truth it should be.
It is generally understood and accepted that a decision taken by a parliamentary body will be illegal if its contents were arrived at because the decision-maker, in this case Tony Blair for our immediate purposes, either took account of irrelevant considerations (regime change) or failed to take account of relevant considerations (like the wishes of the electorate, the wishes of the Europoean Parliament and the stated objectives of the UN). Roberts v. Hopwood can be advanced as the classic illustration of this principle, [1925] AC 578 at 594, HL.

Now we know that many of the electorate of the United Kingdom were not happy with the war aginst Iraq for several reasons. Apart from the believe in many minds that it was little of the UK's business in the first place what Iraq was up to, they believed that the UN could take care of any problems. That was one point but the other was the infallible nose of the electorate or citizebnry for being able to sniff out liars and deceit. However, after the stable door had been opened what could they do but cheer on the horse.

Let's look at the grounds for procedural review in the case of *Robertson v. Minister of Pensions [1949] 1KB 227, [1948] 2 ALL ER 767*. Denning J's broad statement of principle is often cited and now assumed to be applicable to statutory bodies as well as to the Crown;
"In my opinion, if a government department in its dealings with a subject takes it on itself to assume authority on a matter with which he is concerned, he is entitled to rely on it having the authority which

it assumes. He does not know, and cannot be expected to know, the limits of its authority". Supra, 2 ALL ER 767 at 770

**Denning** took the opportunity to reiterate the broad statement of principle in the Court of Appeal in Falmouth Boat Construction v Howell [1950] 2 KB 16, [1950] 1 ALL ER 538, CA. Moreover his judgement intimated that the principle would stretch to cover government official (like PM's and members of the Cabinet) who had made decisions that they had no legal authority to make.

IRRATIONALITY
The formula used by **Lord Diplock** in GCHQ to define the irrationality doctrine might suggest that very few government decisions could be unlawful on this ground but as he sets the bar so very high we feel that if we can clear it then we are truly justified in our request on this head. It should also be born in mind that the law suffers continuously from looking to the past, its precedent in order to justify an action on the day, when in fact society moves on and the nightmare scenarios of the past have become, unfortunately the waking living reality of today. Per Lord Diplock [1985] AC 374 at 410 – 411, HL: if a decision was
"….***so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided*** (to go to war bi-laterally with Iraq) ***could have arrived at it".***

We'd call going to war such a decision. If an irrational decision had widespread support it would be very difficult to argue the case for irrationality, but ask yourself, "was the decision to go to war with Iraq a popular decision which attracted widespread support?"
See also Lord Bingham's observations in Smith [1996] 1 ALL ER 257 at 263, CA concerning the shift in public and professional attitudes;
*"I regard the progressive development and refinement of public and professional opinion at home and abroad….as an important feature of this case. A belief which represented unquestioned orthodoxy in Year X, may have become questionable by Year Y and unsustainable by Year Z".*
PROPORTIONALITY
The correct action in this case was to await a Second Resolution from the United Nations and if one was not forth coming as it was never going to be, then to use diplomatic channels in order to effect clarification. However, we must NEVER FORGET THAT THERE WAS IN FACT NOTHING TO CLARIFY AS FAR AS SADDAM'S 2003 REGIME WAS CONCERNED. NO WEAPONS OF MASS DESTRUCTION, NO 45 MINUTE THREAT; IN SHORT NO NOTHING – JUST A DESIRE FOR TEAM B AND BLKAIR TO GO AFTER LOOT IN FOREIGN PARTS AND A DELIDERATE PLOT TO PLANT THE EVIDENCE AFTER THE FACT.

**PROCEDURAL GROUNDS FOR JUDICIAL REVIEW**
One might intuitively wonder what useful purpose would be serves by subjecting governmental action to a ground of judicial review concerned not with thee content or substance of a given decision (War of Agression), but with the way the decision was made.

**THE RULE AGAINST BIAS**
*Nemo iudex sua causa* – no one may be a judge in his own cause, is concerned to ensure that government decision makers do not have a personal interest in decisions they take. This has been long held to be a fundamental tenet of English public law but as we can see in local councils and in Westminster it is no more than a fantasy, a myth from the past when today every MP has his nose so far in the trough his ears are plugged to all sense and outrage from his constituents. *(See Dr. Bonham's Case 1610 Chief Justice Coke).*

And so a government, any government, just by it stating that "it hasn't broken the law" cannot claim that this is the last word. Non-justiciability cannot therefore, under any circumstances EVER, be proffered by the judiciary as an excuse NOT to allow an open, fair and frank examination by public trial of the alleged perpetrators of a crime NO matter what position they hold in government or where they are located post service. All crimes have a remedy – all crimes are punishable – no law against it? – automatic implied common law breach of trust and contract on behalf of the Crown to protect and govern the citizenry in "utmost good faith" in return for "taxation rights." "Why wasn't the Royal Prerogative

used to stop Blair? Remember Suez? As it began for her so will it end; this time though no errors will be made and no one will be allowed to fudge the issues! Times they truly are a chang'in!

We additionally will maintain in the fuller case in court that ALL 544 members of the Privy Council (along with the Queen in Council), past and present are (per Lord Denning in *Robertson v. Minister of Pensions* (supra)), part of The Crown and therefore collectively and individually ministerially and as singular advisors strictly accountable for past illegalities and infractions of the law perpetrated upon the people, due to the fact that the thread of office, (cause and effect) culpability and responsibility is dependant and inherent in the fact that in swearing an oath of allegiance to the Monarch, then as the Monarch is an on-going, continuous phenomenon, then so is their accountability. This action is now coalescing and forming part of a parallel legal action with which we will not concern you at this time.

"We ask you to sign the warrants as a matter of right and not as a matter of discretion"

We rest!

Peter of England (formerly LL.B.),
Rose Croix, Special Counsel. And Prosecutor for Common Law Court of Record (CLCOR)
Newcastle Under Lyme Staffs
Court No. CLCOR/750181

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"chief executive, James Schiro Zurich Insurance

Cc. All docts.

Interpol, BBC, Reuters, Metropolitan Police NSY, Hanley Police, US Dept. Justice, Home Office, Dept of Constitutional Affairs, Elizabeth Battenberg/Saxe-Coberg Gotha at Buckingham Palace , London; The Bushes at The White House, Amnesty International, United Nations NY, ICJ, ICC The Hague, FBI, CIA Langley, Virginia, MI5, MI6 London, The Red Cross, Zurich CH., J.P.Morgan Cazenove Moorgate, London.

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