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SWEARING IN THE NEW KING: THE ACCESSION DECLARATION AND CORONATION OATHS

Whitehall, February 6, 1952

Upon the intimation that our late Most Gracious Sovereign King George the Sixth had died in his sleep at Sandringham in the early hours of this morning the Lords of the Privy Council assembled this day at St James's Palace, and gave orders for proclaiming her present majesty:

Whereas it hath pleased Almighty God to call to His Mercy our late Sovereign Lord King George the Sixth of Blessed and Glorious Memory by whose Decease the Crown is solely and rightfully come to the High and Mighty Princess Elizabeth Alexandra Mary: We, therefore, the Lords Spiritual and Temporal of this Realm, being here assisted with these of His late Majesty's Privy Council, with representatives of other members of the Commonwealth, with other Principal Gentlemen of Quality, with the Lord Mayor, Alderman and Citizens of London, do now hereby with one voice and Consent of Tongue and Heart publish and proclaim that the High and Mighty Princess Elizabeth Alexandra Mary is now, by the Death of our late Sovereign of Happy Memory, become Queen Elizabeth the Second, by the Grace of God Queen of this Realm and of all Her other Realms and Territories, Head of the Commonwealth, Defender of the Faith, to whom Her lieges do acknowledge all Faith and constant Obedience, with hearty and humble Affection; beseeching God, by whom Kings and Queens do reign, to bless the Royal Princess Elizabeth the Second with long and happy Years to reign over us.

Given at St. James's Palace this Sixth Day of February in the year of our Lord one thousand nine hundred and fifty-two.

Simonds C.

W. S. Morrison.

Harry Crookshank.

Norfolk, E.M.

Winston S. Churchill.

C. R. Attlee.

Leathers.

Ogmore.

David Maxwell Fyfe.

Waverley.

Selbourne.

James Griffiths.

Woolton.

Samuel.

Davidson.

Arthur G. Bottomley.

SWEARING IN THE NEW KING: THE ACCESSION DECLARATIONS AND CORONATION OATHS

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Preface

This study offers a review of some of the immediate constitutional issues that will arise following the accession of the next sovereign. It may reasonably be asked: why address this now? Why not wait until the next accession to plan the next coronation, which can be delayed until a year or more later? The answer is threefold:

- First, the new monarch may not wish his coronation to be so long delayed.
- Second, there are important decisions about the Accession Council and inaugural Privy Council which need to be taken before demise.
- Third, if it is decided to revise and update the accession and coronation oaths, they need to be dealt with as a package, because they are so closely inter-related. And if they are to be updated, that needs to be done before demise; to leave it until the accession is too late.

The study focuses on the three statutory oaths which the new sovereign must swear at accession and coronation. Because these oaths are enshrined in statute, it would require amending legislation to revise and update them. We explain the history and background of each of the oaths, before discussing how they might be revised, if there is political will and parliamentary time to do so. If they are not updated, then on accession the government might wish to make a parliamentary statement and publish background briefing explaining the historical context of the oaths, and how they might best be understood in modern times.

Along the way we have incurred many debts of thanks. In particular, we would like to thank the 20 experts who attended a private seminar in October 2016 (kindly hosted by the British Academy), and a second seminar in July 2017. They have also been very generous in commenting on successive drafts and revisions of the oaths. Within the Constitution Unit, we have been assisted by a series of excellent Research Volunteers, Ailsa McNeil, Georgina Hill, James Moore and Alexandra Landucci, who helped to organise the seminars and to finalise this report. We have tried wherever possible to build a consensus amongst the experts, but we should make clear that this is not an agreed or negotiated document. We alone are responsible for its content.

Executive Summary

On accession the new sovereign has to make three statutory oaths: the Scottish oath, to uphold the Presbyterian Church of Scotland; the Accession Declaration oath, to be a true and faithful Protestant; and the coronation oath, which includes promising to uphold the rights and privileges of the Church of England.

These oaths date originally from 1688-1707, when Catholic Europe was seen as an existential threat. In our more secular and pluralist society, the oaths need to be revised and updated; or dropped altogether.

Because the oaths are statutory, any significant revision would require fresh legislation; as would their repeal. To be in time for the next accession, legislation would need to be passed during the present reign.

Legislation could adapt each oath to its context. In a radical reformulation, the Scottish oath could become an oath about the Union; the Accession Declaration, traditionally made before Parliament, could become an oath to uphold the constitution and our laws; and the coronation oath, in a ceremony watched by millions, could be an oath made to the people.

This report offers three different reformulations of each oath, depending on how radical the government wishes to be. It may not be easy to reach consensus, with the churches, other faith groups and all sections of society; ultimately the government has to decide.

If there is not the political will to legislate, the government should consider preparing a statement to give to Parliament on accession explaining the historical reasons for the oaths, and how they are to be understood in modern times; with accompanying briefing for the media.

Chapter 1: Introduction

1.1 In 2016 the Constitution Unit started a project looking at the declaration and oaths required of a new sovereign following accession. We did so because it is both a very long time - over sixty years – since the oaths were last sworn and, following succession, there is but a short time (in the case of the Scottish oath, no time) to review their content in the light of all the legislative and other changes since 1952.

1.2 After consultation with interested parties, our first step was to write a discussion paper for a private seminar of constitutional experts, historians and theologians at the British Academy in October 2016. We wanted in particular to test how much support there might be for trying to update and revise the wording of the oaths. Amongst the twenty or so experts present, we found almost universal agreement that one or more of the oaths would benefit from updating; but also recognition of the serious political, legislative and timing difficulties which stand in the way.

1.3 We then produced redrafts of the oaths which were circulated for comments and discussed at a second seminar in July 2017. That led after a final round of consultation to this report. It is in five parts, discussing first, the historical and comparative background; second, what is the constitutional place and legal force of the oaths; third, their content; fourth, the case for revision, and difficulties involved; and, finally, some options for change. We should stress that, although discussions revealed a good deal of common ground, there was a range of views on some issues particularly in respect of the coronation oath. In that case and all others, we take sole responsibility for the conclusions and recommendations that follow.

Historical Background

1.4 There are four public statements traditionally made by a new sovereign, three of which are statutory requirements. In the order in which they occur, they are

- A non-statutory declaration made at the first meeting of the Privy Council which normally takes place the day following the death of the former sovereign. This is both a personal and a political statement approved by ministers.
- A statutory oath to uphold the Church of Scotland. This was the product of the negotiations between the English and Scottish Parliaments that led to the Acts of Union of 1706/7. This oath's effect was to replicate for Scotland that part of the sovereign's coronation oath which committed the sovereign to uphold the Church of England.
- The Accession Declaration oath – not to be confused with the non-statutory declaration above – required by the Bill of Rights Act 1688. The oath's wording was amended by the Accession Declaration Act 1910.
- The Coronation Oath - the main elements have existed since the late 10th century and were made statutory in England and Wales by the Coronation Oath Act 1688.

1.5 The three statutory oaths date from a narrow period of British history during 1688-1707. The first two arose from the turmoil at the end of the reign of James II who had sought to expand the authority of the crown and favour Roman Catholics. In comparison with the oath used at the Restoration coronation in 1661, the Coronation Oath Act 1688 for James's successors, William and Mary, refocused the formula into a more contractual form depending

not on the sovereign acting from grace but from a duty to uphold the laws and maintain the protestant religion.

1.6 The Accession Declaration Oath had not been included in the original Declaration of Rights in February 1689 but was added – together with the ban on sovereigns marrying Roman Catholics – when the Declaration was later given statutory form as the Bill of Rights Act in December 1689.

Current practices in other European monarchies

1.7 The UK is unusual in having a coronation, and in the extent of the accession oaths. A brief summary of practice elsewhere is as follows:

Coronations: no other European monarchy holds one. Belgium and the Netherlands have never had one; Denmark, Norway and Sweden discontinued theirs from 1849, 1908 and 1873 respectively; and there have been no Spanish coronations since medieval times.

Religious tests: all three Scandinavian sovereigns have to be members of their respective Lutheran churches. There are no formal religious requirements for any of the other sovereigns.

Accession/inauguration ceremonies: all swear at their parliaments to observe their constitutions. Only in Norway does the law require the new sovereign to invoke the help of ‘God, the Almighty and Omniscient’ and there have been services of consecration (i.e. short of coronation) in addition to the parliamentary accession procedure in Norway since 1957. The royal regalia are on display but not worn in most ceremonies of accession, though in Denmark the crown is displayed only on the deceased monarch’s coffin at the funeral. In Spain the restored monarch and his queen in 1978 sat on elevated thrones in a church service: that non-statutory event does not seem to have been repeated following the accession of his son in 2014.

1.8 At his inauguration in 2013, the Dutch King swore as follows before a joint session of the Dutch Parliament:

I solemnly swear (affirm) to the people of the Kingdom that I shall constantly preserve and uphold the Charter for the Kingdom of the Netherlands and the Constitution. I swear (affirm) that I shall defend and preserve the independence and the territory of the Kingdom to the best of my ability, that I shall protect the freedom and rights of all Dutch citizens and residents, and that I shall employ all means placed at my disposal by the law to preserve and promote prosperity, as is incumbent upon a good and faithful Sovereign. So help me God! (This I solemnly affirm!)

The Commonwealth realms and the Commonwealth itself

1.9 Unlike any other European monarchy, the UK monarchy is an *international* monarchy because the sovereign is head of state also in fifteen other independent Commonwealth countries.¹ Moreover, the UK crown has a special relationship with the Commonwealth as a whole. The position of the realms particularly has to be borne in mind whenever changes to the UK crown’s status are being considered, as in the case of the Succession to the Crown Act 2013. Formally their consent is only required where there are proposals – which this paper does not

¹ The countries are Antigua and Barbuda, Australia, The Bahamas, Barbados, Belize, Canada, Grenada, Jamaica, New Zealand, Papua New Guinea, St Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Solomon Islands, and Tuvalu.

canvass - to change the rules of royal succession or the royal style and titles; but their interests should not be ignored.

1.10 Similarly, all Commonwealth countries will be sensitive to how the general relationship with the UK crown is expressed. Under the present law, the UK sovereign's title includes the words 'Head of the Commonwealth', a title conferred on the present monarch by the then members of the Commonwealth.² Whether Parliament would include the title in the customary legislation on title in the new reign would follow, no doubt, consultation with Commonwealth members. While accommodating realm and Commonwealth interests will not necessarily be a direct requirement, this international dimension should always be kept in view.

² See Annex B for the texts of the relevant legislation. The phrase 'Head of the Commonwealth' was first used in the Proclamation of Elizabeth II on her accession in 1952 as the result of a Commonwealth consultation in 1951 – see Murphy P. (2013) *Monarchy and the End of Empire* (Oxford, OUP), p. 50. It was not included in the formal Title until 1953 and was not used when the Scottish oath was sworn by Elizabeth II.

Chapter 2: Constitutional and legal status of accession declaration and oaths

2.1 The declaration made at the inaugural Privy Council clearly has a different status from the three statutory oaths. But it is equally a public and personal commitment to observing constitutional government. In essence, it comprises all the elements and more of what is actually required of other European sovereigns by their constitutions, summarised in paras 2.4-5 above. Although the formula's constituent parts are traditional, the language is not prescribed and there is no statutory restraint on what the new sovereign should say at what is a most solemn public moment. This therefore gives greater scope than statutory formulae necessarily constrain.

2.2 There is also the point that the statutory oaths have less inherent force than their status may imply. This is because they do not create law but declare it. The Scottish oath discharges a treaty obligation in the then new state of Great Britain to recognise previous Scottish ecclesiastical legislation. The Accession Declaration oath confirms requirements laid down elsewhere that the sovereign must be a Protestant. The coronation oath does not make the heir into the sovereign: that is achieved automatically under the common law. Rather, the oath requires the sovereign to declare and identify with the effect of the law at a public moment of great solemnity and prepares the way for the conferment of divine blessing on the new sovereign.

2.3 Another way of putting the situation is that all these oaths are performative and affirmative rather than legislative. With the possible exception of the Scottish oath, the fact that they have no direct constitutional effect is manifested in the absence of any penalty if they are not sworn. The weight of the oaths lies overwhelmingly in their symbolic significance and, moreover, in making that symbolism intelligible, acceptable and inspiring to a modern population.

2.4 A further general point concerns the nature of the obligations imposed on the new sovereign. In both the Accession Declaration Act oath and the coronation oath, the sovereign's obligation to uphold the force of the oath is expressed in the former by the formula 'to the best of my powers according to law' and in the latter by the formulae 'to the utmost of your power' and 'to your power'. In 1688, the latter formulae could be understood as requiring the monarch – still then head of the executive - actively to use real existing powers to achieve the desired ends. But regal activism of that kind could not be expected of modern constitutional monarchs. It follows that the meaning of the 1688 language has become reversed. Whereas in 1688 such language reflected real responsibility, it has subsequently fallen to be silently interpreted as an acknowledgment that the sovereign has in fact no such personal political power, though obliged to speak on behalf of the real executive power – his government - as if he has. The obligation now falls to be understood as a limited rather than a maximal duty on the sovereign personally.

Chapter 3: The formulae individually considered

(a) Accession Declaration

3.1 This is a personal non-statutory statement made by the new sovereign as first business at their first Privy Council. The text is approved by ministers for publication in the Gazette. Practice has varied over whether first drafts are composed within government or the Household. Three examples are as follows.

3.2 (a) George III 25 October 1760

The Loss that the Nation and I have sustained by the death of the King my grandfather would have been severely felt at any time, but coming at so critical a juncture, and so unexpected, it is by many circumstances augmented, and the weight now falling upon me much increased; I feel my own insufficiency to support it as I wish, but animated by the tenderest affection for this my native country, and depending on the Advice, Experience and Abilities [sic] of your Lordships, on the support and assistance of every Honest Man, I tender with cheerfulness [sic] into this arduous situation, and shall make it the business of my life to promote in every thing the Glory and Happiness of these Kingdoms, to preserve and to strengthen both the Constitution in Church and State, and as I mount the Throne in the midst of an expensive but just and necessary War, I shall endeavour to prosecute it in the manner most likely to bring on an Honourable and lasting Peace in concert with my Allies [sic]³

3.3 At first sight it reads affectingly – the sincere words of a young man aged only twenty-two in the middle of what we now call the Seven Years War. Yet it was also a political statement reminding his audience that he was the first Hanoverian to be English born and with English as his first language. At the same time, the final text was not the original drafted by his favourite and confidant, the Earl of Bute. The original's last sentence had referred to his mounting the throne 'in the midst of a bloody and expensive War', whereas the final text referred as above to 'an expensive but just and necessary War' and added 'in concert with my allies'. These alterations 'transformed the address into a justification of Pitt's war policy and ... pledged Great Britain not to make peace without Prussia'. The alterations had been required, of course, by the King's ministers.⁴

3.4 (b) Edward VII 23 January 1901

Your Royal Highnesses, My Lords, and Gentlemen, This is the most painful occasion on which I shall ever be called upon to address you.

My first and melancholy duty is to announce to you the death of My beloved Mother the Queen, and I know how deeply you, the whole Nation, and I think I may say the whole world, sympathize with Me in the irreparable loss we have all sustained.

³ PC 1/6

⁴ Brooke J. (1972) *George III*, (London, Constable), p. 75.

I need hardly say that My constant endeavour will be always to walk in Her footsteps. In undertaking the heavy load that now devolves upon Me. I am fully determined to be a Constitutional Sovereign in the strictest sense of the word, and as long as there is breath in My body to work for the good and amelioration of My people.

I have resolved to be known by the name of Edward, which has been borne by six of My ancestors. In doing so I do not undervalue the name of Albert, which I inherit from My ever to be lamented, great and wise Father, who by universal consent is I think deservedly known by the name of Albert the Good, and I desire that his name should stand alone.

In conclusion, I trust to Parliament and the Nation to support Me in the arduous duties which now devolve upon Me by inheritance, and to which I am determined to devote My whole strength during the remainder of My life.⁵

3.5 (c) Elizabeth II 8 February 1952

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 the 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 that his loss brings is shared among us all.

My heart is too full to say more to you today 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 discharge worthily this heavy task that has been laid upon me so early in my life.⁶

Comment

3.6 The Declarations are both personal and political statements. Although the constituent parts are traditional - regret at a death, request for the nation's support in office, affirmation of support for the constitution – the texts are varied to reflect the individual sovereign's concerns: George III stressed his Englishness, Edward VII explained his choice of regnal title, and Elizabeth voiced a very personal distress and her religious belief. In the declarations from the accession of Queen Victoria only those of Edward VII and George VI did not make any reference to God or religion.

3.7 No other European monarchy nowadays holds religious accession ceremonies like the British coronation service. All do, however, have a place for some kind of inaugural affirmation:

⁵ London Gazette Extraordinary, 23 January 1901.

⁶ London Gazette 12 February 1952, Declaration made on 8 February. It is interesting to observe how the differences in capitalization from the 1901 Declaration reflect the transition from an imperial to a service monarchy.

as described above, it is to those that the texts of the British accession declarations – if voluntary rather than constitutionally required - more closely approximate than the statutory oaths.

(b) Oath under the Acts of Union 1706/7 (the Scottish Oath)

3.8 These acts require the new sovereign to swear ‘in all time coming at His or Her accession’ to ‘inviolably maintain and preserve’ the protestant religion and Presbyterian church government of Scotland. Although the content of the oath is outlined in statute, the precise wording of the oath is not prescribed.⁷ In practice, the text – probably prepared originally after consultation with the most senior Scottish judges and the Lord Advocate – refers not only to the Claim of Right but also to the two most relevant Scottish statutes not actually mentioned by name in the Act of Union.

3.9 It has been the practice to administer the oath immediately after accession at the meeting of the Accession Privy Council. The fact of its having been sworn has hitherto been recorded in the *London Gazette* but not the text itself.⁸ Two copies of the oath are signed by the sovereign whose signature has been customarily witnessed by any Royal Prince attending, the Lord Chancellor, the Secretary of State for Scotland, the Home Secretary, the Lord Advocate and two or three of the senior (then representative⁹) Scottish peers present. Of the two copies, one goes to the Court of Session in Edinburgh to be recorded in the books of Sederunt and the other is preserved in the Privy Council Register.

3.10 The text sworn by Elizabeth II was as follows:

I, Elizabeth the Second by the Grace of God of Great Britain, Ireland and the British dominions beyond the seas, Queen, Defender of the Faith, do faithfully promise and swear that I shall inviolably maintain and preserve the Settlement of the True Protestant Religion as established by the laws of Scotland in prosecution of the Claim of Right and particularly an Act entitled an Act for the Securing the Protestant Religion and Presbyterian Church Government and by the Acts passed in both Kingdoms for the Union of the two Kingdoms, together with the Government, Worship, Discipline, Rights and Privileges of the Church of Scotland.¹⁰

⁷ Similarly, the Scottish Coronation Oath Act 1567 laid down the requirement without specifying a text.

⁸ The Privy Council Office has recently, however, put the text on its website in the course of an article explaining the Office’s duties at accession - <https://privycouncil.independent.gov.uk/privy-council/the-accession-council/>.

⁹ Under the Act of Union 1707, Scottish peers elected sixteen of their number to each Great Britain Parliament. The Peerage Act 1963 abolished such elections and all Scottish peers became eligible to sit in the UK Parliament until 1999.

¹⁰ The citation of the royal title looks odd because it appears to assert that the whole of Ireland is involved whereas we would now expect the reference to extend to Northern Ireland only. However, when the oath was administered in 1952 the royal title had not been changed to reflect the departure of the then Irish Free State from the Commonwealth in 1949. Royal titles may be changed only as a result of a proclamation enabled by an Act of Parliament and this was not accomplished until the coronation year of 1953.

Comment

3.11 The question here is what, in light of the Church of Scotland Act 1921, the oath now adds and whether it is needed at all.¹¹ The 1921 Act, designed to pave the way for repairing the Church of Scotland schism of 1843, gave full parliamentary recognition to the Church's status as a national church. Moreover, both the European Convention on Human Rights and the Human Rights Act 1998 guarantee religious freedom. Furthermore, when the sovereign has long ceased to be the head of the executive, it seems strictly speaking anomalous that the sovereign should be invited to swear to anything which sovereigns no longer have power to enforce.

3.12 On the other hand, the oath would be seen by some as having symbolic importance and repeal would, of course, face serious political difficulty. Although matters relating to the Crown are reserved to the Westminster Parliament (Scotland Act 1998, Sch. 5, Part I), in practice the consent of the devolved Scottish government would be essential and, indeed, might not be forthcoming in a situation where the prospect of Scottish independence remained alive. There is also the practical point of timing since the statutory requirement has so far been interpreted as meaning that the oath must be sworn as immediately as possible after accession. This has created a situation where, on the face of things, repeal in any reign could occur only after the oath had been already sworn. In practice, therefore, repeal could only take effect in the reign following.

3.13 There remains the possibility of room for considering a different approach if there were an intention to repeal and the government also had plans for general reform of the oaths. In such circumstances, it might be thought reasonable to allow some delay for testing parliamentary opinion without insisting as hitherto that the oath should be taken immediately. However, given the statutory requirement for the oath to be taken 'at His or Her accession', this course might be vulnerable to legal proceedings and, at the time of writing, it seems there is unlikely to be any head of steam behind forcing such an approach. The Church of Scotland – particularly in present circumstances¹² – would probably be very nervous of change and there could elsewhere be arguments about whether observing the relevant clause of the Act of Union was a condition of the Union's existence.

(c) Oath under the Accession Declaration Act 1910

3.14 The Act prescribes the following form of words:

I [monarch's name] do solemnly and sincerely in the presence of God profess, testify and declare that I am a faithful protestant, and that I will, according to the true intent of the enactments which secure the protestant succession to the throne of my realm, uphold and maintain the said enactments to the best of my powers according to law.

Comment

3.15 The oath is to be taken at the first Parliament of the reign or at the coronation. Elizabeth II took the oath at the opening of her first Parliament. It replaced a much longer wording required under the 1688 Bill of Rights and the Act of Settlement 1701 which expressed severe

¹¹ Francis Lyall pointed out some time ago that, because monarchs' oaths to uphold the Church of England had not prevented disestablishment in Ireland in 1871 or Wales in 1920, the oath's 'legal worth may be dubious'. Lyall F. (1980) *Of Presbyters and Kings* (Aberdeen, Aberdeen UP), p. 82.

¹² See Morris R. M. (2016) 'Alternative futures for formal church establishment: two case studies from the UK' in Guesnet F., Laborde C., and Lee L. *Negotiating Religion: Cross-disciplinary perspectives* (London, Routledge), pp. 115-135.

hostility to the Roman Catholic religion in terms which came to be regarded as deeply offensive to the monarch's Roman Catholic subjects.

3.16 After a failed attempt to change the oath for Edward VII in 1902, the 1910 formula was substituted at George V's insistence for the formula that had previously been required:

I, A. B., by the grace of God King (or Queen) of England, Scotland and Ireland, Defender of the Faith, do solemnly and sincerely in the presence of God, profess, testify, and declare, that I do believe that in the Sacrament of the Lord's Supper there is not any Transubstantiation of the elements of bread and wine into the Body and Blood of Christ at or after the consecration thereof by any person whatsoever: and that the invocation or adoration of the Virgin Mary or any other Saint, and the Sacrifice of the Mass, as they are now used in the Church of Rome, are superstitious and idolatrous. And I do solemnly in the presence of God profess, testify, and declare that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any such dispensation from any person or authority or person whatsoever, or without thinking that I am or can be acquitted before God or man, or absolved of this declaration or any part thereof, although the Pope, or any other person or persons, or power whatsoever, should dispense with or annul the same or declare that it was null and void from the beginning.

3.17 Even in its changed form, the oath is a hangover from old politics and much of its once totemic significance has been lost. Above all, as Asquith maintained during the debates that led to the 1910 Act, 'the declaration itself has no effect of any sort or kind as a safeguard for the Protestant Succession. That is amply secured in other ways'.¹³ Although he continued to hold that position, Asquith did not resist the new King's objection to the formula in 1910 at a time when the government needed Irish Nationalist votes when engaged in a major constitutional struggle with the House of Lords and it still hoped for a solution to Irish devolution that could include the whole of Ireland. In the face of intense protestant objection, Asquith brought in the government Bill which opted for the short affirmation of the sovereign's faith now used instead of abolishing the oath altogether.

3.18 Asquith's objections to the oath's continuance remain valid. However, repeal would need very careful consideration, consultation and timing. It is unlikely that it could be attempted as a standalone project and would have to be located - perhaps like the 'Scottish' oath - in some larger project, for example, of 'modernisation'. Further, it has to be borne in mind that the 1910 Act merely substituted a new formula for the old: it did not otherwise touch the Bill of Rights' requirement that an oath should be sworn. Abolishing the requirement for the oath would therefore entail amending the Bill of Rights which, if a foundational part of the post 1688 constitution, was nonetheless last amended as recently as 2013 under the Succession to the Crown Act. However, whilst repeal would not be technically difficult, it probably remains the case that governments would be reluctant to sponsor legislation that opened up the possibility of

¹³ Commons Hansard, 14 May 1909, col. 2170. Asquith was then commenting on an omnibus Roman Catholic Disabilities (Removal) Bill introduced by the Irish Nationalists. (Similar Bills had been introduced previously and had made no progress.) The situation was changed following the death of Edward VII in May 1910 when the new King, George V, made known that he strongly shared his father's objections to the 1688 declaration as grossly offensive to their Roman Catholic subjects. Accompanied by a White Paper the following year (*Statutory Enactments affecting the King's Religion*, Cd 5271, July 1910), the Accession Declaration Bill had its Second Reading on 27 July passing swiftly through both Houses by 3 August.

amendment to the underlying legislation except, again, in pursuit of some larger, carefully approached scheme.

(d) The Coronation Oath

3.19 This is prescribed in the Coronation Oath Act 1688 – original text at Annex C below. With the exception of changes required by the Act of Union, the wording has been altered from time to time without statutory authority. Such alterations have included, for example, the citation of then existing realms, uniting the Anglican churches in England and Ireland and then disuniting them as a result of the 1800 Union and 1869 Irish Church Disestablishment Acts. In modern times, non-statutory amendments have been defended by appeals to a doctrine of ‘implied repeal’.

3.20 As administered to Elizabeth II in 1953, the oath was as follows:

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

I solemnly promise so to do.

Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?

I will

Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? Will you 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 will you 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?

All this I promise to do.¹⁴

Comment

3.21 Amendments since 1688 have reflected subsequent changes in the nature of the British state, principally the effect of the unions with Scotland and Ireland, and the political development of the overseas British territories. Discussion in 1936-7 was preoccupied with how the existence of the Statute of Westminster 1931 might best be reflected in the first part of the oath. (Essentially, this statute recognised not only the autonomy but also the independence of

¹⁴ For completeness it should be mentioned that a new Regent has also to swear an oath on taking office. The text is at the Schedule to the Regency Act 1937 and is copied at Annex D below. Brisk wording conflates the language of the three separate royal oaths into a single text sworn on assuming office and which commits the Regent to the same political and religious obligations as a sovereign.

the then ‘Dominions’).¹⁵ An attempt by the Archbishop of Canterbury in 1952 to condense the citation of individual Commonwealth realms into a generic formula was resisted by the then Commonwealth Relations Office.¹⁶ At that time six of the then seven existing independent Commonwealth countries – Canada, Australia, New Zealand, South Africa, Pakistan and Ceylon - were also realms, that is countries where the UK sovereign was head of state. Granted that there are now fifteen, the question of individual citation would need revisiting on the lines perhaps of the Archbishop’s proposal. While it would be necessary to smooth the way with the realms, ‘implied repeal’ would not be stretched too far to cover the situation without legislating for at least these purposes.

3.22 Serious consideration was given in 1952/3 to the possibility of legislating the oath afresh, the Prime Minister’s own son urging the change¹⁷ and the question being raised by the former Home Secretary Chuter Ede at the Coronation Committee.¹⁸ However, the Lord Chancellor in a twelve page memorandum reconfirmed the position taken by his predecessor in 1937:

There is a well-known and firmly established principle of law ... that, when the provisions of a later enactment are so inconsistent with or repugnant to the provisions of an earlier one that the two cannot stand together, the latter enactment, so far as necessary, repeals the former. This appears to be plain common sense. ... In such a conflict the Legislature is credited with having by the later Act impliedly repealed the former.¹⁹

3.23 Going carefully through all the changes made to the oath since 1688, he showed that each had followed from repeals implied by subsequent constitutional developments. Legislation would also, he maintained, have called into question the validity of previous changes and opened up the possibility of fresh religious controversy over the third part of the oath. On the basis of this advice, the Prime Minister made a statement to the Commons explaining the position and that the text of the oath had the support of the Commonwealth governments.²⁰ Unspoken in the parliamentary exchanges was the reluctance of government to face the controversy that legislation would be bound to excite.²¹

3.24 And it is this third part referring to a formerly dominant position of the Church of England which many, including in the Church of England itself, would now think requires reconsideration. This is because the oath – together with the underlying statutory requirement

¹⁵ A recent commentator has argued that the omission then and subsequently of the formerly explicit reference to govern ‘according to the statutes in Parliament agreed on’ was contrary to the 1688 Act but stopped short of concluding that the legitimacy of the reigns was therefore fatally compromised. See Watt G. (2017) ‘The Coronation Oath’, *Ecclesiastical Law Journal*, 325-41.

¹⁶ HO 290/62 for correspondence initiated by the Archbishop’s letter of 17 October 1952. His formula would have read ‘Will you solemnly promise and swear to govern the peoples of your Realms and Territories according to their respective laws and customs?’

¹⁷ *Manchester Guardian*, 13 February 1953.

¹⁸ CCPC 2nd Conclusions 16 February 1953.

¹⁹ LCO 6/3511, Memorandum February 1953. The file also contains a copy of the Opinion of Lord Hailsham and the Law Officers of 12 June 1936. At present there is some discussion in legal circles whether implied repeal as opposed to explicit legislative repeal can continue in the case of so-called constitutional statutes. We have been advised that an argument mounted in respect of a special group of statutes relating to the European Union does not extend to this or like statutes. Thus, in the *Pery* case for example, the House of Lords was clear that the Church of Scotland Act 1921 was subject to implied repeal by subsequent employment and equality legislation. It follows that implied repeal remains potentially applicable to all the statutes discussed in this paper.

²⁰ Hansard, Commons, 25 February 1953, cols 2091-3, text at Annex C.

²¹ See, for example, advice to the same effect in a brief to the Home Secretary for the Cabinet discussion: HO 290/62, Austin Strutt’s minute of 25 February 1953.

for the sovereign to be in communion with the Church of England and, indeed, establishment itself - reflects a period of history that is now over. Amongst other things, the nature of religious belief in the UK has greatly changed. Since the last coronation, processes of secularization and pluralization of belief have occurred with the result that surveys show that in Great Britain half the population now has no religious affiliation whilst the number belonging to non-Christian religions has grown to 6 per cent.²²

3.25 Even without these factors, it is also the case that it seems odd that the longest part of the oath should be exclusively preoccupied with the preservation of the interests of the Church of England. As it stands, the wording suggests that religious approval of the monarch is conditional on continued state support for a particular religious denomination. As one Anglican commentator has put it,

Cannot the position of the established Church be affirmed without it sounding so exclusive of other Churches and faiths? ... is there not something rather distasteful about the spectacle of the Archbishop of Canterbury exacting a commitment from the monarch to secure the interests of the Church before proceeding to anoint him/her?²³

²² Figures from the latest British Social Attitudes survey in 2016 appear to show that the growth in the proportion unaffiliated to any religion has reached 53% from 31% in 1983. The survey also showed 15% Anglican (40% in 1983), 9% Roman Catholic, 17% other Christian and 6% non-Christian religions. See <http://www.bsa.natcen.ac.uk/media-centre/latest-press-releases/bsa-34-record-number-of-brits-with-no-religion.aspx>, accessed 13 September 2017. In Scotland the proportion of those with no religion is 58% - <http://www.scotcen.org.uk/news-media/press-releases/2017/july/scots-with-no-religion-at-record-level/>, accessed 13 September 2017. See also the *Times*, 5 July 2017: 'Non-believers outnumber the faithful by widest margin yet'.

²³ Bradshaw P. (1993) *Theology*, 'On Revising the Coronation Service', 130-7.

Chapter 4: Ideal reformulation

4.1 What is the case for change in each case and how may it best be reflected in changed texts regardless of current political impediments to change? The final section considers these questions in each case, and offers a range of possible reformulations, depending on how strong is the appetite for reform. Modest revision would involve minimal revisions to the text, trying to avoid the need for legislation, though the scope for change without fresh legislation is quite limited. More radical changes – probably all beyond the reach of implied repeal and therefore requiring legislation - would require adapting the text to the context in which each oath is given and give each oath a different purpose, and new meaning. In what follows we set out options allowing for different degrees of change:

- No change to the actual wording of the oaths, but adding some prefatory text to explain the history and to put the oaths in a modern context.
- Minimal change to the oaths, just to take account of legislative and social changes since 1953, which might be possible without legislation under the doctrine of implied repeal, generously interpreted.
- Medium change, maintaining but toning down the religious exclusivity of the oaths.
- Maximum change, removing all references to Protestantism and the Church of England, and giving each oath a new purpose suited to its context.

4.2 To anticipate the argument to come, on a bold reformulation the intended audience for the Scottish oath given at the Accession Council might be widened to include all four nations in the Union, not just Scotland; and possibly widened further still, to include the 15 other realms. The audience for the 1910 Act Accession Declaration Oath, traditionally given before Parliament, could be taken to represent the political class and the institutions of government. And the audience for the coronation oath, given in Westminster Abbey but televised to millions, could be taken to represent an oath to the people. That differentiation between the three oaths, given respectively to the Union, to the government and Parliament, and to the people, provides a context and specific audience for each of the oaths, which could then be updated to suit that audience and new purpose. How much revision can be achieved will depend crucially on whether there is the political will, and time, to introduce amending legislation. Logically there is a fifth and a sixth option, namely either abolition of the oaths without any replacement, or their replacement by a kind of comprehensive formula on the lines of the Dutch example mentioned in para 2.5 above or the Regent's oath (Annex D); but those options too would require legislation.

Chapter 5: Revising the texts

(a) Accession declaration

5.1 This is the very first personal statement by the new sovereign and has hitherto taken place at a closed ceremony in St James's Palace. Although it has a traditional structure, it has no prescribed form. While the text has been published, the ceremony has not received media coverage.

5.2 There is an opportunity here to reconsider the content and presentation of the declaration. The declaration will be given in a profoundly emotional context, being what may be the first opportunity for the new monarch to pay tribute to the late sovereign, while also setting the tone for the new reign.²⁴ If necessary it could be accompanied by background briefing explaining the thinking behind it. This would also seem desirable if the new sovereign intended as soon as possible to visit the devolved legislatures in Edinburgh, Cardiff and Belfast in addition to the formal proclamations traditionally made in those cities.²⁵

5.3 There is also the question whether the ceremony should be televised/filmed. It is the new sovereign's first official appearance at a very solemn moment, and there seems no good reason why it should remain closed to the public gaze. This in turn would emphasise the event as a place to set the tone for the reign. The choice of words must reflect the preferences of the new monarch, and it is very difficult for others to draft such a personal statement, but a revised formula could be something on the following lines:

It is with the greatest regret and profound sorrow that I am called upon to undertake the duties of King. My mother set such an exemplary model of devotion to duty that I am humbled by her achievements but at the same time inspired by them.

To follow faithfully in her footsteps, I shall need the support of the whole nation. The United Kingdom has proud and ancient traditions, which now embrace people of many different faiths, beliefs and backgrounds. Through the work of the Prince's Trust I have long supported the fullest participation in our national life of everyone, regardless of their creed or colour or social background. As King I hope to continue that tradition of welcoming and nurturing everyone in our society, celebrating our individual and collective achievements and strengthening the ties that bind us together and preserving what is best in our heritage.

I shall cherish and support the continuing and valued relationship with all Commonwealth countries and in particular those where the UK crown is retained. It is with a strong sense of honour and of obligation that I shall endeavour faithfully to execute all my public duties. It is daunting to follow in the footsteps of someone so devoted to public service and inspired by her Christian faith as my mother; my one

²⁴ It is possible the new King will broadcast to the nation before the Accession Council meets. In 2017 the *Guardian* published a detailed account of the plans after the Queen's death which included, 'Charles is scheduled to make his first address as head of state on the evening of his mother's death'. Sam Knight, 'London Bridge is Down' *Guardian* 17 March 2017.

²⁵ 'From his proclamation at St James's, Charles will immediately tour the country, visiting Edinburgh, Belfast and Cardiff to attend services of remembrance for his mother and to meet the leaders of the devolved governments'. *Ibid.*

comfort is that I can look to her example, and to the support of the whole nation in doing so.

(b) The Scottish oath

5.4 This is taken at the same event – the reign’s inaugural meeting of the Privy Council – at which the above declaration is made. For the reasons explained at 4.11 above, it has been eclipsed by the Church of Scotland Act 1921. There is also now the additional guarantee under Article 9 of the European Convention on Human Rights, incorporated into UK law since 1998 by the Human Rights Act, s. 13 which contains a declaratory reinforcement of Article 9’s protections.²⁶

5.5 While substantively there is no continuing requirement for the Scottish oath, it is likely that it has supporters who assert its continuing constitutional significance as a marker of the 1707 Union. There are also some perhaps who might maintain that preservation of the oath is arguably linked to the preservation of the Union itself, whereas the 1921 Act does not accord any exclusive position to the Church of Scotland: it describes it as ‘a national church’. There is also the wider point that, just as church establishment continues to be challenged, so now are religions’ privileges themselves being increasingly challenged by some political philosophers as incompatible with the liberal state.²⁷

5.6 Granted the difficulties of abolishing or amending the oath before the next reign if only for timing reasons, there seems to be no impediment to *adding* to the oath without the need for amending legislation. This might be done, for example, by adding an explanatory statement to the effect that the Scottish oath should nowadays be read in conjunction with subsequent legislation such as the Church of Scotland Act 1921 and, more generally, as a precursor to the overall protections for religious freedom otherwise guaranteed by later laws and international obligations.

5.7 A possible form of words could be on the following lines:

In accordance with the Act of Union that created Great Britain in 1707, I willingly swear the oath concerned with preserving the Presbyterian form of church government in Scotland. I am advised that the oath should now be read with later enactments that guarantee freedom for all forms of religion and belief throughout the United Kingdom.

5.8 There would follow the same form of words as the oath taken by the Queen in 1952, with changes to the Royal name and title plus the addition of citing the 1921 and 1998 Acts. The latter could be done without legislation both because of the effect of the later acts and because the exact text, as opposed to the minimal content, of the oath was not specified in the original legislation. Thus -

²⁶ The same ground is covered in Article 18 of the United Nations International Covenant on Civil and Political Rights.

²⁷ See for example Laborde C. (2016) ‘Is religion special’ in Cohen J. L. and Laborde C. (eds) in *Religion, Secularism and Constitutional Democracy*, (New York, Columbia U.P.) pp. 423-433. The argument is that, disaggregated, the various aspects of religion are already sufficiently protected in law without the need to confer any special status on religions as a whole, a status which is also being redefined by the courts in applying equality legislation – see Court of Appeal judgement of 13 October 2017 which found against gender discrimination in a faith school: [HM Chief Inspector of Education, Children’s Services and Skills \(Appellant\) v The Interim Executive Board of Al-Hijrah School \(Respondent\) \[2017\] EWCA Civ 1426](#).

Mini change

I, Charles the Third²⁸, by the Grace of God of Great Britain and Northern Ireland and of other Realms and Territories King, Head of the Commonwealth, Defender of the Faith, do faithfully promise and swear that I shall maintain and preserve the Church of Scotland as established by the laws of Scotland in prosecution of the Claim of Right and particularly an Act entitled an Act for Securing the Protestant Religion and Presbyterian Church Government, and by the Acts passed in England and Scotland for the Union of the two Kingdoms, and by the Church of Scotland Act 1921 and the Human Rights Act 1998

5.9 Further revision could make the oath more succinct, without changing its meaning or effect:

Midi change

I, Charles the Third, by the Grace of God of Great Britain and Northern Ireland and of other Realms and Territories King, Head of the Commonwealth, Defender of the Faith, do faithfully promise and swear that I shall support the Church of Scotland as established by the laws of Scotland in prosecution of the Claim of Right and by the Acts of Union, and as guaranteed also by subsequent legislation.

5.10 More radical revision could require legislation to transform an oath to support the Presbyterian Church of Scotland into a much wider, more ambitious oath embracing all four constituent parts of the Union, not just Scotland though without committing to the preservation of the Union:

Maxi change

I, Charles the Third, by the Grace of God of Great Britain and Northern Ireland and of other Realms and Territories King &c, do faithfully promise and swear that I shall seek within my power to preserve the separate customs and traditions of each part of the Kingdom and the rights of all people living there, in particular their separate laws, languages and culture, and in all my words and deeds shall show respect for their institutions and traditions.

(c) The Accession Declaration Act 1910 oath

5.11 As Asquith argued over a century ago, this oath is the most dispensable of all. While there may be remaining attachment to it on the grounds that it is the only occasion when the sovereign is seen to declare for Protestantism, this could not please those of other religious persuasion or none and, moreover, not everyone in the current Church of England. In other words, the formula's merits in the eyes of some merely reinforces for others its divisive exclusivity.

5.12 Granted that legislative time was found in 1910 at the King's request to alter the oath and could no doubt be found again, abolition need not be ruled out if that were the new sovereign's preference. On the other hand, if abolition were rejected, an appropriate explanatory statement might be added by the sovereign or in a government release at the time and included

²⁸The accompanying report *Inaugurating a new Reign* points out that Prince Charles would be free to choose some other regnal name.

in the Gazette. It would be similar to the explanatory statement we have proposed for the Scottish oath:

In accordance with the Accession Oath Declaration Act, I shall willingly testify that I am a protestant, and that I will uphold the protestant succession to the throne. I wish also to make it clear that I will do everything within my power to support everyone's right to freedom of thought, conscience, religion and belief.

5.13 If there is scope to amend the oath, then the oath is best adapted to the context in which it is usually taken, the new monarch's first meeting with Parliament. The monarch could then swear, not just to uphold the laws of royal succession, but all the laws passed by Parliament, and to recognise the authority of Parliament. Below are two versions of such an oath, the second being more fulsome than the first.

Midi changes

I, Charles the Third, by the Grace of God King of Great Britain and Northern Ireland &c, do solemnly and sincerely declare that I will do my utmost to uphold the constitution, and the laws for the time being in force.

Maxi change

I, Charles the Third, by the Grace of God King of Great Britain and Northern Ireland &c, do solemnly declare that I will to my power uphold the constitution, and I promise faithfully to carry out my duties as monarch according to all our laws and customs.

(d) The Coronation Oath

Introduction

5.14 As explained above, it is the third and last part of the oath preserving the privileges of the Church of England that seems particularly dated. In recent years, the Church of England has developed a notably more ecumenical stance and has also been encouraged²⁹ to take steps to occupy a leadership role as a conduit to government for, and protector of, all religions. As a result, its membership – without necessarily having engaged with the detail of the oath text - is likely to be sympathetic to introducing a more ecumenical slant to the last part of the oath.

5.15 No specific proposals for change to the third part of the oath have yet appeared. If they do, while consultation with the realms would not be necessary, the immediate question would be whether the changes could be accommodated without fresh legislation when reliance on the doctrine of implied repeal would not seem to be available for amendments of the extent that may be required.

5.16 In practice there are wider questions about the coronation oath than how, if at all, it should be amended. These questions apply also to the other statutory oaths and they go to the heart of the extent to which a modern, plural and democratic state should be involved in the endorsement of religion. These are not new questions and they extend to the underlying position which they reflect, namely establishment and the statutory requirement that the sovereign join in

²⁹ See, for example, HM The Queen's speech 15 February 2012 at an ecumenical event at Lambeth Palace - <http://rowanwilliams.archbishopofcanterbury.org/articles.php/2358/the-queen-attends-multi-faith-reception-at-lambeth-palace>, accessed 14 October 2017. This has been criticised as 'state Anglican multifaitism' and unstable – Bonney N. (2013) *Monarchy, religion and the state* (Manchester, Manchester UP), pp. 131-143.

communion with the Church of England. Officials' advice in 1953 to avoid fresh legislation on the coronation oath was based on the recognition that such legislation would be contentious and difficult to control. The extent of the 1953 coronation's imperial trappings helped to divert attention from the coronation service itself; the relative absence of those trappings at the next coronation will tend to concentrate attention.

5.17 The questions stem from how to understand and locate the coronation in current society. The coronation is both an Anglican and a wholly English ceremony. The systems of devolution introduced since the late 1990s have given new political presence to the other nations in the Union. Whereas in 1953 Anglicanism could still claim to be the default Christian denomination in England, that is no longer the case: subsequent processes of secularization and pluralisation have greatly altered the religious landscape. In addition, the removal of the ban on royal Roman Catholic marriages by the Succession to the Crown Act 2013 has also had the effect of drawing attention to the discriminations against Catholics and others that remain in a polity which has legislated elsewhere to enforce new and exacting equality standards.

Adding a civil ceremony in Westminster Hall

5.18 The accompanying report *Inaugurating a new Reign* analyses proposals that have been made with a view to balancing the religious character of the coronation rite with a new form of secular 'recognition' that might also see the homage element of the coronation transferred to such an occasion which could have parliamentary sponsorship. Taking place in, say, Westminster Hall, the new King would greet and be greeted by a wide range of representatives of civil society. The idea is mentioned here to explain the possible changed context in which the coronation oath might fall to be sworn.

Revising and updating the coronation oath

5.19 Abolition is not a realistic option: the coronation service is a liturgical event and the making of promises is central to it for so long as one remains. But as with the other oaths, if amending legislation is deemed impossible, it could be prefaced by some explanatory text to put it in context. In this case the service sheet could explain that the oath is a traditional Christian affirmation of the obligations of national government represented in the person of the sovereign. This is what the current language does even if cast in an antique form. The wording could be taken to describe the standards to be expected of democratic government, but not seek to claim Anglicanism as the unique instrument or conduit for articulating such expectations.

5.20 A possible formula could be as follows:

Sir, is Your Majesty willing to take the Oath

And the King answering,

I am willing, and in so doing affirm my commitment to democratic government, the rule of law, and religious liberty for all.

5.21 But if there is amending legislation for the accession oaths, then there is a strong case for the coronation oath being revised at the same time; the same arguments apply in all three cases against imposing obligations on the monarch which are beyond their capacity to fulfil, and against the claims of religious exclusivity. Below are three re-formulations of the coronation oath. The second version adds to the values of justice and mercy, the values of fairness, equality,

understanding and respect. The third version moves from being Defender of the Faith, and upholding the rights of the Church of England, to being Defender of Faith, and upholding the rights of all people to observe their different faiths and religions.

Mini change

Will you solemnly promise and swear to ensure to the best of your ability that the Peoples of the United Kingdom of Great Britain and Northern Ireland, of the Commonwealth countries where you are monarch, and of your Possessions and other Territories are governed according to their respective laws and customs?

I solemnly promise so to do.

Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?

I will

Will you to your power maintain in Great Britain the Protestant Reformed Religion established by law and maintain throughout the United Kingdom the protections and freedoms afforded in law to all types of religion and belief?

All this I promise to do.

Midi changes

Will you solemnly promise and swear to ensure to the best of your ability that the Peoples of the United Kingdom of Great Britain and Northern Ireland, of the Commonwealth countries where you are monarch, and of your Possessions and other Territories are governed according to their respective laws and customs?

I solemnly promise so to do.

Will you in all your words and deeds uphold justice, mercy, fairness, equality, understanding and respect for all your Peoples, from all their different backgrounds?

I will

Will you to your power respect the forms of the settlement of the Protestant religion as established by law in England and as established in Scotland by the laws made in Scotland?³⁰ Will you maintain tolerance and freedom, including religious tolerance, for all your Peoples regardless of their different races, religions, beliefs and cultures?

All this I promise to do.

Maxi change

Will you solemnly promise and swear to ensure to the best of your ability that the Peoples of the United Kingdom of Great Britain and Northern Ireland, of the

³⁰This establishment formula follows the language of the Regent's statutory oath – see Annex D. The formula used from 1937 (and repeated in the Mini text above) has been criticised as implying that the forms of Protestantism established in England and in Scotland were the same. The revision suggested here avoids that imputation and has the merit of statutory precedent in the Regency Act 1937.

Commonwealth countries where you are monarch, and of your Possessions and other Territories are governed according to their respective laws and customs?

I solemnly promise so to do.

Will you in all your words and deeds uphold justice, mercy, fairness, equality, understanding and respect for all your Peoples, from all their different races, religions and cultures?

I will

Will you to your power maintain tolerance and freedom, including religious tolerance; and will you seek to uphold the rights of all your Peoples to observe their different religions and beliefs without fear of persecution?

All this I promise to do.

5.22 It might just be possible to justify some such changes under the doctrine of implied repeal; but risky, and susceptible to legal challenge. Legislation would be the safer course legally, but with high political risks.

5.23 In theory and as a way of reducing the risks, legislation might seek to confer a power for the government to draw up a text after consultation with such authorities – religious and secular – as it thinks fit. The justification for removing the text of all the oaths from primary legislation would be to avoid the need for considering fresh legislation at the start of each reign. It would also enable the government to adjust the text of the coronation oath to fit the form of the new coronation service. On the other hand, giving such a power to the government of the day would risk politicising the whole event since it would present a temptation to governments to turn such powers to their own political advantage. On balance, therefore, it seems right that the power to approve the detailed text should remain with Parliament.

Who should make - and when - the proposed qualifying statements?

5.24 Each of the oath texts above has been preceded by a suggested preambular statement by the sovereign explaining, and to some extent qualifying, the context in which the oaths are nowadays to be understood. Assuming that amending legislation is not practicable, it is up for consideration whether the burden of explanation should be borne entirely by the sovereign. This is because, irrespective of how preambular statements are drafted, it might be difficult to escape the imputation that the preambles are made on the sovereign's personal initiative and represent a less than whole-hearted commitment to what remain statutory formulae. While attempts could be made in advance to prepare the way and explain the government's support for the initiative, nothing in such an approach would be seen in some quarters to remove personal responsibility from the sovereign. It is for these reasons that the views of the new King would carry very special weight in determining both what should be done and how.

5.25 An alternative approach could be for the government to assume the whole responsibility of explaining how the oaths should now be understood. Following the precedent of 1953, the right course would be by means of a statement – endorsed if possible by a concurring statement from Lambeth Palace - by the Prime Minister in the Commons. A very full treatment is offered

below, modelled on the style of 1953. But if this is deemed too lengthy, it could be replaced by an altogether brisker approach:

Our new King is obliged by law to swear three oaths following his accession. The first is an oath under the Act of Union 1707 to uphold Presbyterian church government in Scotland. This oath is traditionally sworn at the very first meeting of the new reign's Privy Council which meets as soon as possible after the previous sovereign's death. The second is an oath required under the Bill of Rights Act 1688 to support the Protestant succession and whose text was last amended under the Accession Declaration Oath Act 1910. This oath is to be sworn at the King's first meeting with Parliament or at his coronation. The third oath is the coronation oath required under the Coronation Oath Act 1688.

All these oaths were laid down during that formative period in our constitutional history that saw the establishment of limited monarchy with parliamentary sovereignty and the creation of Great Britain by the union with Scotland. As explained by my then predecessor in 1953, in addition to the change introduced by the 1910 Act, a number of changes had been made to the coronation oath as a consequence of legislation after 1688 which implied some limited repeal to bring the oath into line with current law.

The oaths' texts have been criticised for being out of step with current constitutional understanding. It could be argued, for example, that there is no need for the Scottish oath following the Church of Scotland Act 1921 that guaranteed that Church's independence in spiritual matters, and the protections afforded to religion under the European Convention on Human Rights including as incorporated into our law under the Human Rights Act 1998. Similarly, features of the coronation oath that concentrate solely on protecting the interests of the Church of England can seem out of date. Nowadays, all religions enjoy the same level of protection under the law.

Despite their dated form, in the government's view all the oaths represent important milestones in our constitutional development and we do not intend to bring forward proposals for their amendment. They are part of our heritage of constitutional government of which it is right to remind ourselves when we welcome a new sovereign.

At the same time, however, the government is clear that the oaths fall to be understood in a manner consistent with our commitment to welcoming and nurturing everyone in our society regardless of origin, race, gender or belief. I am able to say that the King himself wishes it to be known that he most willingly supports this view and it is on that basis, accordingly, that he will have sworn and will be swearing the oaths required of him.

5.26 There is, however, a timing problem that would have to be circumvented: unless the government acted very quickly after demise, the King would have sworn the Scottish oath before the government stated its position. The solution could be for the Cabinet meeting immediately after demise to approve not only the text of the Proclamation but also a statement - later to be enlarged into the sort of statement to Parliament suggested above - explaining how the Scottish oath then fell to be understood. Another course would be for the King to make the preambular statement for the Scottish oath but leave it to the government to make a statement - backed also by Lambeth Palace concurring - applying retrospectively to the Scottish oath and covering the remaining oaths before the next is to be sworn.

Chapter 6: Conclusions and recommendations

General

6.1 This paper has explained the historical background to the Accession and Coronation oaths, and the reasons why they would benefit from updating for modern times. The final part of the paper sets out a range of different options for how they might be revised and updated, depending on how radical a change is contemplated. These options include:

- No change to the oaths, but adding some (non-statutory) preambular text to put them in a modern context.
- Minimal updating of the oaths, which might to some extent be feasible without legislation under the doctrine of implied repeal.
- More radical revision and updating of the oaths, which would require legislation.
- Abolition of one or more of the oaths, which would also require legislation.

6.2 For the option of more radical revision and updating, each of the oaths could be adapted to make more sense for its specific audience and context. The Scottish oath would then become an oath to uphold the Union; the Accession Declaration oath could become an oath to work with government and Parliament in upholding all our laws; and the coronation oath could be widened to uphold a wider set of values than justice and mercy, including religious tolerance and freedom, not just the rights and privileges of the Church of England. Which of these options is chosen depends critically on the degree of political will, and whether the government is willing to contemplate legislation.

6.3 For ease of reference, all these options are brought together in Annex A. Annex B sets out the wording of the relevant statutes, and the oaths which they prescribe. Annex C contains the parliamentary statement in 1953 when the government explained that they proposed to resort to implied repeal to amend the coronation oath without legislation. Annex D contains the text of the Regent's oath under the Regency Act 1937 where what are separate oaths for the sovereign are condensed into a single formula.

Summary of recommendations

6.4 *Assumption A: for the present and immediately foreseeable future legislation is not proceeded with.*

- The new sovereign should not themselves feel obliged to make any preambular statements when swearing the statutory oaths though a limited exception might be made for the Scottish oath (paragraphs 5.7, 5.12, 5.19-5.20, 5.24-5.25).
- Government should prepare a statement (paragraph 5.25) to be made by the Prime Minister to Parliament explaining the context in which the oaths nowadays fall to be understood. [The oath texts would be unchanged except for the inclusion of a generic reference to Commonwealth realms in the coronation oath.] The statement text suggested above could alternatively – to reduce its salience - be included in some

larger general announcement about coronation arrangements. Whatever the case, it should be accompanied by extensive and carefully prepared background briefing for the media, and the 'Approved Souvenir Programme' for the coronation should include reference to the substance of the Prime Minister's statement.

- Should the new King decide in favour of adopting preambular statements - either for all the oaths or selectively - and take an early opportunity to visit the Westminster Parliament amongst other things to make the 1910 Act declaration, the government's backing for such a strategy (which could also include early visits to the capitals of the devolved legislatures) should be announced by Parliamentary statement supported ideally by Lambeth.

6.5 *Assumption B: the government decides to legislate*

- The oath under the Act of Union 1707 should be repealed on the basis of its having been made redundant under later legislation (paragraph 5.4).
- The oath under the Accession Declaration Oath Act 1910 should be repealed and replaced with the Midi draft alternative at paragraph 5.13.
- Government should not be given any power itself to determine the text of the coronation oath (paragraph 5.23).
- The Coronation oath should be amended on the lines of the Midi draft at paragraph 5.21.

SUMMARY OF OPTIONS FOR THE ACCESSION DECLARATION AND UPDATING THE OATHS

What follows lists the range of options for revising and updating the texts. Normally, three possible courses of amendment for the statutory oaths are considered on the following lines:

- Incorporating implicit repeals, to the extent allowed by the doctrine of implied repeal;
- Adding to the texts with a non-statutory preamble, or resorting instead to a Prime Ministerial explanatory statement with background briefing; and
- Considering options for more radical change should opportunity for statutory revision arise.

Accession Declaration

2. Though not an oath as such, this is the first personal and official statement made by the new sovereign. It is important for establishing at the outset the setting in which the statutory formulae fall to be understood, especially if the ceremony is televised for the first time. Traditionally, the Declaration is drafted in the Household but shared with ministers before delivery. Formerly, the text was published only sometime after the event in a special supplement of the Official Gazette.

3. A possible text might be on the following lines:

It is with the greatest regret and profound sorrow that I am called upon to undertake the duties of King. My mother set such an exemplary model of devotion to duty that I am humbled by her achievements but at the same time inspired by them.

To follow faithfully in her footsteps, I shall need the support of the whole nation. The United Kingdom has proud and ancient traditions, which now embrace people of many different faiths, beliefs and backgrounds. Through the work of the Prince's Trust I have long supported the fullest participation in our national life of everyone, regardless of their creed or colour or social background. As King I hope to continue that tradition of welcoming and nurturing everyone in our society, celebrating our individual and collective achievements and strengthening the ties that bind us together and preserving what is best in our heritage.

I shall cherish and support the continuing and valued relationship with all Commonwealth countries and in particular those where the UK crown is retained. It is with a strong sense of honour and of obligation that I shall endeavour faithfully to execute all my public duties. It is daunting to follow in the footsteps of someone so devoted to public service and inspired by her Christian faith as my mother; my one comfort is that I can look to her example, and to the support of the whole nation in doing so.

Scottish Oath

4. If the current text is to be used without amendment, a preambular statement could be added:

In accordance with the Act of Union that created Great Britain in 1707, I willingly swear the oath concerned with preserving the Presbyterian form of church government in Scotland. I am advised that the oath should now be read with later enactments that guarantee freedom for all forms of religion and belief throughout the United Kingdom.

Text used in 1952 -

I, Elizabeth the Second by the Grace of God of Great Britain, Ireland and the British dominions beyond the seas, Queen, Defender of the Faith, do faithfully promise and swear that I shall inviolably maintain and preserve the Settlement of the True Protestant Religion as established by the laws of Scotland in prosecution of the Claim of Right and particularly an Act entitled an Act for the Securing the Protestant Religion and Presbyterian Church Government and by the Acts passed in both Kingdoms for the Union of the two Kingdoms, together with the Government, Worship, Discipline, Rights and Privileges of the Church of Scotland.

5. Mini change – This and the Midi draft alternatives would not require legislation but the Maxi alternative would...

I, Charles the Third, by the Grace of God of Great Britain and Northern Ireland and of other Realms and Territories King, Head of the Commonwealth, Defender of the Faith, do faithfully promise and swear that I shall maintain and preserve the Church of Scotland as established by the laws of Scotland in prosecution of the Claim of Right and particularly an Act entitled an Act for Securing the Protestant Religion and Presbyterian Church Government, and by the Acts passed in England and Scotland for the Union of the two Kingdoms, and by the Church of Scotland Act 1921 and the Human Rights Act 1998.

6. Reference to the 1921 and 1998 Acts could simply be *added* to the original version without need for legislation both because of the effect of the later legislation and the fact that the exact text, as opposed to the minimal content, of the oath was not in any case specified in the original Union legislation.

7. Further revision could make the oath more succinct, without changing its meaning or effect:

Midi change

I, Charles the Third, by the Grace of God of Great Britain and Northern Ireland and of other Realms and Territories King, Head of the Commonwealth, Defender of the Faith, do faithfully promise and swear that I shall maintain and preserve the Church of Scotland as established by the laws of Scotland in

prosecution of the Claim of Right and by the Acts of Union, and as guaranteed also by subsequent legislation.

8. More radical revision would require legislation to transform an oath to support the Presbyterian Church of Scotland into a much wider, more ambitious oath to uphold and support the Union, not just with Scotland but between all four nations of the UK:

Maxi change

I, Charles the Third, by the Grace of God of Great Britain and Northern Ireland and of other Realms and Territories King &c, do faithfully promise and swear that I shall seek within my power to preserve the separate customs and traditions of each part of the Kingdom and the rights of all people living there, in particular their separate laws, languages and culture, and in all my words and deeds shall show respect for their institutions and traditions.

Oath under the Accession Declaration Act 1910

9. If the current text is used without amendment, a preamble could be added:

In accordance with the Accession Oath Declaration Act, I shall willingly testify that I am a protestant, and that I will uphold the protestant succession to the throne. I wish also to make it clear that I will do everything within my power to support everyone's right to freedom of thought, conscience, religion and belief.

Unchanged text

I [monarch's name] do solemnly and sincerely in the presence of God profess, testify and declare that I am a faithful protestant, and that I will, according to the true intent of the enactments which secure the protestant succession to the throne of my realm, uphold and maintain the said enactments to the best of my powers according to law.

Midi change – this version and the following one would require legislation.

I, Charles the Third, by the Grace of God King of Great Britain and Northern Ireland &c, do solemnly and sincerely declare that I will do my utmost within my power to uphold the constitution, and the laws for the time being in force.

Maxi change

I, Charles the Third, by the Grace of God King of Great Britain and Northern Ireland &c, do solemnly declare that I will to my power uphold the constitution, and carry out my duties as monarch to the best of my powers according to all our laws and customs.

Coronation Oath

10. 1953 text

Will you solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, Pakistan, and Ceylon, and of your

Possessions and the other Territories to any of them belonging or pertaining, according to their respective laws and customs?

I solemnly promise so to do.

Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?

I will

Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? Will you 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 will you 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?

All this I promise to do.

11, Where there was no amending legislation, a preambular explanation could be as follows:

Sir, is Your Majesty willing to take the Oath

And the King answering,

I am willing, and in so doing affirm my commitment to democratic government, the rule of law with merciful justice, and religious liberty for all.

Possible amendments

12. A range is offered below. Except for the shortened, generic reference to Commonwealth realms which could be regarded as within the scope of implied repeal – and was contemplated even in 1952/3 to refer to the then much smaller number of realms - all the versions would otherwise require primary legislation.

Mini change

Will you solemnly promise and swear to ensure to the best of your ability that the Peoples of the United Kingdom of Great Britain and Northern Ireland, of the Commonwealth countries where you are monarch, and of your Possessions and other Territories are governed according to their respective laws and customs?

I solemnly promise so to do.

Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?

I will

Will you to your power maintain in Great Britain the forms of the Protestant Reformed Religion established by law and maintain throughout the United

Kingdom the protections and freedoms afforded in law to all types of religion and belief?

All this I promise to do.

Midi change

Will you solemnly promise and swear to ensure to the best of your ability that the Peoples of the United Kingdom of Great Britain and Northern Ireland, of the Commonwealth countries where you are monarch, and of your Possessions and other Territories are governed according to their respective laws and customs?

I solemnly promise so to do.

Will you in all your words and deeds uphold the values of justice, mercy, fairness, equality, understanding and respect for all your Peoples, from all their different backgrounds?

I will

Will you to your power respect the forms of the settlement of the Protestant religion as established by law in England and as established in Scotland by laws made in Scotland? Will you maintain tolerance and freedom, including religious tolerance, for all your Peoples regardless of their different races, religions, beliefs and cultures?

All this I promise to do.

Maxi change

Will you solemnly promise and swear to ensure to the best of your ability that the Peoples of the United Kingdom of Great Britain and Northern Ireland, of the Commonwealth countries where you are monarch, and of your Possessions and other Territories are governed according to their respective laws and customs?

I solemnly promise so to do.

Will you in all your words and deeds uphold justice, mercy, fairness, equality, understanding and respect for all your Peoples, from all their different races, religions and cultures?

I will

Will you to your power maintain tolerance and freedom, including religious tolerance, and will you seek to uphold the rights of all your Peoples to observe their different religions and beliefs, without fear of persecution?

All this I promise to do.

TEXT OF THE RELEVANT STATUTES, AND OATHS THEY PRESCRIBE³¹

In the order in which they are sworn, the relevant statutes and texts are as follows.

(I) The Scottish Oath

This is required, but the text as opposed to the content is not specified, by the -

Union with Scotland Act 1706 (1706 c. 11 6_Ann)

- Side notes

II Acts of Scotland herein mentioned, confirmed; Universities and colleges of Saint Andrew, Glasgow, Aberdeen and Edinburgh, to continue; Subjects not liable to Oath, Test, or Subscription, inconsistent with the Presbyterian Church Government; Successor to swear to maintain the said Settlement of Religion; This Act to be held a fundamental Condition of Union, and to be inserted in any Act of Parliament for concluding the said Union; This Ratification of the said Articles not binding until they are ratified by Parliament of England, &c.; Laws contrary to Articles void.

- ... Text of Act

- And further Her Majesty with Advice aforesaid expressly declares and statutes that none of the Subjects of this Kingdom shall be liable to but all and every one of them for ever free of any Oath Test or Subscription within this Kingdom contrary to or inconsistent with the foresaid true Protestant Religion and Presbyterian Church Government Worship and Discipline as above established and that the same within the Bounds of this Church and Kingdom shall never be imposed upon or required of them in any sort And lastly that after the decease of Her present Majesty (whom God long preserve) the Sovereign succeeding to Her in the Royal Government of the Kingdom of Great Britain shall in all time coming at His or Her Accession to the Crown swear and subscribe that they shall inviolably maintain and preserve the foresaid Settlement of the true Protestant Religion with the Government Worship Discipline right and Privileges of this Church as above established by the Laws of this Kingdom in Prosecution of the Claim of Right
- And it is hereby statute and ordained that this Act of Parliament with the Establishment therein contained shall be held and observed in all time coming as a Fundamental and Essential Condition of any Treaty or Union to be concluded betwixt the two Kingdoms without any Alteration thereof or Derogation thereto in any sort for ever As also that this Act of Parliament and Settlement therein contained shall be insert and repeated in any Act of Parliament that shall pass for agreeing and concluding the foresaid Treaty or Union betwixt the two Kingdoms and that the same shall be therein expressly declared to be a Fundamental and Essential Condition of the said Treaty or Union in all time coming which

³¹ All texts taken from legislation.co.uk accessed 21 March 2017.

Articles of Union and Act immediately above written Her Majesty with Advice and Consent aforesaid statutes enacts and ordains to be and continue in all time coming the Sure and perpetual Foundation of a compleat and entire Union of the two Kingdoms of Scotland and England under the express Condition and provision that this approbation and ratification of the foresaid Articles and Act shall be no ways binding on this Kingdom until the said Articles and Act be ratified approved and confirmed by Her Majesty with and by the Authority of the Parliament of England as they are now agreed to approved and confirmed by Her Majesty with and by the Authority of the Parliament of Scotland declaring nevertheless that the Parliament of England may provide for the Security of the Church of England as they think expedient to take place within the Bounds of the said Kingdom of England and not derogating from the Security above provided for establishing of the Church of Scotland within the Bounds of this Kingdom As also the said Parliament of England may extend the Additions and other Provisions contained in the Articles of Union as above insert in favours of the Subjects of Scotland to and in favours of the Subjects of England which shall not suspend or derogate from the force and effect of this present Ratification but shall be understood as herein included without the necessity of any new ratification in the Parliament of Scotland

(II) Accession Declaration

While the 1910 Act specifies the *content* of the oath, *the requirement to swear* is contained in the Bill of Rights Act 1688 as follows –

Bill of Rights Act 1688 (1688 c.2 1 Will and Mar Sess 2)

An Act declaring the Rights and Liberties of the Subject and Setleing the Succession of the Crowne.

...And that every King and Queene of this Realme who at any time hereafter shall come to and succede in the Imperiall Crowne of this Kingdome shall on the first day of the meeting of the first Parlyament next after his or her comeing to the Crowne sitting in his or her Throne in the House of Peeres in the presence of the Lords and Commons therein assembled or at his or her Coronation before such person or persons who shall administer the Coronation Oath to him or her at the time of his or her takeing the said Oath (which shall first happen) make subscribe and audibly repeate the Declaration mentioned in the Statute made in the thirtyeth yeare of the Raigne of King Charles the Second Entituled An Act for the more effectuall Preserveing the Kings Person and Government by disableing Papists from sitting in either House of Parlyament But if it shall happen that such King or Queene upon his or her Succession to the Crowne of this Realme shall be under the Age of twelve yeares then every such King or Queene shall make subscribe and audibly repeate the said Declaration at his or her Coronation or the first day of the meeting of the first Parlyament as aforesaid which shall first happen after such King or Queene shall have attained the said Age of twelve yeares

The wording thus required, but not the original nature of the requirement to swear was altered by

The Accession Declaration Oath Act (1910 c. 29 10 Edw 7 and 1 Geo 5)

An Act to alter the form of the Declaration required to be made by the Sovereign on Accession.

1 Alteration of form of accession declaration.

The declaration to be made, subscribed, and audibly repeated by the Sovereign under section one of the Bill of Rights and section two of the Act of Settlement shall be that set out in the Schedule to this Act instead of that referred to in the said sections.

2 Short title.

This Act may be cited as the Accession Declaration Act 1910.

SCHEDULE

I [*here insert the name of the Sovereign*] do solemnly and sincerely in the presence of God profess, testify, and declare that I am a faithful Protestant, and that I will, according to the true intent of the enactments which secure the Protestant succession to the Throne of my Realm, uphold and maintain the said enactments to the best of my powers according to law.

(III) Coronation Oath Act 1688 (1688 c. 6 1 Will and Mar)

An Act for Establishing the Coronation Oath.

Oath heretofore framed in doubtful Words.

Whereas by the Law and Ancient Usage of this Realme the Kings and Queens thereof have taken a Solemne Oath upon the Evangelists at Their respective Coronations to maintaine the Statutes Laws and Customs of the said Realme and all the People and Inhabitants thereof in their Spirituall and Civill Rights and Properties But forasmuch as the Oath itselfe on such Occasion Administred hath heretofore beene framed in doubtfull Words and Expressions with relation to ancient Laws and Constitutions at this time unknowne To the end therefore that One Uniforme Oath may be in all Times to come taken by the Kings and Queens of this Realme and to Them respectively Adminstred at the times of Their and every of Their Coronation.

II Oath hereafter mentioned to be adminstred, by the Archbishop of Canterbury, &c.

May it please Your Majesties That the Oath herein Mentioned and hereafter Expressed shall and may be Adminstred to their most Excellent Majestyes King William and Queene Mary (whome God long preserve) at the time of Their Coronation in the presence of all Persons that shall be

then and there present at the Solemnizing thereof by the Archbishop of Canterbury or the Archbishop of Yorke or either of them or any other Bishop of this Realme whome the King's Majesty shall thereunto appoint and who shall be hereby thereunto respectively Authorized which Oath followeth and shall be Administred in this Manner That is to say,

III Form of Oath and Administration thereof.

The Arch-Bishop or Bishop shall say,

Will You solemnly Promise and Swear to Governe the People of this Kingdome of England and the Dominions thereto belonging according to the Statutes in Parlyament Agreed on and the Laws and Customs of the same?

The King and Queene shall say,

I solemnly Promise soe to doe.

Arch Bishop or Bishop,

Will You to Your power cause Law and Justice in Mercy to be Executed in all Your Judgements?

King and Queene,

I will.

Arch Bishop or Bishop.

Will You to the utmost of Your power Maintaine the Laws of God the true Profession of the Gospell and the Protestant Reformed Religion Established by Law? And will You Preserve unto the Bishops and Clergy of this Realme and to the Churches committed to their Charge all such Rights and Priviledges as by Law doe or shall appertaine unto them or any of them.

King and Queene.

All this I Promise to doe.

After this the King and Queene laying His and Her Hand upon the Holy Gospells, shall say,

King and Queene

The things which I have here before promised I will performe and Keepe Soe help me God.

Then the King and Queene shall kisse the Booke.

IVOath to be adminstred to all future Kings and Queens.

And the said Oath shall be in like manner Adminstred to every King or Queene who shall Succeede to the Imperiall Crowne of this Realme at their respective Coronations by one of the Archbishops or Bishops of this Realme of England for the time being to be thereunto appointed by such King or Queene respectively and in the Presence of all Persons that shall be Attending Assisting or

otherwise present at such their respective Coronations Any Law Statute or Usage to the contrary notwithstanding.

(Source: legislation.gov.uk accessed 21 March 2017.)

STATEMENT OF CORONATION OATH CHANGES 1953

Statement 25 February 1953, Hansard vol 511 cols 2091-3.

The Prime Minister

I should now like to make my statement in reply to Question No. 45.

The terms of the Coronation Oath were first prescribed by the Act 1 William and Mary, chapter 6. Since then its terms have been changed at least five times. On one occasion only has the change had legislative sanction, namely the change which was introduced as a result of the Act of Union with Scotland. The Treaty of Union had provided that in Scotland the religion professed by the people of Scotland should be preserved to them and confirmed by every King on his accession, and it was thought proper that similar provision should be made for the protection of the English Church in England. The Coronation Oath was altered and enlarged accordingly.

For the many subsequent changes, large or small, which have been made in the terms of the Oath there was no legislative sanction. They were made at various times, and, in particular, after the Act of Union with Ireland, after the Disestablishment of the Irish Church, and also after the passing of the Statute of Westminster. On the last occasion the question whether the changes that were necessary to meet the new constitutional position could be made without an Act of Parliament was carefully considered and the Lord Chancellor and the Law Officers of the day advised that they could.

I am advised by my noble Friend the Lord Chancellor that this opinion was clearly correct, and that the changes now proposed, which are, perhaps, less substantial than those made in 1937, but are required to meet the new constitutional position created by the Indian Independence Act, 1947, and other statutes, can also be made without legislative sanction.

Her Majesty's Government propose to follow this long line of precedents. To accept the view that changes in the terms of the Oath which are necessary to reconcile it with a changed constitutional [col 2092] position cannot be made except with the authority of an Act of Parliament would be to cast doubt upon the validity of the Oath administered to every Sovereign of this country since George I.

If, as I am advised, the Coronation Oath can be lawfully administered in the terms now proposed, no useful purpose would be served by legislation. It must be remembered that at Westminster the Queen will be crowned Queen not only of the United Kingdom, but also of other self-governing countries of the Commonwealth. The form of Oath now proposed has been put to each of these countries and none has raised any objection, or has suggested that it is necessary to pass legislation in its own Parliament or in the Parliament of the United Kingdom. Indeed, it would not be possible in the time now remaining before the Coronation to arrange for legislation to be passed by the Commonwealth countries concerned.

Mr. Attlee

May I say, having had some experience of these difficulties, that I think it is extremely satisfactory that agreement has been obtained throughout the Commonwealth on this Oath, and that we should be well advised to allow this to proceed without legislation?

Mr. E. Fletcher

May I, with respect, put this to the Prime Minister? While no one would wish to throw doubt on the validity of the Coronation Oaths in the past, in view of the fact that the Coronation Oath is a Parliamentary creation, and is intended as a limitation on the Prerogative, is it not desirable, though it may be inconvenient, that any changes that are proposed this year should have legislative sanction, for which, I am sure, there would be no difficulty in making the appropriate arrangements on a non-controversial basis? It is a matter which affects the rights of Parliament, and not merely the rights of the Executive.

The Prime Minister

I think those important and weighty points have been covered by the answer which I have given to the House.

Mr. Healy

Could the right hon. Gentleman tell us whether he has considered the speech of an important member of the Irish Government in regard to this matter? [col. 2093]

The Prime Minister

Is the hon. Gentleman speaking for the Irish Government of Northern Ireland or for the Eire Government, I believe it is—the Government of the Republic?

Mr. Healy

The official name is the Government of Ireland, not the Government of Northern Ireland, which is a very small part of Ireland.

Mr. Emrys Hughes

Is the Prime Minister aware that there is a strong feeling in Scotland about the Oath being taken to a Queen Elizabeth II on the ground of historical inaccuracy? In view of his great claim to historical accuracy himself, will he not do something' to meet this very strong resentment in Scotland?

The Prime Minister

I shall be very glad to hear from the hon. Member if he will put his question in the pillar box.

REGENT’S OATH UNDER THE REGENCY ACT 1937

I swear that I will be faithful and bear true allegiance to [*here insert the name of the Sovereign*] his heirs and successors according to law. So help me God.

2. I swear that I will truly and faithfully execute the office of Regent, and that I will govern according to law, and will, in all things, to the utmost of my power and ability, consult and maintain the safety, honour, and dignity of [*here insert the name of the Sovereign*] and the welfare of his people. So help me God.

3. I swear that I will inviolably maintain and preserve in England and in Scotland the Settlement of the true Protestant religion as established by law in England and as established in Scotland by the laws made in Scotland in prosecution of the Claim of Right, and particularly by an Act intituled “An Act for Securing the Protestant Religion and Presbyterian Church Government” and by the Acts passed in the Parliament of both Kingdoms for Union of the two Kingdoms, together with the Government, Worship, Discipline, Rights, and Privileges of the Church of Scotland. So help me God.