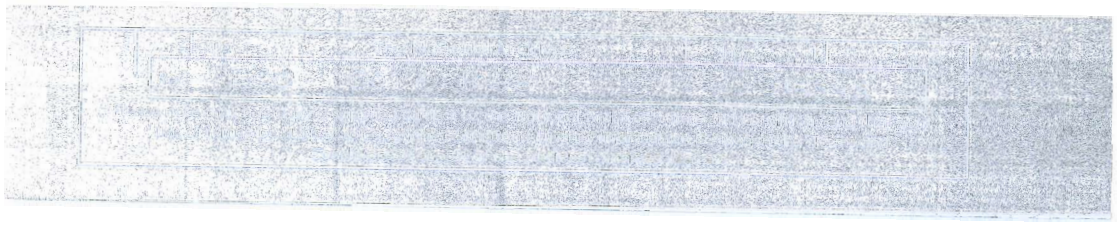
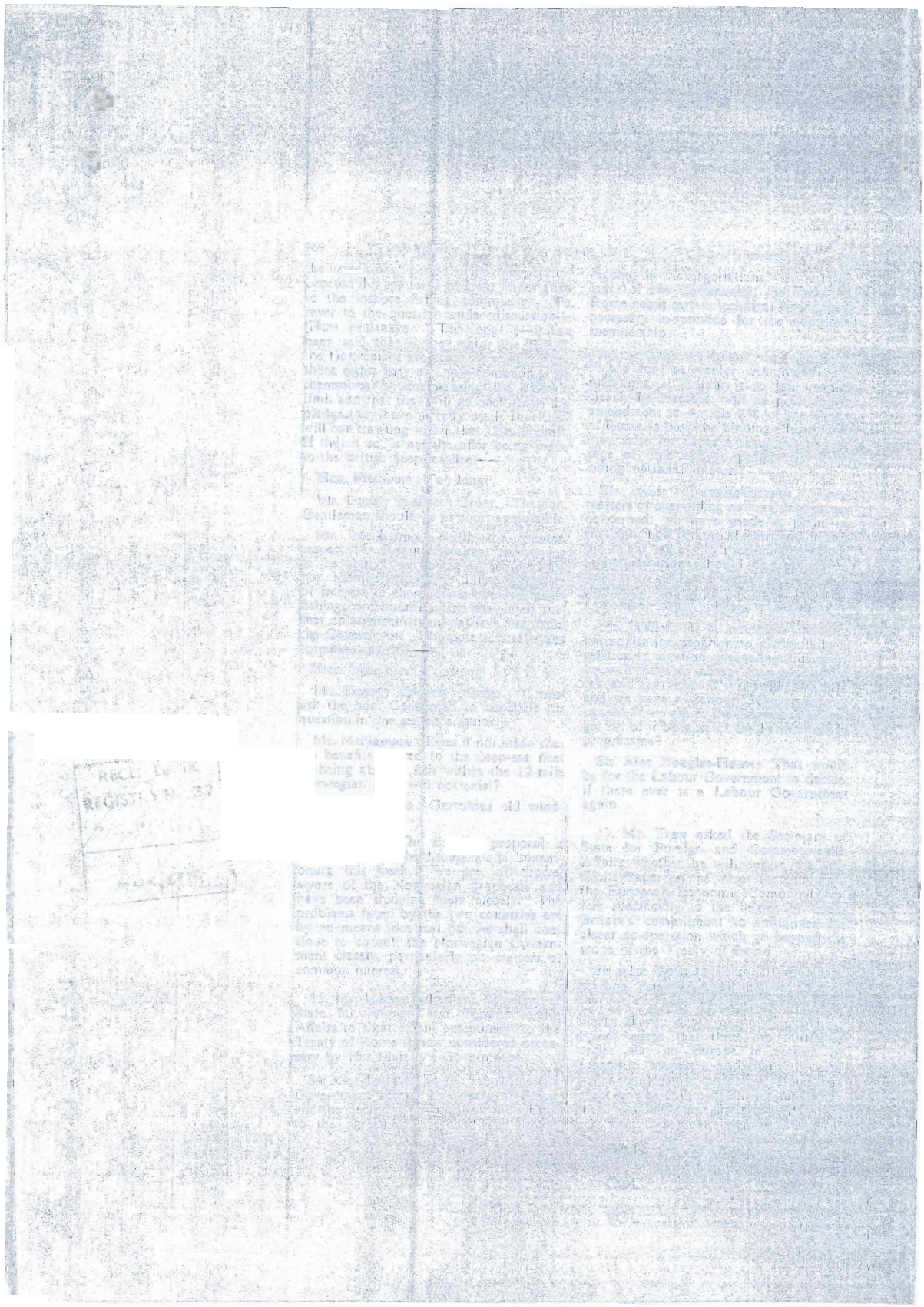




The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

question of our commitments to them, are dealt with as clearly and as specifically as possible in the White Paper?

Sir Alec Douglas-Home: Yes, Sir. It is intended that the White Paper should be as comprehensive as possible so as to give the House and the country all the information we have.

Mr. Molloy: Reference has been made to the West German growth rate. Will the White Paper say whether the effects on the British economy of joining the E.E.C. would be as dynamic as the effects of membership on the Italian economy?

Sir Alec Douglas-Home: The hon. Gentleman will be able to make all the necessary comparisons, including the one he has mentioned.

Mr. Scott-Hopkins: Does not my right hon. Friend agree that any further initiative in the political, monetary or defence sectors would be the subject of separate negotiations after our entry into the Community?

Sir Alec Douglas-Home: Questions relating to sterling are to be taken outside the context of the present negotiations. The only commitment which the E.E.C. has undertaken in regard to financial matters is that there will be discussion to see how far economic and financial co-operation can be taken. So these will be outside the negotiations.

Mr. Shore: I do not think the right hon. Gentleman has quite got the point. There really is rather more agreement amongst the Six than just a kind of loose decision to make progress with economic and monetary union. Is he not aware that there is a substantial body of Community policy in the form of regulations and other directives which need to be published and made available to the House not later than the time that he introduces his proposed White Paper?

Sir Alec Douglas-Home: Yes, Sir; but that was not the question I was asked. I was asked about economic discussions, which go beyond the scope of the present negotiations.

18. **Mr. Lane** asked the Secretary of State for Foreign and Commonwealth Affairs whether he now expects to be able to publish a White Paper on the Common Market negotiations before mid-July.

Sir Alec Douglas-Home: I would refer my hon. Friend to the statement by my right hon. Friend the Prime Minister on 17th June.—[Vol. 819, c. 643-5.]

Mr. Lane: If things go well in Luxembourg this week, as many of us hope, and if the Government then decide to recommend British entry, will my right hon. Friend ensure that the White Paper devotes plenty of space to the alternatives and makes clear that no practical alternative will offer such good prospects, both economic and political, as membership of an enlarged Community?

Sir Alec Douglas-Home: I have never made it a secret that I cannot see an alternative which would offer as good a prospect for this country as joining the E.E.C.

21. **Miss Lestor** asked the Secretary of State for Foreign and Commonwealth Affairs what progress has been made on discussions involving the acceptability of overseas workers in this country as Community workers within the European Economic Community in the event of Great Britain joining.

Mr. Anthony Royle: We are clarifying in discussions with the Community the definition of British national for the purposes of the provisions of the European Economic Community on freedom of movement of labour. Its reactions to our proposals are awaited.

Miss Lestor: Bearing in mind that that answer is similar to the answer that we have been receiving during the last year from the Prime Minister, and the Home Secretary during the passage of the Commonwealth Immigrants Bill, may I ask the hon. Gentleman to confirm one thing; namely, that Commonwealth and other workers from overseas in this country who are citizens of this country will be acceptable as Community workers and that those who are eligible to take up citizenship if they wish to be accepted as Community workers would be well-advised to do so?

Mr. Royle: I never like to disappoint the hon. Lady, and I am sorry that I should have disappointed her this afternoon. The facts are that we are awaiting the details of our proposals to be agreed with the Community, and until these are

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

21st June 1971

*U. Mr. Peter Trew (Dartford): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he will ensure that the White Paper on the terms for entry into the European Economic Community refers specifically to the degree of Great Britain's commitment to initiatives for closer co-operation which go beyond the scope of the Treaty of Rome.

NO. 17

SIR ALEC DOUGLAS-HOME

I would ask my honourable Friend to await the White Paper that we are about to issue.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E 1 D

PARLIAMENTARY QUESTION

for ORAL answer on 21st June 1971

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Monday 14/6

A18

17

*U. Mr. Peter Trew (Dartford): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he will ensure that the White Paper on the terms for entry into the European Economic Community refers specifically to the degree of Great Britain's commitment to initiatives for closer co-operation which go beyond the scope of the Treaty of Rome.

Sir Alec Douglas-Home,

I would ask ~~the~~ my hon ~~Member~~ Friend to await the White Paper that we are about to issue.

REFERENCE

Flag A 17 June Vol 819 Cols 643-645

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

PM's Statement in Berlin was on 10 June.

REFERENCE

Flag A 17 June Vol 819 Cols 643-645

NOTES FOR SUPPLEMENTARIES

INITIATIVES FOR CLOSER COOPERATION WHICH GO BEYOND THE TREATY OF ROME

These are, principally, our participation in moves by the Community towards economic and monetary cooperation and our participation in political consultations resulting from the Davignon Report.

ECONOMIC AND MONETARY COOPERATION

A decision of the Council of Ministers of the EEC of 9th February 1971 laid down the steps to be taken in the first of three stages towards eventual economic and monetary cooperation. These include technical measures to reduce margins of fluctuation between currencies, consultations on economic policies and coordination of central bank monetary policies.

THE EFFECT OF THE DOLLAR/DEUTSCHMARK CRISIS

Owing to the Dollar/Deutschmark crisis at the beginning of May the implementation of measures to reduce margins of fluctuation between currencies has been postponed.

IMPLEMENTATION OF SECOND AND THIRD STAGES

No specific timetable has been agreed for the second and and third stages. As a Member of the enlarged Community we will be able to take a full and equal part in the discussions which must precede the introduction of these stages.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

MONETARY UNION AND "ALIGNMENT" OF STERLING

Progress towards closer monetary cooperation may be difficult, and there may be setbacks, but I am confident that there will be developments in this direction. It would therefore be appropriate and right to have discussion on the question of progressive "alignment" of policies after we become members of the Community.

ARTICLE 108 OF THE TREATY

If any member country of the enlarged Community (including the United Kingdom) were to require financial assistance under Article 108 for whatever cause, the case would in the first instance be examined by the Community institutions concerned. Assistance might then be furnished either through the facilities of the Community itself or internationally. There is no difference outstanding between us and the Community on this matter.

POLITICAL CONSULTATION

As a result of the Davignon Report Foreign Ministers of the Six meet at 6-monthly intervals with a view to discussing and coordinating their foreign policies. The 4 applicant countries have been associated with this development in a parallel series of meetings of the Ten Foreign Ministers. As hon Members will know, I have taken part in 2 very successful meetingsin the latter series. After enlargement we expect the 2 series of meetings to be merged.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

PARLIAMENTARY QUESTION

for ORAL answer on 21st June 1971

E 10

The draft reply should reach the Parliamentary Office through your Under-Secretary by

Noon Monday 14/6

*U. Mr. Peter Trew (Dartford): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he will ensure that the White Paper on the terms for entry into the European Economic Community refers specifically to the degree of Great Britain's commitment to initiatives for closer co-operation which go beyond the scope of the Treaty of Rome.

Sir Alec Douglas-Home,

I would ask ~~the~~ my hon ~~Member~~ Friend to await the White Paper that we are about to issue.

REFERENCE

Flag A 17 June Vol 819 Cols 643-645

What is his significance 4 108?

Under this article if any member State is in balance of payments difficulties the Community will decide how to help. There was some question of one time of our agreeing to forego this duty.

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

83

the transitional period or for perpetuity, because this matter is of great importance to the inshore fishing community. To rever to the question under discussion—[HON. MEMBERS: "Too long!"]—it has been said that if they enter the E.E.C. the Norwegians are prepared to surrender those rights they are now demanding for themselves on maintaining the 12-mile limit and that they will go back upon the pledge they have already made that they will ban trawling within that 12-mile limit. If that is so, is not the offer being made to the British deep-sea fleet——

Hon. Members: Too long!

Mr. Deputy Speaker: Order. The hon. Gentleman should be as short as possible.

Mr. McNamara: With the greatest respect, Mr. Deputy Speaker, I am trying to be, but I am being interrupted by hon. Members opposite. These points are of interest to those of us who represent fishing constituencies, and they need further enlargement than we have had from the Government. The point I was trying to make was this——

Hon. Members: Too long!

Mr. Deputy Speaker: Order. I must ask the hon. Gentleman to conclude his question in one sentence, quickly.

Mr. McNamara: Does it not mean that the benefits offered to the deep-sea fleet of being able to fish within the 12-mile Norwegian limit will not exist?

Sir G. Nabarro: Garrulous old windbag.

Mr. Royle: The six-mile proposal is on the table for the discussions in Luxembourg this week. We are, of course, aware of the Norwegian proposals and have been studying them closely. The problems faced by the two countries are by no means identical but we shall continue to consult the Norwegian Government closely, particularly on matters of common interest.

15. **Mr. Mather** asked the Secretary of State for Foreign and Commonwealth Affairs to what extent amendment to the Treaty of Rome is now considered necessary by Her Majesty's Government.

Sir Alec Douglas-Home: Her Majesty's Government accept the Treaty of Rome and the decisions flowing from it, subject to the agreements reached and to be reached in the negotiations. On enlargement of the Community, the Treaty of Rome needs certain technical amendments necessary to provide for the additional membership.

Mr. Mather: I thank my right hon. Friend for that reply. As the full implications, if Britain is to join, cannot clearly be foreseen, will he press for an amendment to Article 240 of the Treaty of Rome to limit the binding effects which may arise for us as a result of the passage of time and to protect our over-riding national interest?

Sir Alec Douglas-Home: Where matters of over-riding national interest are concerned, we have made it plain—as my right hon. Friend the Prime Minister did in his talks with President Pompidou—that decisions should be reached by unanimity. This, I think, is the big protection against any vital interest of a member country being overridden.

Mr. Heffer: Is it not clear that the harmonisation programme, particularly in relation to taxation, means that this country will have to accept the value-added tax and that even if we dislike that tax and we have a Labour Government, we cannot, if we are in the Common Market, get rid of it because of the harmonisation programme?

Sir Alec Douglas-Home: That would be for the Labour Government to decide, if there ever is a Labour Government again.

17. **Mr. Trew** asked the Secretary of State for Foreign and Commonwealth Affairs whether he will ensure that the White Paper on the terms for entry into the European Economic Community refers specifically to the degree of Great Britain's commitment to initiatives for closer co-operation which go beyond the scope of the Treaty of Rome.

Sir Alec Douglas-Home: I would ask my hon. Friend to await the White Paper that we are about to issue.

Mr. Trew: Does not my right hon. Friend agree that there are initiatives under way in Europe in respect of economic, monetary and political union which could have no less profound an effect on the future of this country than the Treaty of Rome itself? Will he ensure that these matters, particularly the

DATE 21 June
COL 969-70
VOL 819

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

21st June 1971

*U. Mr. Carol Mather (Esher): To ask the Secretary of State for Foreign and Commonwealth Affairs, to what extent amendment to the Treaty of Rome is now considered necessary by Her Majesty's Government.

NO. 15

SIR ALEC DOUGLAS-HOME

Her Majesty's Government accepts the Treaty of Rome and the decisions flowing from it, subject to the agreements reached and to be reached in the negotiations. On enlargement of the Community the Treaty of Rome needs certain technical amendments necessary to provide for the additional membership.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E. 1. D

PARLIAMENTARY QUESTION

for ORAL answer on 21st June 1971

The draft reply should reach the Parliamentary Office through your Under-Secretary by A16

Noon Monday 14/6

*U. Mr. Carol Mather (Esher): To ask the Secretary of State for Foreign and Commonwealth Affairs, to what extent amendment to the Treaty of Rome is now considered necessary by Her Majesty's Government.

Sir Alec Douglas-Home

HMG accepts the Treaty of Rome and the decisions flowing from it, subect to the agreements reached and to be reached in the negotiations. On enlargement of the A Community the Treaty of Rome needs certain technical amendments necessary to provide for the additional membership.

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

REFERENCES

Flag A Cmnd 4401

NOTES FOR SUPPLEMENTARIES

ACCEPTANCE OF THE TREATY OF ROME

A In our opening statement to the Communities in June last year we made it clear that we accept the Treaties of the Communities and the decisions flowing from them subject to matters to be covered in the negotiations.

WHAT KIND OF AMENDMENTS TO THE TREATY ARE ENVISAGED?

It would, for example, be necessary to amend the Articles of the Treaty of Rome relating to the institutions of the Community to accommodate representation from new members.

PRESENTING THE RESULTS OF THE NEGOTIATIONS TO PARLIAMENT

I would refer hon Members to the statement last Thursday by my rt hon Friend the Prime Minister.

REFERENDUM

We have always made it plain that it is Parliament's responsibility to decide this issue as it is to decide other issues in international relations.

1 | 2 cms | The National Archives | ins 1 | 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

(82)

FOREIGN AND COMMONWEALTH AFFAIRS

European Economic Community

Mr. Marten asked the Secretary of State for Foreign and Commonwealth Affairs whether, in view of the negotiations over the Commonwealth Sugar Agreement and Great Britain's entry into the European Economic Community, he will state what quantity of sugar was imported into Holland from the Dutch dependency of Surinam in 1968, and what is the quantity for 1971; and if he will make a statement giving the reasons for the reduction.

Mr. Rippon: Figures from international sources show that the Netherlands imported 7,182 metric tons of raw sugar from Surinam in 1968. No figure can yet be quoted for 1971. Under arrangements agreed with the European Economic Community it is understood that the Netherlands have the right to import, free of levy, 4,000 tons of raw sugar per year until 1974 from Surinam but reports indicate Surinam's exports of sugar may be seriously reduced in 1971 due to damage to cane by pests.

Mr. Chichester-Clark asked the Secretary of State for Foreign and Commonwealth Affairs (1) whether he is satisfied that the Commission and the Six Member Countries of the European Economic Community are aware of the special problems which would arise in relation to Northern Ireland if the United Kingdom were to enter the European Economic Community; and if he will make a statement;

(2) what part the special economic problems of Northern Ireland will play in the decision of Her Majesty's Government to accept or reject terms of entry to the European Economic Community.

Mr. Rippon: The decision whether to enter the Community will be taken in the light of the advantages secured for the United Kingdom as a whole, having regard to the interests of all areas including Northern Ireland. In our negotiations with the Community, we are taking full account of those interests.

Mr. Moate asked the Secretary of State for Foreign and Commonwealth Affairs what consultations have taken place on the constitutional and financial position of the Isle of Man if Great Britain should join the European Economic Community; and if he will make a statement.

Mr. Rippon: There has been full consultation with representatives of the Isle of Man Government covering all the implications for the Island of United Kingdom entry into the European Economic Community. We expect to have discussions with the Six very shortly on arrangements which will best meet the wishes and needs of the Isle of Man.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs why, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will not propose in the accompanying legislation that the House of Commons should be able to renounce membersip on behalf of the United Kingdom at any future date.

Mr. Rippon: In legislation to give effect to a treaty in this country, it is neither usual nor appropriate to provide for the termination of our international obligations under the treaty.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether the present practice of proposals being made by the Commission and Ministers to the Council of Ministers of the European Economic Community being confidential and unquestionable by the House of Commons or its Members will continue on present known terms if Great Britain enters the Common Market.

Mr. Rippon: Hon. Members will continue to be free to question Ministers about proposals in the European Economic Community as they affect the United Kingdom.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he will make a statement on the recent official visit to Great Britain of Mr. Don Dunstan, the Prime Minister of South Australia; what discussions he had with him concerning Great Britain's entry into the European Economic Community; and what was

33 K 19

RECEIVED IN REGISTRY No. 37 18 JUN 1971 MWK 2/12
DATE 15 JUNE Enter H/Pa.
COL. 70
VOL. 819

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

14th June 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, why, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will not propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

NO. 32W

MR. GEOFFREY RIPPON

In legislation to give effect to a treaty in this country, it is neither usual nor appropriate to provide for the termination of our international obligations under the treaty.

1 2 cms The National Archives ins 1 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

14th June 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, why, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will not propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

NO. 32W

MR. GEOFFREY RIPPON

In legislation to give effect to a treaty in this country, it is neither usual nor appropriate to provide for the termination of our international obligations under the treaty.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E 1 D

PARLIAMENTARY QUESTION

for ORAL answer on 14th June 1971

32 W

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Wed 9/6

*La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, why, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will not propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

Mr. Geoffrey Rippon,

In legislation to give effect to a treaty in this country, it is neither usual nor appropriate to provide for the termination of our international obligations under the treaty.

Flag A

REFERENCE

Flag A Article 240 of the Treaty of Rome

✓ 12 14/6

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

1 2 cms The National Archives ins 1 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford DNC 11/6

Parliamentary Unit

I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Arthur Lewis which asks why, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will not propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

The Question is for oral answer on 14 June, but will not be taken orally.

The draft answer has been cleared with the Legal Advisers.

A H Brind

11 June 1971

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

81

the attitude and view of the South Australian Prime Minister as expressed to him on this subject.

Mr. Rippon: My right hon. Friend received Mr. Dunstan on 25th May. In the part of their discussion which related to the European Economic Community, Mr. Dunstan expressed fears for South Australia's export trade with the United Kingdom in certain goods and commodities. My right hon. Friend cited the overall buoyancy of the Australian economy and explained that the effects of European Economic Community entry (which could affect only a small proportion of Australia's export earnings) would be spread over five to eight years.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs to what extent, if Great Britain joins the European Economic Community, the implementation of Article 189 of the Treaty of Rome will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

Mr. Rippon: Article 189 of the Treaty of Rome defines the effect of regulations, directives, decisions, recommendations and opinions of the Council of Ministers and the Commission of the European Economic Community in Member States. If Parliament approves an Instrument of Accession to the European Communities its powers in relation to acts of the Council and Commission will be exercised in the light of this article.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs why he has agreed in principle to the European Economic Community countries having the same freedom of capital movements as applied to the countries of the sterling area on Great Britain's entry into the Community; and whether he will make a statement.

Mr. Rippon: We have proposed that we should comply, by the end of the transitional period, with the obligations of the Community concerning movements of capital within an enlarged Community. I will report to the House on the outcome of the negotiations with the Community on this matter as soon as they are concluded.

India and Pakistan

Mr. Carter-Jones asked the Secretary of State for Foreign and Commonwealth Affairs how much financial help has now been given by Her Majesty's Government towards supporting India with the cost of maintaining refugees from East Pakistan now in India; what additional help he proposes to give in the next six months; and if he will make a statement.

Mr. Anthony Royle: I would refer the hon. Member to my right hon. Friend's statements to the House on 8th and 9th of June. Her Majesty's Government made an immediate contribution of £1 million to the United Nations Secretary-General's Appeal Fund for the Refugees. We are also contributing £750,000 in the form of food aid through the World Food Programme. We are making available a total of £250,000 to meet the cost of Royal Air Force and charter flights and the cost of saline solution, syringes and vaccines which have enabled the British charities to give immediate help to the Indian authorities. Of this amount £177,000 has already been committed. Supplementary provision for £250,000 will be sought in due course and, if necessary, an advance will be made in the meantime from the Contingencies Fund. This sum includes the amount of £18,000 which I notified to the House on 11th May.

We are ready to consider further contributions to the relief effort, but it is not possible yet to forecast what may be needed over the next six months.—[Vol. 818, c. 862-4, 1066-70; Vol. 817, c. 206-7.]

Mr. Carter-Jones asked the Secretary of State for Foreign and Commonwealth Affairs how much financial help has been given by the United Nations in assisting India with the cost of maintaining refugees from East Pakistan now in India; what additional help he expects to be given by the United Nations in the next six months; and if he will make a statement.

Mr. Anthony Royle: Our latest information is that about $30 million has been contributed by Governments to U Thant's appeal for the refugees. $500,000 has been made available by the United Nations High Commission for Refugees, $400,000 in kind by U.N.I.C.E.F. and

Enter + pa.

DATE 15 JUNE
COL. 71
VOL. 819

RECEIVED IN REGISTRY No. 37
18 JUN 1971
MPK 7/72

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

14th June 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, to what extent, if Great Britain joins the European Economic Community, the implementation of Article 189 of the Treaty of Rome will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

NO. 40W

MR. GEOFFREY RIPPON

Article 189 of the Treaty of Rome defines the effect of regulations, directives, decisions, recommendations and opinions of the Council of Ministers and the Commission of the European Economic Community in Member States. If Parliament approves an Instrument of Accession to the European Communities its powers in relation to acts of the Council and Commission will be exercised in the light of this article.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

14th June 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, to what extent, if Great Britain joins the European Economic Community, the implementation of Article 189 of the Treaty of Rome will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

NO. 40W

MR. GEOFFREY RIPPON

Article 189 of the Treaty of Rome defines the effect of regulations, directives, decisions, recommendations and opinions of the Council of Ministers and the Commission of the European Economic Community in Member States. If Parliament approves an Instrument of Accession to the European Communities its powers in relation to acts of the Council and Commission will be exercised in the light of this article.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E.1.D.

PARLIAMENTARY QUESTION

The draft reply should reach the Parliamentary Office through your Under-Secretary by 12 noon Thursday 10/6

for ORAL answer on 14th June 1971

40 W

*La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, to what extent, if Great Britain joins the European Economic Community, the implementation of Article 189 of the Treaty of Rome will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

Mr. Geoffrey Rippon

Article 189 of the Treaty of Rome defines the effect of regulations, directives, decisions, recommendations and opinions of the Council of Ministers and the Commission of the EEC in Member States. If Parliament approves an Instrument of Accession to the European Communities its powers in relation to acts of the Council and Commission will be exercised in the light of this article.

[REFERENCE
Flag A 27 May Vol 818 Col 220W]

✓ 512
14/6

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.861

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford OPR 11/6

Parliamentary Unit

1. I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Arthur Lewis which asks to what extent, if Great Britain joins the European Economic Community, the implementation of Article 189 of the Treaty of Rome will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

2. The Question is for oral answer on 14 June, but will not be taken orally.

3. The Question arises out of an answer given to Mr Lewis on 27 May.

Flag A

4. The draft answer has been cleared with the Legal Advisers.

A H Brind

11 June 1971

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E.I.D. 80

PARLIAMENTARY QUESTION

for ORAL answer on 17th June 1971

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Monday 14/6

* transferred from the P.M.'s list.

*[1] Mr. Roger Moate (Faversham): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he is satisfied with the co-ordination between Government departments in making the appropriate studies of those of the approximately 3,000 regulations issued by the Commissioner of the European Economic Community that would need to become law in this country if Great Britain were to join the Community.

Mr. [illegible] 8/6

Mr. Rippon 8/6

Entry.

This question has now been withdrawn. We do not know why - possibly because Mr. Moate realises that now that it has been transferred from the P.M.'s list to the E.C.C. he stands no chance of getting an oral answer. It may therefore reappear at a later date.

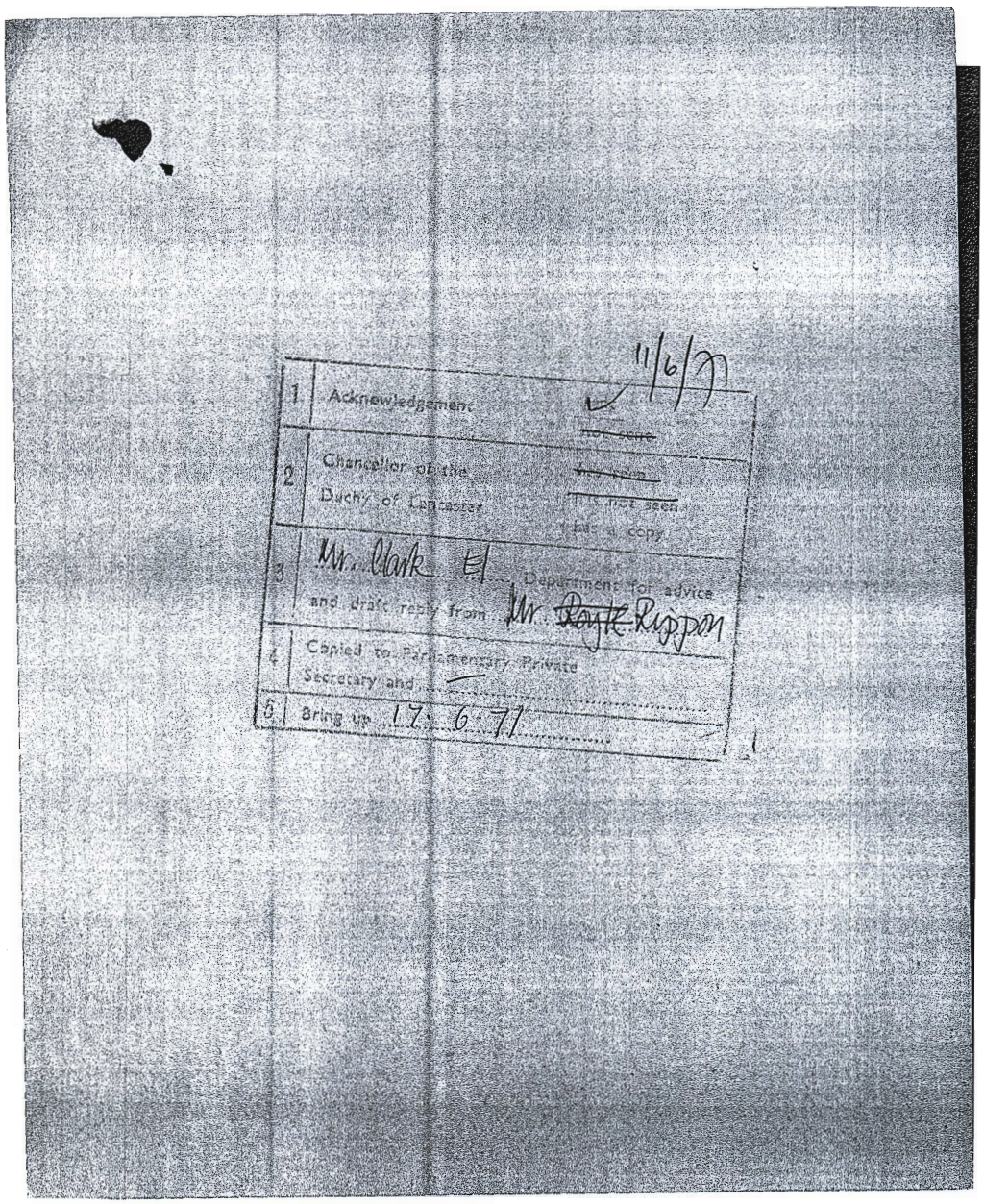
[signature] 7/6

p.a. 16/6

RECEIVED IN REGISTRY No. 37
11 JUN 1971
MBK 2/12

(13523) Dd.643721 3m 1/70 G.W.B.Ltd. Gp.363

1 | 2 | cms | The National Archives | ins | 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets



1	Acknowledgement	11/6/71
2	Chancellor of the Duchy of Lancaster	~~May I see~~ ~~It is not seen~~ ~~I see a copy~~
3	Mr. Clark E/	Department for advice and draft reply from Mr. ~~Boyle~~ Rippon
4	Copied to Parliamentary Private Secretary and	—
5	Bring up 17.6.71	

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

From Robert S. Redmond, T.D.,M.P.

79

HOUSE OF COMMONS
LONDON, SW1

10th June, 1971

Dear Albert,

I have had a query submitted to me from my constituency about the Common Market and the position of the law if we join.

This constituent asks that if he offended against Common Market law in connection with his business activities, would he be prosecuted under Common Market Law or under our own law. I do not know whether this point has been worked out but I should be grateful for your comments.

Yours sincerely,

RSR

RECEIVED IN REGISTRY No. 37
14 JUN 1971

A.P. Costain, Esq.,M.P.
The Ducky of Lancaster
Lancaster Place. Strand. W.C.2

MNK 2/12

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Robert S. Redmond TD, MP

HOUSE OF COMMONS
LONDON, SW1

10th June, 1971

Dear Albert,

I have had a query submitted to me from my constituency about the Common Market and the position of the law if we join.

This constituent asks that if he offended against Common Market law in connection with his business activities, would he be prosecuted under Common Market Law or under our own law. I do not know whether this point has been worked out but I should be grateful for your comments.

Yours sincerely,

RSR

A.P. Costain, Esq.,M.P.
The Ducky of Lancaster
Lancaster Place. Strand. W.C.2

1 | 2 cms | The National Archives | ins 1 | 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

78

Legal Advisers

M. de Winton Esq
Law Officers Department
Royal Courts of Justice
Strand
WC2

8 June 1971

I am enclosing a fair draft of the Factsheet on Sovereignty, as it resulted from our meeting yesterday afternoon. We are submitting this draft to Ministers within the Foreign Office, and I should be grateful if you could at the same time seek the views of the Law Officers on it. As you will know from what was said at yesterday's meeting, the drafts must be finally cleared by the evening of 9 June, and I very much hope that it will be possible for this timetable, which is dictated by Ministerial requirements, to be kept.

A D Watts

ENC

RECEIVED IN REGISTRY No. 87 10 JUN 1971

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

Registry No.

SECURITY CLASSIFICATION

Top Secret.
Secret.
Confidential.
Restricted.
Unclassified.

PRIVACY MARKING

.....In Confidence

DRAFT FACTSHEET

Type 1 +

To:—

From

Telephone No. & Ext.

Department

SOVEREIGNTY AND THE EUROPEAN COMMUNITIES

WHAT DOES SOVEREIGNTY MEAN?

1. Sovereignty has different aspects. Internally it involves the exclusive power to make supreme law, and in the United Kingdom this power is vested in the Crown in Parliament. Externally, sovereignty involves the power of a State to manage its own affairs.. This power is not the same as legally unlimited freedom of action. States may enter into legal commitments which limit their freedom of action, without prejudicing their sovereignty. Indeed States regularly limit their freedom of action - for example by military alliances, trading agreements, membership of international organisations, etc - and do so in pursuit of their national interests. In any event the increasing interdependence of modern states and the development of economic and other links cutting across national boundaries impose limitations of their own on national sovereignty.

THE EFFECT OF MEMBERSHIP OF THE EUROPEAN COMMUNITIES

2. Dealing first with the effects of membership in the sphere of foreign affairs, these are, in many respects, not dissimilar from those flowing from other international agreements into which we have entered, for example the General Agreement on Tariffs and Trade. It is true that in fields covered by the Community Treaties we should be required to co-ordinate our policy with that of the rest of the Communities,

(134392) Dd. 737115 750M 4/70 Hw.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

and that in some matters the conduct of international relations would be in the hands of the Communities. [It must be remembered however that this Community system rests on the original consent, and ultimately on the continuing consent, of member States and hence of national Parliaments.] [If it were not so, the Communities would fall apart.] No-one regards the existing Member States as being internationally less than sovereign States because of Community membership.

3. As for the domestic effects, Parliament would have to decide whether or not to approve the Treaty of Accession. If it did so it would have to enact the legislation necessary to give effect to the Treaty. It would thereby be endorsing the aims and principles of the Communities and would, inter alia, be agreeing to accept both existing and future Community Regulations as part of the law operating in the United Kingdom. But it would do so in the knowledge that the British representatives would be playing a full and influential part in Community institutions. There would be a British judge in the European Court (adjudicating on Community law), and our elected representatives would be in the European Parliament. Above all a British Minister would be a member of the Council of Ministers which takes all the major decisions in the implementation of the Treaties. As the Prime Minister explained in Parliament on 24 May, after his discussions in Paris with the French President, the British and French Governments share the view that [while "there are certain administrative arrangements which are handled by the Commission and which are clearly defined under the Treaty of Rome, ... It is the Council of Ministers representing the member countries, who must take the decisions.] Where a country considers that an item is of major national interest to it, a

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

decision (in the Council) should be taken unanimously - in other words the member countries should not attempt to over-rule a single country on something which it considers to be of vital national interest."

4. Our Ministers would of course still be answerable to the British Parliament for the part they and their officials play in the formulation of Community policy. Thus the British Parliament would continue effectively to watch over the national interest as in other matters in which Ministers are responsible for it.

5. Moreover, membership would not affect Parliament's power to legislate in matters not covered by Community law. In a few matters the Communities have exclusive legislative competence and in any matter in which Community law operates in a member State it would take precedence over domestic law. Community Law is however limited to the matters laid down by the Treaties, that is, broadly, customs duties; agriculture; free movement of labour, services and capital; transport; monopolies and restrictive practices, state aid for industry; and the regulation of the coal, steel and nuclear energy industries. Outside this range there would remain unchanged by far the greater part of our domestic law including criminal law, the law of contract and tort, the law of landlord and tenant, family law, social services (other than for migrant workers), nationality law and property and inheritance law.

GENERAL CONSIDERATIONS

6. The purpose and effect of joining the Communities is not to dilute our national identity or traditional way of life. It has not done so in the case of the very individual and different countries which are already members of the Communities. Membership of the Communities as it has developed is

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

rather a way of trying to find ways of reaching decisions and sharing functions on a Community basis in fields where the member nations can with advantage do so. It is also a way of influencing and benefiting from Communities which exercise increasing international authority in the interest of their members. In this way membership is a means of strengthening the influence of a nation, not weakening it.

8. The Community system is well endowed with checks and balances. Indeed given the fact that the sharing of certain functions with other states is inevitable and desirable, joining the Communities is a method of doing do which gives members effective and continuing democratic control over that process.

9. Moreover there is a further way in which membership of the Communities tends to add to the real power in the outside world of its members. For example, France or Germany is important to third countries not only because of her power in her own right but also because of her ability to influence the Communities. In the same way, Britain's real power - and the influence of her Government or other governments - will tend to increase from membership of the Communities.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Parliamentary Under-Secretary
Read 9/6 Ack. ✓
To. EID
for draft reply please.
W.S. Scott. 9/6.
HOUSE OF LORDS RECEIVED IN REGISTRY 1971
LIBRARY
MISC 2/12

8. June 1971

Dear Lothian.

I write in regard to a point which I regard as of considerable importance. I spoke to you about it at tea this afternoon.

In the debate in the Lords on 19 January '71 on Britain's entry into the EEC, Lord George Brown (Col 362) replying as much as anything, I think, to what Shinwell had said earlier, went out of his way, in no uncertain terms, to make the point that a decision by the U.K to enter would not be irrevocable. He said that it was "... not in fact true that once in you cannot get out..." & he called in aid de Gaulle's action in 1965 when he withdrew from the Council of Ministers & other Community institutions etc.

I recollect that others speaking later in the debate referred to the point, certainly none dissented, and indeed you yourself (Col 474) when you wound up for the Government applauded his speech & hoped it would be widely read both in this country and by the Six.

The supposition therefore was that you also agreed with the particular point.

However I noted that on Monday of this week 7th January in Panorama (B.B.C. 1) Alec Douglas-Home had this point put specifically to him in a question by

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

by Robin Day & he replied that we could not get out.

I sensed perhaps that he purposely said this rather quietly, obviously it would be difficult for a Foreign Secretary to do otherwise when we are trying to get in, but I really do think that it should not be left there, if at all possible.

As I understand it, there is no provision in the Treaty of Rome to bring it to an end, but neither is anything said about individual members coming out, so in theory I deduce that that course would be possible.

I appreciate that it is essentially a psychological point as in practice it might prove very difficult to come out, particularly as time went on and one could hardly visualise it happening except in an extreme situation, but surely there would exist just that loophole?

The anti-marketeers make great play of this irrevocability & I believe they use the point with some success to persuade those who are lukewarm about entry, or sitting on the fence. Can this not be countered by some suitable formula from Lords?

I would be most grateful if you could let me know what is officially felt. I should mention that I raise this now in view of a correspondence in local press in the North East to which I have felt constrained to contribute; it is however of far more than local significance.

You will I hope have gathered that I am very much in favour of our entry!

Yours Sincerely

Rochdale.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

76

M= Ford.

Reference

~~Would it be possible for you to speak to Sir H. Evans and explain that a decision in the Law Officers is urgently required, so that we can see the PM No 10, the Lord President, the Cabinet Office and others concerned.~~ James Fel. 8/6

Mr Adams (European Communities Information Unit E 120)

FACTSHEET ON SOVEREIGNTY

1. I attach a redraft of the Factsheet on Sovereignty, which incorporates amendments agreed during the meeting of the Sopwith Committee yesterday afternoon. Paragraph 7 of the draft, however, only reached me after that meeting had ended and was therefore not considered by the Sopwith Committee: it does however raise no legal issue and is primarily a political paragraph.

2. I am afraid that I cannot say that the Sopwith Committee approved the draft. They did not like it and would not have drafted a draft Factsheet of sovereignty in anything like the terms of the draft. In view of the time factor, however, there was no prospect of embarking on the preparation of a legally more acceptable draft. The general view of the Sopwith Committee was that from a legal point of view the present draft could well give rise to trouble, particularly in the form of answering questions based upon points made, or rather glossed over, in the Factsheet. However, they accepted that this is primarily a political exercise and were prepared to treat it as such. I feel the same way about this paper as did the rest of the Sopwith Committee.

3. However, we did not think that the propositions in it are actually wrong from the legal point of view and are therefore prepared for it to be submitted to the Law Officers. There is no guarantee that the Law Officers will be willing to clear this draft quickly, or indeed that they will agree to issuing it at all. If they do have reservations about the issue of such a Factsheet they will doubtless wish to take it up from Ministerial colleagues direct.

4. It may be that I have to go to a meeting before I can sign this minute or finally check the draft. I hope you will excuse this, in the interests of speed. I attach the original amended draft so that if anything has gone wrong you can see where.

c.c. { M= Loyd (for signature) / E.I.D. / M= Hurlock / M= Stoker }

A D Watts
Legal Advisers
W 44/4

8 June 1971

ENC

Subject Legal + Constitutional implications
pa
9/6

RECEIVED IN REGISTRY No. 37
- 9 JUN 1971
MNK 2/12

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Registry No.

SECURITY CLASSIFICATION

Top Secret.
Secret.
Confidential.
Restricted.
Unclassified.

PRIVACY MARKING

.....In Confidence

NOTHING TO BE WRITTEN IN THIS MARGIN

DRAFT FACTSHEET

Type 1 +

To:—

From

Telephone No. & Ext.

Department

SOVEREIGNTY AND THE EUROPEAN COMMUNITIES

WHAT DOES SOVEREIGNTY MEAN?

1. Sovereignty has different aspects. Internally it involves the exclusive power to make supreme law, and in the United Kingdom this power is vested in the Crown in Parliament. Externally, sovereignty involves the power of a State to manage its own affairs.. This power is not the same as legally unlimited freedom of action. States may enter into legal commitments which limit their freedom of action, without prejudicing their sovereignty. Indeed States regularly limit their freedom of action - for example by military alliances, trading agreements, membership of international organisations, etc - and do so in pursuit of their national interests. In any event the increasing interdependence of modern states and the development of economic and other links cutting across national boundaries impose limitations of their own on national sovereignty.

THE EFFECT OF MEMBERSHIP OF THE EUROPEAN COMMUNITIES

2. Dealing first with the effects of membership in the sphere of foreign affairs, these are, in many respects, not dissimilar from those flowing from other international agreements into which we have entered, for example the General Agreement on Tariffs and Trade. It is true that in fields covered by the Community Treaties we should be required to co-ordinate our policy with that of the rest of the Communities,

(34392) Dd.737115 750m 4/78 Ew.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

and that in some matters the conduct of international relations would be in the hands of the Communities. [It must be remembered however that this Community system rests on the original consent, and ultimately on the continuing consent, of member States and hence of national Parliaments.] ~~If it were not so, the Communities would fall apart.~~ No-one regards the existing Member States as being internationally less than sovereign States because of Community membership.

3. As for the domestic effects, Parliament would have to decide whether or not to approve the Treaty of Accession. If it did so it would have to enact the legislation necessary to give effect to the Treaty. It would thereby be endorsing the aims and principles of the Communities and would, inter alia, be agreeing to accept both existing and future Community Regulations as part of the law operating in the United Kingdom. But it would do so in the knowledge that the British representatives would be playing a full and influential part in Community institutions. There would be a British judge in the European Court (adjudicating on Community law), and our elected representatives would be in the European Parliament. Above all a British Minister would be a member of the Council of Ministers which takes all the major decisions in the implementation of the Treaties. As the Prime Minister explained in Parliament on 24 May, after his discussions in Paris with the French President, the British and French Governments share the view that [while "there are certain administrative arrangements which are handled by the Commission and which are clearly defined under the Treaty of Rome, ... It is the Council of Ministers representing the member countries, who must take the decisions.] "Where a country considers that an item is of major national interest to it, a

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

decision [in the Council] should be taken unanimously - in other words the member countries should not attempt to over-rule a single country on something which it considers to be of vital national interest."

4. Our Ministers would of course still be answerable to the British Parliament for the part they and their officials play in the formulation of Community policy. Thus the British Parliament would continue effectively to watch over the national interest as in other matters in which Ministers are responsible for it.

5. Moreover, membership would not affect Parliament's power to legislate in matters not covered by Community law. In a few matters the Communities have exclusive legislative competence and in any matter in which Community law operates in a member State it would take precedence over domestic law. Community Law is however limited to the matters laid down by the Treaties, that is, broadly, customs duties; agriculture; free movement of labour, services and capital; transport; monopolies and restrictive practices, state aid for industry; and the regulation of the coal, steel and nuclear energy industries. Outside this range there would remain unchanged by far the greater part of our domestic law including criminal law, the law of contract, and tort, the law of landlord and tenant, family law, social services (other than for migrant workers), nationality law and property and inheritance law.

GENERAL CONSIDERATIONS

6. The purpose and effect of joining the Communities is not to dilute our national identity or traditional way of life. It has not done so in the case of the very individual and different countries which are already members of the Communities.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

NOTHING TO BE WRITTEN IN THIS MARGIN

rather a way of trying to find ways of reaching decisions and sharing functions on a Community basis in fields where the member nations can with advantage do so. It is also a way of influencing and benefiting from Communities which exercise increasing international authority in the interest of their members. In this way membership is a means of strengthening the influence of a nation, not weakening it.

7. The Community system is well endowed with checks and balances. Indeed given the fact that the sharing of certain functions with other states is inevitable and desirable, joining the Communities is a method of doing so which gives members effective and continuing democratic control over that process.

8. Moreover there is a further way in which membership of the Communities tends to add to the real power in the outside world of its members. For example, France or Germany is important to third countries not only because of her power in her own right but also because of her ability to influence the Communities. In the same way, Britain's real power - and the influence of her Government or other governments - will tend to increase from membership of the Communities.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

ECONOMIST
24 APR 1971
Cutting dated 19

Encl: Legal implications of joining EEC

EEC Britain & Europe

The issue of sovereignty: creating the next Leviathan?

Ardent pro-Europeans have something in common with the seventeenth-century philosopher Thomas Hobbes. They can advocate an abdication of sovereignty—in their case national rather than personal—on perfectly selfish grounds. European law will bring its own reward; without it the life of the British economy will be solitary, poor, nasty, brutish and short. But this perhaps over-inflates the issue of sovereignty. There is also the line of argument taken in the constitutional white paper* of 1967, which did its best to show that Britain would not actually be handing over sovereignty at all. In the present Government, Mr Geoffrey Rippon, for one, has treated the constitutional issue with something close to scorn. That is one way of coping with a question that is at least partly semantic. But it is more convincing to anticipate those like Mr Enoch Powell who will raise the bogy of an impotent Parliament as the EEC negotiations proceed. Five constitutional questions need answers.

1. *By Article 240 of the Treaty of Rome, the European community was created for an indefinite duration: what happens if Britain, once in, wants to get out?* This is a peculiarly groundless as well as faintheartedapprehension. The crude answer is that Britain is no less an independent power in the common market than out. And so, in the unlikely event of wanting to leave, could do so. As is often pointed out, Britain's much-prized sovereignty is limited anyway, by geographical situation, mutual defence pacts, dependence on trade, international debt. A repeal clause in whatever treaty bound Britain to Europe would neither add to nor subtract from its force. But the argument is not—or should not be—just about power. It is about authority, or legitimacy; and this is where the constitutionalists come in.

2. *In Britain, according to constitutional theory embalmed by Dicey in the nineteenth century, no Parliament can bind its successor. So how can Britain commit itself to observe future community decisions?* There is a crude answer to this, too. No nation can bind future generations inviolably. Other countries than Britain may revoke previous decisions by rewriting their constitutions (with or without a revolution) rather than merely, as Britain does, by passing another statute. Every European government can only hope that its successors will abide by the Treaty of Rome.

Britain lacks not so much a written constitution—this is more famous than correct; rights are enshrined in a multitude of written statutes going back to the Bill of Rights and beyond, to the much-repealed Magna Carta. What Britain really lacks is an effective check on its legislature. There is no judicial review of legislation. On joining the EEC, this will be a help as well as a hindrance. Britain will be free of the sort of legal tangles from which the Germans and Italians have suffered. But this does leave one question uncomfortably wide open.

3. *Some community law is intended to have direct effect within member states. What happens when this conflicts with British law?* To be enforceable in British courts, a treaty making Britain a member of the EEC must be put through Parliament. This means Britain would have to pass a monster statute embodying existing community law—more or less. The fear that these laws, drawn up for countries with a Roman law tradition, will be unsuited to a common law country such as England, is a bogy; Parliament will manage to draw up reconcilable laws just as it now makes laws for the two different systems of Scottish and English law. What happens then? Under Article 189 of the Treaty of Rome, the principal law-making instruments of the commission are regulations (intended to take effect automatically as law in member states) and directives (addressed to the governments which are then required to incorporate them into their internal law). These, according to the white paper, would "like ordinary delegated legislation" derive their force from the original statute joining Britain to the Six.

It is possible to pretend that regulations are like ordinary delegated legislation provided that they post-date any domestic British law with which they may conflict. The white paper rather undermines this by suggesting that regulations, as well as directives, should be turned into British statute law to make everything quite clear. If this happened, either Parliament would be setting itself up as a rubber stamp to each and every new community regulation; or, if it wanted to keep its authority over every Brussels regulation, Britain's intentions to abide by community decisions, expressed in the treaty making it a member, would have a hollow ring.

4. *This really comes down to a simple question: who is going to enforce community law?* The answer is, of course, the British courts. This would be plain sailing where each new community rule is enacted in turn into British statute law; it might be less plain sailing as regards regulations, unless the original statute made it sufficiently clear in advance that these have to count as law. British courts will have to accustom themselves to a rather more interpretive role, since community regulations are couched in more general terms than British statute law.

British courts will also have to accept the relevance of more foreign judgments, which is being made to happen to an increasing extent anyway. The water gets choppy when it comes to regulations with which subsequent parliamentary statutes conflict. On Dicey's analysis, Parliament cannot prevent its successor from passing such laws. According to the white paper, Parliament would have to refrain from doing so—an unsatisfactory answer if there ever was one. Of course the constitutional image of an unfettered Parliament passing statutes at will or whim has long been laughable; since Dicey's day the government has acquired a strong hold on the Commons. So one answer is that other European governments, if they cared enough, would bring pressure on the British Government to ensure that offending legislation was dropped.

* Legal and Constitutional Implications of United Kingdom Membership of the Economic Communities, *HMSO*.

REGISTERED 37
4 JUN 1971
MSK 2/12

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

ECONOMIST
24 APR 1971
Cutting dated 24 APR 1971 19

There is another, more ambitious and less realistic answer. A number of eminent lawyers maintain that Parliament can in fact limit its legislative authority. Even Dicey believed that it could transfer its sovereignty to some other body. The example most commonly adduced is the 1931 Statute of Westminster, destroying Parliament's right to legislate for Commonwealth countries without their consent. It is argued that Parliament is also constrained by the Act of Union with Scotland. This would theoretically mean that the courts could rule on whether a British law is valid.

But as things stand it is too much to expect a cautious British judiciary to reject new acts of Parliament without Government prompting. Parliament would first have to spell out in a bill that it would be a defence to an action brought under British law that it was inconsistent with a community regulation. The consequence of this would be that the courts would not uphold British statutes passed in contravention of European regulations. It is important that British courts are not in opposition to, but help to interpret and develop community law. They would not be unaided in this. By far the greatest number of actions brought before the European court are not under Articles 169 and 170 (against member states for failing to fulfil their obligations) or under Articles 173 and 175 (against the commission itself) but under Article 177, under which the European court gives rulings on the interpretation of community law. It does not enforce its interpretation; when the Germans imposed a compensatory turnover tax and the European court indicated that it was contrary to Article 95, the ball was back in the German court. But it has been under Article 177 that the lines of European law have been drawn out. This makes the European court sound like little more than a consultancy; but then "interpenetration" of legal systems, rather than a new set of, probably weak, community courts, is the best way for Eurolaw to grow.

This is the first in a series of briefs by *The Economist* setting out the facts about British entry into the common market.

5. *If other institutions can pass laws for Britain and the courts will uphold them, what sovereignty is left to Parliament?* Put another way, how wide can community law range, and who makes it? At present EEC law covers economics and finance; this gives a wider range than these dry terms imply, and—unanimously—member countries could decide to broaden it still further. Regulations have been made in the fields of restrictive practices and monopoly, movement of workers, social security of migrant workers, agriculture, transport—and there are also similar rules covering the coal, steel and nuclear energy industries. If non-tariff barriers are not to spring up where tariff barriers have been knocked down, a good deal of harmonisation of company law, for example, has to take place, just as it was necessary to harmonise some of the laws of Scotland and England. The 1967 white paper soothingly pointed out that there would be no effect on English and Scottish criminal law. The sanctions imposed under community law are of a civil rather than criminal character—which means money rather than prison.

The white paper was also concerned to point out both the safeguards in the framing of community law and the new freedoms it would open up to the ordinary citizen. But those who drafted the white paper were so concerned to anticipate critics that they suffered from a failure of imagination. It is one thing to point out that most regulations have to be passed unanimously or at worst by a qualified (which means large) majority of the council of ministers, or to show how it will be open to an ordinary citizen to challenge, say, a tax or customs demand on the ground that it conflicts with community law. It is another to show how Britain will actually be part of the law-making and enforcing business. The European parliament gets scant treatment; perhaps, until Article 137 is put into effect and it is directly elected, that is all it is worth, but it might also have been worth soothing parliamentarians by pointing out that about 5 per cent of MPs are likely to find their way to Strasbourg, and could form a bridge with Westminster.

The EEC still conforms to Mr Heath's recent picture of a united Europe as one in which governments "form the habit of working together." This pragmatic view of the EEC has the advantage of deflating the constitutional issue, since in British constitutional theory the government is constrained by Parliament. But if Europe becomes federalist or supranational or "interpenetrated," Mr Powell's ilk might then argue that the British nation had been led into it blindfold. It is better that the constitutional argument should look ahead to a firmer European social contract and conquer straight away the wilder nightmares of an uncontrolled European Leviathan. Only governments will ever create the European Leviathan; it will not appear unasked.

1 | 2 | cms | The National Archives | ins | 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

74 E 10

show to what extent housing costs per person in Great Britain would have to rise to match the countries of the Six; and whether he will consider doing this in order to facilitate Great Britain's entry into the European Economic Community.

Mr. Channon: I do not find it possible to make reliable comparisons of total expenditure on housing between Britain and the E.E.C. countries, or to draw from any such comparison any valid conclusions.

Train Travel (Tickets)

52. **Mr. Wolrige-Gordon** asked the Secretary of State for the Environment if he will give a general direction to British Railways to improve methods of preventing travel on trains without a ticket.

Mr. Peyton: No.

QUESTIONS TO MINISTERS

36. **Mr. Iremonger** asked the Lord President of the Council if he will arrange for a revised order of Questions to be printed so as to indicate the dates on or by which Questions must be tabled when the period covered by the revised order is interrupted by days of recess.

Mr. Whitelaw: The Table Office produces before each recess, for the guidance of hon. Members, a duplicated chart showing when notice may first be given of Questions for oral answer during the first two weeks after a recess. This might well meet my hon. Friend's point.

HOUSE OF COMMONS MEMBERSHIP (DISQUALIFICATIONS)

40. **Mr. Pardoe** asked the Lord President of the Council whether he is satisfied that all the disqualifications for membership of the House of Commons are still necessary; and what steps he proposes to take to limit disqualification.

Mr. Whitelaw: There are no proposals for changes at the present time, but if the hon. Member has any particular category of disqualification in mind, perhaps he will let me know. The list of disqualifications is kept under regular review.

29 N 45

CANADIAN PARLIAMENT

Mr. Arthur Lewis asked the Lord President of the Council whether he will arrange to visit his counterpart in the Canadian Parliament to discuss matters connected with exchange visits of Members of the two Parliaments.

Mr. Whitelaw: I have no such plans at present.

Mr. Arthur Lewis asked the Lord President of the Council whether he is aware that Members of the Canadian Parliament are to receive a 50 per cent. increase in their existing salaries, bringing these up to $18,000 per annum; and that their existing tax-free expenses allowance is to be raised by 33 per cent. to $8,000 per annum; and whether he will obtain from the Canadian Government details of how these amounts are paid and on what basis and submit the details to the Boyle Committee.

Mr. Whitelaw: I would refer the hon. Member to the written reply I gave him on 15th January.—[Vol. 809, c. *138-9.*]

CATERING MANAGER (SALARY)

Mr. Arthur Lewis asked the Lord President of the Council why the Catering Manager is paid £3,600 per annum as against a Member of Parliament's £3,250; what expenses the Manager is expected to meet out of this salary; whether he receives free meals; and whether he has to pay his secretary's salary out of this amount.

Mr. Whitelaw: The salary of the Catering Manager is fixed by the Catering Sub-Committee of the Services Committee, in the light of salaries paid in the trade for posts of similar responsibility. The Manager has to pay his normal living expenses out of his salary. He is entitled to free meals and he does not pay his secretary's salary.

EUROPEAN ECONOMIC COMMUNITY

3 **Mr. Arthur Lewis** asked the Lord President of the Council to what extent,

RECEIVED IN REGISTRY No. 37 25 MAY 1971 MNKR/12
DATE 12 MAY 71.
COL 112-113.
VOL 817
Enter & return to [illegible] with file.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

before a decision is taken in the Council of Ministers of the Community, it is open to Parliaments of member States, including Great Britain, not only to debate such issues, but to refuse to agree to or implement any decisions arrived at by the Council of Ministers of the Community.

Mr. Whitelaw: If we accede to the Treaty of Rome, it will be open to Parliament, as it is to Parliaments of other member States to debate, before their enactment, those Community instruments submitted by the Commission of the E.E.C. to the Council of Ministers for approval. As members of the E.E.C. we would be represented in the Council and party to its processes of decision-making on Community legislation.

MINISTER (OFFICIAL ENGAGEMENTS)

Mr. Arthur Lewis asked the Lord President of the Council whether he will publish in the OFFICIAL REPORT a list of his official engagements for Saturday, 5th June, 1971.

Mr. Whitelaw: It is not the practice to do so.

REFRESHMENT DEPARTMENT

Mr. Arthur Lewis asked the Lord President of the Council why the investigation into the administration of the Refreshment Department's administration is not yet complete; what recommendations have already been made for the improvement of the service and its efficiency; and whether Members may make written or oral statements to assist in this investigation.

Dr. Bennett: I have been asked to reply.

The investigation concerns many matters of considerable detail, and this will require time. A number of recommendations have so far been made and approved by the Sub-Committee, relating to the control of supplies and the checking of stores. The Sub-Committee will certainly consider suggestions for the improvement of the efficiency of the service to hon. Members.

29 N 46

BOYLE COMMITTEE

Mr. Arthur Lewis asked the Lord President of the Council why he has not appointed the members of the Boyle Committee; when he expects to make these appointments; when he expects the Committee to hold its first meeting; how often it will meet; and whether he will make a statement.

Mr. Whitelaw: I would refer the hon. Member to my reply to him on 21st April, 1971. [C. 403.] It will be for the Review Body to decide on the timing of its meetings.

SCOTLAND

Austistic Children

53. **Mr. Alexander Wilson** asked the Secretary of State for Scotland how many autistic children are in mental hospitals in Scotland; and in which hospitals.

Mr. Gordon Campbell: The normal hospital statistics do not show the number of children in this complex diagnostic category, but a special enquiry is at present being carried out and I shall send details to the hon. Member as soon as possible.

54. **Mr. Alexander Wilson** asked the Secretary of State for Scotland how many autistic children are being educated in day schools in Lanarkshire.

Mr. Gordon Campbell: I am asking the education authority to provide the hon. Member with up-to-date information.

Mr. Alexander Wilson asked the Secretary of State for Scotland how many autistic children in Scotland are in special units of education.

Mr. Gordon Campbell: The education authorities have reported to me that in January there were 14 autistic children receiving special education. It will however be appreciated that many children who are classified under other handicaps also exhibit autistic symptoms.

High Seas Salmon Fishing

Lieut.-Colonel Colin Mitchell asked the Secretary of State for Scotland what steps the British delegates will take at the

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

UNCLASSIFIED

73

UK Delegation to the
European Communities
52 Ave des Arts
1040 Brussels

27 May 1971

S W Fremantle Esq
Department of Trade and Industry
1 Victoria Street
London SW1

Ents: Legal implications of joining EEC

Dear Sydney,

IMPLEMENTING EEC DIRECTIVES

Thank you for your letter of 2 May.

2. I have discussed this with a number of people here and with Ian Sinclair (Legal Counsellor, FCO) and we all agree that it is hard to answer your questions in very precise terms. Directives as you know, bind member States as to the result to be achieved, while leaving it to national authorities to determine how this is to be done. In practice statutory measures (legislation or subordinate legislation) are often used, although administrative measures may be sufficient in certain cases. The type of sanctions varies from case to case: but I am told that civil sanctions are most often considered sufficient.

3. Since the objective of the Directives with which you and I are concerned is generally to ensure the free circulation of goods among the member States, exports to third countries are as a rule specifically exempted from the application of the directives.

4. I would have thought it best to deal with your question on "control" by reference to the motor vehicle type approval directives. As you know, these provide that member States may not prohibit the marketing of vehicles certified by another member State as confirming with the Community standard: except that sales may be suspended for up to six months where there is a demonstrable risk to safety. This is, of course, a question of type approval rather than individual certification. There have so far been no directives in the industrial field requiring compulsory certification of every production model.

5. Individual certification is the general rule in the agricultural field, where member States are called on, in principle, to recognise one another's systems of animal and plant health certification; but they are allowed considerable latitude to carry out additional checks on or after importation, essentially

/to

RECEIVED IN REGISTRY NO. 37
MAY 1971
NMK 2/12

UNCLASSIFIED

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

to take account of the possibility that disease may have been contracted in transit. I do not think, though, that Verdiani would regard this as creating a precedent to be followed for industrial products.

Yours sincerely

Charles Cruickshank

C M Cruickshank

cc I M Sinclair Esq
FCO

I T Steven Esq
EID
FCO

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

72

fundamental problems will arise over transitional periods.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs how many letters in cyclostyle format he sent to the hon. Member for West Ham, North with his communication of 10th May; to what extent these were in reply to communications sent to him in favour of and against Great Britain's entry into the European Econmic Community; and in what numbers in each instance.

Mr. Rippon: I wrote to the hon. Mem ber on 10th May enclosing replies to the identical unstamped postcards, over 300 in number, which he sent me under cover of a letter dated 3rd May. The postcards, which bore no indication either of authorship or of publisher, made three points about the effect of British membership of the European Economic Community, and asked the Member of Parliament addressed to vote against British entry.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs on what dates in March and April he replied to the 200 to 250 written communications from members of the public about Great Britain's entry into the European Economic Community; and what was the nature of these replies.

Mr. Rippon: The letters from the public referred to by the hon. Member were received at various dates throughout the period in question and covered a wide range of questions and statements about our negotiations for entry into the European Economic Community. Some, congratulating Her Majesty's Government on their conduct of the negotiations, were given a short reply thanking the writer for his sentiments. Others, seeking information or criticising the negotiations, were given more detailed replies. All were answered.

Mr. Powell asked the Secretary of State for Foreign and Commonwealth Affairs what total sum he estimates will be expended in the current financial year out of his Vote for all purposes of informing the British public on the subject of the European Economic Community.

Mr. Rippon: It is not possible to estimate how much time will be spent in the current financial year by members of the Foreign and Commonwealth Office in answering inquiries from the public on the negotiations, or in drafting ministerial speeches and statements on the British application for membership of the European Economic Community.

The production and distribution of the series of Factsheets on Britain and the Common Market is carried out on the direct sponsorship of the Foreign and Commonwealth Office, but their cost is borne on the Central Office of Information and Her Majesty's Stationery Office Votes. The entire operation, which was mounted to meet the demand for factual information, was originally planned to cost about £45,000. The heavy public demand for the Factsheets will involve extra costs. The latest estimate of the total cost based on the current level of demand is £62,000.

Mr. Deakins asked the Secretary of State for Foreign and Commonwealth Affairs how his recent agreement with the European Economic Community will safeguard the interests of Commonwealth cane sugar producers after 1974, in the event of priority being given to sugar beet production within an enlarged European Economic Community.

Mr. Rippon: I am confident that the sugar policy of the enlarged Community will be determined in accordance with the recent proposal by the Communities to safeguard the interests of the developing sugar-producing countries of the Commonwealth.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs if he will ensure that the instrument of accession, if Great Britain joins the European Economic Community, will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

Mr. Rippon: If we join the European Economic Community the powers of Parliament in relation to acts of the Council of Ministers will be exercised in the light of the provisions of Article 189 of the Treaty of Rome.

Mr. Deakins asked the Secretary of State for Foreign and Commonwealth

RECEIVED IN REGISTRY No. 27 - 2 JUN 1971 MUK 2/17
DATE 27 May
220
VOL. 818
29 30 31 32

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

26th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will ensure that the instrument of accession, if Great Britain joins the European Economic Community, will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

NO. 39W

MR. GEOFFREY RIPPON

If we join the European Economic Community the powers of Parliament, in relation to acts of the Council of Ministers will be exercised in the light of the provisions of Article 189 of the Treaty of Rome.

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

26th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will ensure that the instrument of accession, if Great Britain joins the European Economic Community, will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

NO. 39W

MR. GEOFFREY RIPPON

If we join the European Economic Community the powers of Parliament, in relation to acts of the Council of Ministers will be exercised in the light of the provisions of Article 189 of the Treaty of Rome.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E.1.D.

PARLIAMENTARY QUESTION

for ~~ORAL~~ answer on 26th May 1971
WRITTEN

The draft reply should reach the Parliamentary Office through your Under-Secretary by 9.30 Wed 26/5

394

*La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will ensure that the instrument of accession, if Great Britain joins the European Economic Community, will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

Mr. Geoffrey Rippon,

If we join the EEC the powers of Parliament, in relation to acts of the Council of Ministers will be exercised in the light of the provisions of Article 189 of the Treaty of Rome.

VGR

REFERENCES

Flag A Article 189 of the Treaty of Rome

(13523) Dd.643721 3m 1/70 G.W.B.Ltd. Gp.863

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford 24/5.

Parliamentary Unit

1. I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Arthur Lewis which asks if he will ensure that the instrument of accession, if Great Britain joins the European Economic Community, will enable the British House of Commons to pray for the annulment of orders made by the Council of Ministers.

2. The Question is for oral answer on 26 May, but will not be reached and no notes for supplementaries are required.

3. The Question in that it refers to orders of the Council of Ministers is vaguely expressed. If it referred to regulations the answer could be no. But Parliament could certainly pray against a directive or decision and, though probably ineffectually, it could attempt to resolve against a regulation. It is also suspected that in using the term "instrument of accession", Mr Lewis intends not the Treaty of Accession (which would have to be negotiated with other States) but legislation giving effect to membership.

4. The draft answer has been cleared with the Legal Advisers.

Arbrind

A H Brind
European Integration Department

26 May 1971

Copied to

Mr Watts

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the Terms and Conditions of supply of the National Archives' leaflets

Mr. Deakins asked the Secretary of State for Foreign and Commonwealth Affairs if he has negotiated safeguards to prevent any expansion of sugar beet production in an enlarged European Economic Community which would adversely affect the interests of commonwealth cane sugar producers after 1974.

Mr. Rippon: Levels of sugar beet production in an enlarged Community will be governed by the Community's regulations, as they are in the present Community. The relevant provisions are reviewed annually and it would be reasonable to expect the review to take account of the Community's assurances on sugar from developing Commonwealth countries.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs what was the cost of the official luncheon held by the Chancellor of the Duchy of Lancaster in Brussels on 11th May for the Foreign Ministers of the Six; and what was the purpose of the function.

Mr. Rippon: The cost of the luncheon was £194.59. It provided an opportunity for valuable informal discussions at an important juncture in the European Economic Community negotiations.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he will place in the Library the full text of the public statement made by the Chancellor of the Duchy of Lancaster in Brussels on Tuesday 11th May, 1971, concerning the nature of the discussions between the United Kingdom negotiators and their counterparts from the Six.

Mr. Rippon: No. I made no public statement on 11th May, but as is customary in the course of the day I gave two briefings to journalists which covered developments during the day in the discussions on sugar. The full texts of my statements in the negotiating conference are of course confidential, but on 17th May on my return from Brussels and Reykjavik I reported fully to the House on the previous week's negotiating meetings with the European Economic Community.—[Vol. 817, c. 882-6.]

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he will publish in the OFFICIAL REPORT full and detailed information showing to what extent the public proposals of the Ministers of the European Economic Community in Brussels on 11th May concerning Commonwealth sugar differed from those made by the Commission in November, 1970.

Mr. Rippon: No.

Proposals made by the Commission were to the Council of Ministers of the Community; these are confidential as are the details of the proposals put to Her Majesty's Government by the Community in the negotiating conference. The nature of the Community's proposals on Commonwealth sugar and Her Majesty's Government's reaction to them, were dealt with in my statement to the House on 17th May.—[Vol. 817, c. 882-6.]

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he is aware that confidential information regarding the Brussels negotiations is given to the Press, radio and television, by representatives of Her Majesty's Government; and whether he will reconsider his methods of informing Parliament about these talks in the light of these leaks.

Mr. Rippon: Arrangements for briefing Press, radio and television correspondents during the Ministerial negotiating meetings with the European Economic Community follow standard procedures. I am not aware of any leaks attributable to representatives of Her Majesty's Government. I see no reason to vary my practice of making a statement to the House, as I did on 17th May, as soon as it is possible after each Ministerial negotiating meeting.—[Vol. 817, c. 882-6.]

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

Mr. Rippon: No.

REGISTRY
-1 JUN 1971
MWK 2/12

DATE 24 May
COL 26
VOL 818

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

24th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

NO. 56W

MR. GEOFFREY RIPPON

No, Sir.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

24th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

NO. 56W

MR. GEOFFREY RIPPON

No, Sir.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E 10

PARLIAMENTARY QUESTION

for ORAL answer on 24th May 1971

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Thursday 20/5

*1a. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

Mr. Geoffrey Rippon,

~~ANSWER~~

No, Sir.

[REFERENCE

Flag A Article 240 of the Treaty of Rome]

V S R.

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

PARLIAMENTARY QUESTION

for ORAL answer on 24th May 1971

E 1 D 15/

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Thursday 20/5

*La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

Mr. Geoffrey Rippon,

~~ANSWER~~

No, Sir.

[REFERENCE

Flag A Article 240 of the Treaty of Rome]

V 12.

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford cc. 24/5.
Parliamentary Unit

1. I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Arthur Lewis which asks whether, in the event of Parliament approving the instruments of accession to the Treaties of the Communities, he will propose in the accompanying legislation that the House of Commons should be able to renounce membership on behalf of the United Kingdom at any future date.

2. The Question is for oral answer on 24 May, but will not be taken orally and no notes for supplementaries are required.

3. It would be possible:-

Flag A

i. to give an answer viewing Articles 240, 208 and 97 of, respectively, the EEC, Euratom and ECSC Treaties in the light of the 1969 Vienna Convention on the Law of Treaties and customary international law; or

ii. to explain that, in the final analysis, no additional legislation would be necessary to permit Parliament voting in favour of renouncing membership of the Communities (formally, the actual renunciation of membership is not a matter for Parliament).

4. However, I think it is clear that a measure of the kind proposed by Mr Lewis is not contemplated, and that there is no reason why we should not say so.

A H Brind

21 May 1971

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Pur. dept. & Constitutional implications - see (70)

21st May 1971.

I attach for the purpose of discussion a first draft of a reply to Mr. Elystan Morgan's Parliamentary Question on accession to the EEC. I am copying this letter and the enclosure to Arthur Watts and Sir Charles Sopwith.

K. M. NEWMAN.

Pur. Minister approved yesterday

M. de Winton, Esq.

RECEIVED IN REGISTRY 37
-1 JUN 1971
MNK 2/12

With M. Sinclair's concurrence, I have agreed the attached draft answer.

24

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the Terms and Conditions of supply of the National Archives' leaflets

270

Mr Elystan Morgan (Cardigan): To ask Mr Attorney General, if he will make a statement concerning the power of Parliament to repeal at a subsequent date any decision which was made by way of resolution or legislation directed to effecting the entry of the United Kingdom into the European Economic Community.

(For Written Answer - 25th May 1971)

Draft Answer

There are no present constitutional restrictions on the power of Parliament to undo its own actions, but such a step ~~would, in the absence of exceptional circumstances,~~ not be consonant with the international obligations which the United Kingdom would have assumed ~~and it does not seem profitable to speculate about the possibility of Parliament ever wishing to adopt such a course.~~

upon joining the European Communities.

taken unilaterally would ~~be~~ in any foreseeable circumstances.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the Terms and Conditions of supply of the National Archives' leaflets

NOTE

Mr. Elystan Morgan is Labour Member for Cardigan.

It is universally agreed that Parliament would have, at least according to present constitutional doctrine, power to repeal any legislation passed to give effect to United Kingdom accession to the European Economic Community. (See Lord Chancellor Gardiner Official Report (Lords) 1967 vol. 282, no. 148, cols. 1202 - 3; Lord Chancellor Dilhorne Official Report (Lords) 1962 vol. 243, no. 115, cols. 421 - 422.)

In the light of the development of Community jurisprudence and the possible effect of the absorbtion of the corpus of Community law into our own law, the possibility of this constitutional doctrine being eroded in the course of time following United Kingdom accession to the European Economic Community cannot however be discounted.

The answer follows the line adopted by successive Lord Chancellors in debate in the House of Lords that, since repeal of the legislation implementing the Treaties would put the United Kingdom in breach of here Treaty obligations, nothing is to be gained from speculating on the theoretical powers of Parliament; it would be contrary to a moral obligation to refrain from acts which are inconsistent with the international obligations of this country.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

(69)

Foreign and Commonwealth Office

London S.W.1

27 April 1971

K M H Newman Esq
Lord Chancellor's Office
House of Lords
London SW1

Dear Kare,

SOVEREIGNTY IN THE EUROPEAN ECONOMIC COMMUNITY

Many thanks for your letter of 23 April (67) about the planned factsheet on Sovereignty and the Community announced by Mr Rippon in reply to a question by Mr Elystan Morgan on 22 April.

I had not myself been aware that a specific factsheet on Sovereignty was in the wind, although I knew generally that a number of factsheets were in the process of publication. I have now caused enquiries to be made and it appears that the proposed factsheet on sovereignty, which would be prepared in the first instance by the COI, is due to be published in about ten weeks time. I am also informed that, since the programme for the issue of this series of factsheets is not unalterable, we may be able to delay the publication of the factsheet on sovereignty if the views of the Law Officers are not by then available. In any event our European Communities Information Unit have promised to let me see the first draft of the factsheet and I will ensure that you, and the other recipients of this letter, see it at that stage.

I am copying this letter to Mike de Winton and also to Sir Charles Sopwith.

Yours ever,
Ian.

I M Sinclair
Legal Advisers

RECEIVED IN REGISTRY No. 37
-1 JUN 1971
HNK 2/12

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Reference 68

Mr Sinclair

SOVEREIGNTY AND THE EEC

1. The answer to the question by Mr Morgan was prepared by ECIU who will be responsible for the first draft of the factsheet on sovereignty and will consult you, the Sopwith Committee, and the Lord Chancellor's Office about it. This is one of a series of fact sheets and is due to be prepared in about 12 weeks time although, since the programme for the issues of these publications is not unalterable, we can delay its publication if we do not have by then the Law Officers' opinion.

2. I am returning Mr Newman's letter to you as agreed.

I T Steven
European Integration Department

26 April 1971

Re APPA? Finland Office

1. Mr. Adams
2. Mr. Steven

Thank you. May we copy this exchange of letters to the C.D.I. (Mr Witherow) who is responsible for first draft of fact sheets. James Fell 27/4

In that case I will make it 'Confidential'. I have written to Mr. Newman accordingly.

27/4

Resp for on legal + Con. Inst. implications

27/4

RECEIVED IN REGISTRY No. 3 APR 27 1971

HWK 2/12

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

67

LORD CHANCELLOR'S OFFICE
HOUSE OF LORDS
LONDON S.W.1

01-930 6240

Mr Stein
Should we know about this before the Chancellor?
P.L.S.
26/4

23rd April 1971.

Dear Jan,

Sovereignty in the European Economic Community

I see that in written answer to a Question by Mr Elystan Morgan (House of Commons Official Report, 22nd April 1971, Col. 458) the Chancellor of the Duchy announced that a factsheet on Sovereignty and the Community is planned. We did not know about this and nor ~~do~~, I understand, did the Law Officers, and in view of the complex and delicate problems to which the question of Sovereignty gives rise, I am not altogether happy about a commitment to publish a survey in a simplified form. We shall now need to bear this in mind in connection with the matters placed before the Law Officers.

I am copying this letter to Michael de Winton and Sir Charles Sopwith.

Yours ever,
Karl.

K. M. Newman

I. M. Sinclair, Esq.

REGISTRY
RECEIVED
- 1 JUN 1971
MNK 2/12

1 2 cms The National Archives ins 1 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

66

May 1971

G F Hiller Esq
British Embassy
BRUSSELS

CONSTITUTIONAL AND LEGAL MEASURES TO IMPLEMENT THE TREATIES OF THE EUROPEAN COMMUNITY

1. Will you please refer to your letter of 19 November 1970 enclosing a statement of the measures taken by Belgium to accede to the EEC and Euratom.

2. Your letter enclosed the Belgian law effecting accession to the EEC and Euratom, and I would be most grateful if you could now obtain for us fairly urgently the equivalent law for the ECSC (ie between 18 April 1951 and 1 January 1952). This is required by the Law Officers for a study of the steps taken by each of the Six to give effect to their accession to each Community.

I T Steven
European Integration Department

RECEIVED IN REGISTRY No. 37
26 MAY 1971
MNK 2/1A

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Reference

(64)

HD 17-5

Mr. Bridges (O2)

Mr. Stallard (O2)

(63)

You will wish to see the attached note by Mr. Watts on the outcome of the appeal in the case of Blackburn v. Attorney General.

The judgment given by the Master of the Rolls is bound to be taken into account in the opinion of the Attorney General upon the supremacy of Community law. The commentary on Sovereignty will also be useful.

T. L. Lewin
13/5

Mr. Rogers. m 17/v.

You are already generally aware of this outcome. You may like to see the present note.

T. L. 17/5

Lewin
18/5

Reverts on "Legal implications"
T.L. 21/5

RECEIVED IN REGISTRY
20 MAY 1971
MNK 2/12

The National Archives
Ref.: FCO 30 / 1048
312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Reference

Sir Vincent Evans (Legal Advisers K 172)

BLACKBURN V. ATTORNEY GENERAL

1. The appeal of this case was heard today. The Court of Appeal unanimously dismissed the appeal. Mr Blackburn had indicated during the hearing that he did not intend to seek leave to appeal to the House of Lords.

2. The leading judgment was given by the Master of the Rolls. After briefly introducing the history of the case, he went on to say that Mr Blackburn was right, so far as he could judge, in saying that if the UK were to go into the Common Market the signature of the Treaty would commit it irreversibly to the joinder of the market, and that furthermore, in some degree the sovereignty of these islands would be shared with others. Mr Blackburn had referred to COSTA v. ENEL , and to the fact that many Regulations would become automatically binding in the UK, and that our courts would have to follow the decisions of the European Court.

3. But, (The Master of the Rolls continued) this was all a matter of negotiation at the moment. Even if the Treaty were signed our courts would take no notice of it until it was enacted by the laws of this country: this was so well established a proposition that it needed no authority, and the Master of the Rolls referred only to Rustomjee v. The Queen. Mr Blackburn had argued that the Treaty of Rome was in a category by itself because it diminished the sovereignty of the United Kingdom. However, in the view of the Master of the Rolls, the principle he had stated applied equally to all treaties. The treaty making power vests in the Crown acting on the advice of Ministers; prerogative acts of this kind cannot be questioned in the courts. The Master of the Rolls then turned to the question whether Parliament ~~could~~, in approving legislation for participation in a permanent treaty, could enact an irreversible statute. In his view all laws were repealable. But this ~~was~~ legal theory ; that one Parliament cannot bind its successors and that any Parliament can repeal ~~any~~ previous statute. But legal theory does not always march alongside political reality. He did not believe that anybody would say that Parliament would repeal the Statute of Westminister or independence Acts for our former colonies. In any case, whatever might be the theory of Parliament's power to reverse itself, the matter could only be tested when the time came, i.e. if and when Parliament should seek to reverse the act allowing for our entry into the Common Market. Sovereignty was a political fact for which no purely legal authority could be constituted. While Mr Blackburn was right in asserting that one Parliament cannot bind another and that any Parliament has the power to repeal previous statutes, this court would wait until that time came. Our courts will not impugn the treaty making power of the Crown, and so far as Parliament enacts legislation the courts will deal with it at the time that legislation comes before the courts.

4. Salmon and Stamp, L. JJ., delivered short concurring judgments, the general drift of which was that it was for the Crown

RECEIVED IN REGISTRY
23 MAY 1971
MNE 2/12

1 2 cms The National Archives Ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the Terms and Conditions of supply of the National Archives' leaflets

to make treaties, and for Parliament to enact the necessary legislation; the role of the courts were limited to applying and construing the legislation when once passed.

A D Watts
Legal Advisers
W 44/4

10 May 1971

Copy to:
Mr Sinclair

Mr Steven

D. Watts,

Thank you. This seems very satisfactory.

M.V.H. Evans

Now see attached extract from The Times, 11/5.

(1) E.(D). for entry.

12/V

(2) M. Steven

I fear that this may prompt a PQ or two . .

12/V

26/V
pa

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Treaty of Rome declarations refused

Blackburn v. Attorney General

Before Lord Denning, the Master of the Rolls, Lord Justice Salmon and Lord Justice Stamp

The court will not at the suit of a subject grant declarations which impugn the Crown's prerogative to enter into the Treaty of Rome, even though it may commit the executive irreversibly to joining the Common Market and mean some sharing of the sovereignty of these islands with others. The court's function is to interpret political decisions when they have been embodied in Acts of Parliament; and though the present accepted legal theory is that no Parliament can bind its successors, political realities may not always necessarily accord with that legal theory.

Their Lordships so stated in dismissing an appeal by Mr. Raymond Blackburn, of Corney Road, Chiswick, from the order of Mr. Justice Eveleigh affirming Master Jacob and striking out two statements of claim in proposed actions for declarations against the Attorney General representing her Majesty's Government, on the ground in Order 18 rule 19 of the Rules of the Supreme Court that they disclosed no cause of action.

Mr. Blackburn in person; Mr. Gordon Slynn for the Attorney General.

The MASTER OF THE ROLLS said that once again Mr. Blackburn had shown eternal vigilance in support of the law. His application concerned the Government's proposal to apply to sign the Treaty of Rome and to join the Common Market. Mr. Blackburn sought declarations in his two statements of claim to the effect that by signing the treaty her Majesty's Government would surrender in part the sovereignty of the Crown in Parliament for ever, and that in so doing they would act in breach of the law.

The Attorney General had applied to strike out those actions on the ground that the statements of claim disclosed no reasonable cause of action.

As Mr. Blackburn said, it was important to clear the air; and his Lordship thought that was a legitimate desire. Mr. Blackburn was quite right, so far as his Lordship could judge, in saying that if this country should go into the Common Market the significance of the treaty would commit at least the executive irreversibly to the joinder of the Market, and further that in some degree the sovereignty of these islands would be shared with others.

The court had been referred to *Costa v. E.N.E.L.* ([1964] Common Market Law Reports, 425) concerning the Italian electrical industry, in which the judgment of the European Court was that member states, albeit within limited spheres, had restricted their sovereign rights and created a body of law applicable both to their nationals and to themselves.

Mr. Blackburn had pointed out that there might be many regulations which became automatically binding on the people of this country and that the courts of this country, in certain limited respects, might have to follow the decisions of the European Court. That was the basis of his application.

But it was right to point out at the outset that everything at the moment was at the negotiation stage. No treaty had been signed; even if one were signed the courts took no notice of treaties made by the executive of this country until they were embodied in laws enacted by Parliament. That was so well established that his Lordship needed only to quote from Lord Coleridge, Chief Justice, in *Riesonnice v. The Queen* ((1876) 2 Q.B.D. 69, 74) that "She [the Queen] acted throughout the making of the treaty and in relation to each and every of its stipulations in her sovereign character, and by her own inherent authority; and, as in making the treaty and performing the treaty, she is beyond the control of municipal law, and her acts are not to be examined in her own courts."

Mr. Blackburn accepted that; but he said that the present proposed treaty was in a category by itself in that it diminished the sovereignty of Parliament over the people of this country.

His Lordship considered that the principle applied to the proposed treaty as to any other. The treaty-making power of this country rested not in the courts but in the Crown—her Majesty acting on the advice of her ministers; and when they negotiated for and signed a treaty, even one of such paramount importance as that proposed, they acted on behalf of the country as a whole and their conduct and prerogative could not be challenged or questioned in the courts in any way.

Secondly, Mr. Blackburn asked, could Parliament either effectually or legitimately implement the treaty, which was irreversible? He pointed out that lawyers from time immemorial had said that in England Parliament was supreme, so supreme that no Parliament could bind its successors, and that any Parliament could reverse any previous enactment; and he had referred the court to Professor Maitland's statement in his *Constitutional History* (p. 332) on the Act of Union between England and Scotland that "We have no irrepealable laws" and that laws might be repealed by the ordinary legislature, even the conditions on which the English and Scottish Parliaments agreed to merge themselves in the Parliament of Great Britain.

It was legal theory that one Parliament could not bind another and that no Act was irreversible; but legal theory did not always march alongside political reality. Take the Statute of Westminster. Could anyone imagine that Parliament could or would reverse it or the Acts which had granted independence to the great dominions and territories overseas, and say that we still had some degree of control over them? Most clearly not.

Whatever the theory of Parliament not being able to reverse itself, the matter could only be tested as and when the time came. His Lordship did not envisage that if we went into the Treaty of Rome Parliament would reverse it; but the time to consider that was when Parliament sought to reverse it. It was certainly not a matter for consideration now.

Nor was it necessary to rule on the Crown's submission that Mr. Blackburn had no standing to come before the court. Mr. Blackburn said the matter was one on which he felt very strongly and with which many persons in this country were concerned. His Lordship would not like to rule him out on that ground. The ground on which he must be ruled out was that the courts would not impugn the treaty-making power of Her Majesty on the advice of her ministers, and in so far as Parliament enacted legislation the courts would deal with it as and when they saw it. The statements of claim disclosed no cause of action and the appeal should be dismissed.

LORD JUSTICE SALMON, concurring, said that while he recognized the undoubted sincerity of Mr. Blackburn's views, he deprecated litigation the purpose of which was to influence political decisions which had nothing to do with the courts. The courts were concerned only with the effect of such decisions if and when they had been implemented by the legislature.

Still less had the courts power to control the treaty-making power of the Sovereign.

LORD JUSTICE STAMP, also concurring, said that he expressed no view whatever on the implications of this country becoming a party to the Treaty of Rome. Mr. Blackburn had confused the separation between the powers of the Crown, Parliament, and the courts. The Crown entered into treaties. Parliament enacted the laws. And it was the duty of the courts in proper cases to interpret those laws when made. The courts should not at the suit of one of her Majesty's subjects make declarations regarding the undoubted prerogative rights of the Crown to enter into treaties.

Mr. Slynn asked for the costs of the proceedings.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Reference 62

CONFIDENTIAL

MR WATTS (Legal Advisers)

SOVEREIGNTY

1. I mentioned to you, in connection with the paper on Sovereignty, the request from the Private Office for a short Annex and I undertook to make this request more explicit.

2. The Secretary of State had commented on the need for a paper to make clear "in what areas Parliament will not be able to determine policy". The paper as a whole is of course addressed to very much this problem but the Private Office interpreted the Secretary of State's requirement as including the need to "identify areas such as tariffs which would be subject to Community control (and particularly control by the Commission) and rates of taxation which would not. It would be worth listing major areas such as "criminal law, over which control would be retained by the House of Commons". They also commented that this section should be produced as soon as possible; this fits in with our wish to put the paper as a whole to the Planning Committee in June.

3. I hope this gives you enough to go on. As I see it, the requirement is for a relatively short and factual Annex setting out the present range of subjects covered by Community law, regulations and directives under general headings; indicating which subjects were not now covered but might become subject to Community regulation with the progressive "deepening" of the Community; and which areas (as for example the criminal law) were unlikely to continue to be regulated on a national level.

4. I hope to have the paper ready for circulation to members of the Planning Committee by Thursday 27 May. If at all possible we should like to have the Annex ready at the same time.

W R Tomkys
Planning Staff

17 May 1971

Copied to:

Mr P Cradock
Mr Morland (EID)

CONFIDENTIAL

RECEIVED IN REGISTRY No. 37
25 MAY 1971
MNK 2/12

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Economic Community; and how many of these were in favour and how many against Great Britain's entry.

Mr. Rippon: I have nothing to add to the reply which I gave to the hon. Gentleman on 10th May.—[Vol. 817, c. 23.]

Mr. Clark Hutchison asked the Secretary of State for Foreign and Commonwealth Affairs if he will publish in the OFFICIAL REPORT a list, subject by subject, of the regulations under the Treaty of Rome which will apply in the United Kingdom if she joins the European Economic Community on present known terms.

Mr. Rippon: Examination of acts of secondary legislation is part of the current negotiations and has not yet been completed. When the process of agreeing the texts of the adaptations required is completed, texts of all regulations in force, in English, will be made available to the House.

Mr. Clark Hutchison asked the Secretary of State for Foreign and Commonwealth Affairs how many regulations made under the provisions of the Treaty of Rome are now in force; and what number of these would apply in the United Kingdom if she joined the European Economic Community on the latest known terms.

Mr. Rippon: About 2,000 regulations are now in force. Regulations of the European Economic Community are of direct application in member States.

BLOOD SPORTS

Q8. **Mr. William Price** asked the Prime Minister how many letters he has received since 18th June on the subject of blood sports.

The Prime Minister: About 3,000.

MANAGEMENT EDUCATION

Q9. **Mr. Douglas** asked the Prime Minister if he is satisfied with the co-ordination of responsibilties between the Scottish Office and the Department of Education and Science with respect to management education, in relation to courses leading to national examinations; and if he will make a statement.

The Prime Minister: Yes.

SECRETARY OF STATE FOR WALES (SPEECH)

Q10. **Mr. Roy Hughes** asked the Prime Minister if the public speech of the Secretary of State for Wales at Gateshead on 24th April on the Common Market represents the policy of Her Majesty's Government.

The Prime Minister: Yes.

SLOUGH

Q11. **Miss Lestor** asked the Prime Minister if he will pay an official visit to Slough.

The Prime Minister: I have at present no plans to do so.

SCHOOL MEALS

Q12. **Dr. Gilbert** asked the Prime Minister how many letters he has received supporting Her Majesty's Government's decision to increase the price of school meals.

The Prime Minister: I would refer the hon. Member to the answer I gave on 6th May to a Question from the hon. Member for Newcastle-under-Lyme (Mr. Golding).—[Vol. 816, c. 444.]

PRIME MINISTER AND PRESIDENT OF FRANCE (MEETING)

Q14. **Mr. Arthur Lewis** asked the Prime Minister whether, during his forthcoming discussions with President Pompidou, he will discuss the possibility of creating a new European Community, open to any country in Europe, without any restrictions imposed on monetary action by member countries.

The Prime Minister: I would refer the hon. Member to the answer I gave yesterday to Questions from the hon. Member for Walthamstow, West (Mr. Deakins).—[Vol. 817, c. 228.]

RECEIVED IN REGISTRY No. 37 20 MAY 1971 NWK 2/12
DATE 18TH MAY
COL 279
VOL. 817

The National Archives
Ref: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

17th May 1971

U. Mr. Michael Clark Hutchison (Edinburgh, South): To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will publish in the Official Report a list, subject by subject, of the regulations under the Treaty of Rome which will apply in the United Kingdom if she joins the European Economic Community on present known terms.

NO 4W

MR. GEOFFREY RIPPON

Examination of acts of secondary legislation is part of the current negotiations and has not yet been completed. When the process of agreeing the texts of the adaptations required is completed, texts of all regulations in force, in English, will be made available to the House.

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets.

17th May 1971

U. Mr. Michael Clark Hutchison (Edinburgh, South): To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will publish in the Official Report a list, subject by subject, of the regulations under the Treaty of Rome which will apply in the United Kingdom if she joins the European Economic Community on present known terms.

NO 4W

MR. GEOFFREY RIPPON

Examination of acts of secondary legislation is part of the current negotiations and has not yet been completed. When the process of agreeing the texts of the adaptations required is completed, texts of all regulations in force, in English, will be made available to the House.

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

(9069) Dd.032652 3m 2/67 G.W.B.Ltd. Gp.863

E 10

PARLIAMENTARY QUESTION

17th May 1971

for WRITTEN answer on .....

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Friday 14/5

4 W

U. Mr. Michael Clark Hutchison (Edinburgh, South): To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will publish in the Official Report a list, subject by subject, of the regulations under the Treaty of Rome which will apply in the United Kingdom if she joins the European Economic Community on present known terms.

Mr. Geoffrey Rippon,

Examination of acts of secondary legislation is part of the current negotiations and has not yet been completed. When the process of agreeing the texts of the adaptations required is completed, texts of all regulations in force, in English, will be made available to the House.

REFERENCES

Flag A	26 April	Vol 816	Col 8
Flag B	22 February	Vol 812	Col 10W
Flag C	22 February	Vol 812	Col 13W

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford 13/5

Parliamentary Unit

1. I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Michael Clark Hutchison which asks if he will publish in the Official Report a list, subject by subject, of the regulations under the Treaty of Rome which will apply in the United Kingdom if she joins the European Economic Community on present known terms.

2. The Question is for written answer on 17 May.

P R T Dain

13 May 1971

Enc

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

60

Economic Community; and how many of these were in favour and how many against Great Britain's entry.

Mr. Rippon: I have nothing to add to the reply which I gave to the hon. Gentleman on 10th May.—[Vol. 817, c. 23.]

Mr. Clark Hutchison asked the Secretary of State for Foreign and Commonwealth Affairs if he will publish in the OFFICIAL REPORT a list, subject by subject, of the regulations under the Treaty of Rome which will apply in the United Kingdom if she joins the European Economic Community on present known terms.

Mr. Rippon: Examination of acts of secondary legislation is part of the current negotiations and has not yet been completed. When the process of agreeing the texts of the adaptations required is completed, texts of all regulations in force, in English, will be made available to the House.

Mr. Clark Hutchison asked the Secretary of State for Foreign and Commonwealth Affairs how many regulations made under the provisions of the Treaty of Rome are now in force; and what number of these would apply in the United Kingdom if she joined the European Economic Community on the latest known terms.

Mr. Rippon: About 2,000 regulations are now in force. Regulations of the European Economic Community are of direct application in member States.

BLOOD SPORTS

Q8. **Mr. William Price** asked the Prime Minister how many letters he has received since 18th June on the subject of blood sports.

The Prime Minister: About 3,000.

MANAGEMENT EDUCATION

Q9. **Mr. Douglas** asked the Prime Minister if he is satisfied with the co-ordination of responsibilties between the Scottish Office and the Department of Education and Science with respect to management education, in relation to courses leading to national examinations; and if he will make a statement.

The Prime Minister: Yes.

SECRETARY OF STATE FOR WALES (SPEECH)

Q10. **Mr. Roy Hughes** asked the Prime Minister if the public speech of the Secretary of State for Wales at Gateshead on 24th April on the Common Market represents the policy of Her Majesty's Government.

The Prime Minister: Yes.

SLOUGH

Q11. **Miss Lestor** asked the Prime Minister if he will pay an official visit to Slough.

The Prime Minister: I have at present no plans to do so.

SCHOOL MEALS

Q12. **Dr. Gilbert** asked the Prime Minister how many letters he has received supporting Her Majesty's Government's decision to increase the price of school meals.

The Prime Minister: I would refer the hon. Member to the answer I gave on 6th May to a Question from the hon. Member for Newcastle-under-Lyme (Mr. Golding).—[Vol. 816, c. 444.]

PRIME MINISTER AND PRESIDENT OF FRANCE (MEETING)

Q14. **Mr. Arthur Lewis** asked the Prime Minister whether, during his forthcoming discussions with President Pompidou, he will discuss the possibility of creating a new European Community, open to any country in Europe, without any restrictions imposed on monetary action by member countries.

The Prime Minister: I would refer the hon. Member to the answer I gave yesterday to Questions from the hon. Member for Walthamstow, West (Mr. Deakins).—[Vol. 817, c. 228.]

RECEIVED IN REGISTRY 20 MAY 1971
MWK 2/12
DATE 18 May
COL. 279
VOL. 817

The National Archives
Ref: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

17th May 1971

U. Mr. Michael Clark Hutchison (Edinburgh, South): To ask the Secretary of State for Foreign and Commonwealth Affairs, how many regulations made under the provisions of the Treaty of Rome are now in force; and what number of these would apply in the United Kingdom if she joined the European Economic Community on the latest known terms.

NO. 5W

MR. GEOFFREY RIPPON

About 2,000 regulations are now in force. Regulations of the European Economic Community are of direct application in Member States.

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

17th May 1971

U. Mr. Michael Clark Hutchison (Edinburgh, South): To ask the Secretary of State for Foreign and Commonwealth Affairs, how many regulations made under the provisions of the Treaty of Rome are now in force; and what number of these would apply in the United Kingdom if she joined the European Economic Community on the latest known terms.

NO. 5W

MR. GEOFFREY RIPPON

About 2,000 regulations are now in force. Regulations of the European Economic Community are of direct application in Member States.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 313345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

(9069) Dd.032652 3m 2/67 G.W.B.Ltd. Gp.863

PARLIAMENTARY QUESTION

for WRITTEN answer on 17th May 1971

E.10.

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Friday 14/5

U. Mr. Michael Clark Hutchison (Edinburgh, South): To ask the Secretary of State for Foreign and Commonwealth Affairs, how many regulations made under the provisions of the Treaty of Rome are now in force; and what number of these would apply in the United Kingdom if she joined the European Economic Community on the latest known terms.

Mr. Geoffrey Rippon,

About 2,000 regulations are now in force. Regulations of the European Economic Community are of direct application in Member States.

REFERENCES

Flag A	22 February	Vol 812	Col 13W
Flag B	22 February	Vol 812	Col 10W
Flag C	26 April	Vol 816	Col 8

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford 6th. 13/5.

Parliamentary Unit

1. I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Michael Clark Hutchison which asks how many regulations made under the provisions of the Treaty of Rome are now in force and what number of these would apply in the United Kingdom if she joined the European Economic Community on the latest known terms.

2. The Question is for written answer on 17 May.

3. It is not possible at present to give a precise answer. Flag A indicates that by February this year, of some 8,000 regulations issued, about 2,000 were in force. About 500 are understood to have been made since then of which a similar proportion are self-extinguishing and have or will lapse after a finite period. As the process of attrition in the 2,000 regulations in force in February will have continued, it is unlikely that there has been any great overall increase in the number of regulations in force. The February estimate need not therefore be adjusted.

P R T Dain

13 May 1971

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Steven (59)
Pol - Legal & Constitutional Implications &
pre
18/5

D AGREEMENT ON SECONDARY LEGISLATION AND AUTHENTIC ENGLISH TEXTS

Both the Group on Secondary Legislation and on Authentic English Texts will continue their work until the end of the year. On Secondary Legislation, technical adaptations are normally agreed within the Group, and reference to the Conference is only made when requests for transitional periods of more than 3 months for Regulations and more than 6 months for Directives are needed. Outstanding cases in this category are our request for 5 years for the application of the Directive on Drivers' hours and the elimination of an intermediary stage for the application of tachographs to new commercial vehicles. About a dozen small problems of this kind may have to be resolved between June and the end of 1971.

No particular problem is likely to arise in connection with the agreement on Authentic English Texts, beyond the sheer magnitude of the task in terms of the number of documents to be re-translated.

REGISTERED
19 MAY 1971
MNK 2/12

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E NEGOTIATION ON AN INTERIM PERIOD BETWEEN SIGNATURE AND RATIFICATION

Officials in Whitehall, and, independently, a Group within the Commission of the European Community are studying this problem, which arises for the need to provide the candidate countries with some say in what the Community does between signature of a Treaty of Accession and its entry into force. One possible formula being considered in London is the creation of an interim Council of Ministers, an interim Committee of Permanent Representatives and the extension of the mandate of the Secondary Legislation Group to study Community Legislation in draft. The Interim Council of Ministers should have the power to relegate Legislation unacceptable to one or other of the candidate countries to a special category, so that acts passed in such a category are reviewed within six months after the accession of new member states, or if they are not so reviewed, they would automatically lapse.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

F NEGOTIATION ON THE PARTICIPATION OF NEW MEMBER STATES IN THE COMMUNITY INSTITUTIONS

This is likely to be a formal negotiation to review the proportion of places allocated to new members in the Community's institutions.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

G NEGOTIATION ON THE DRAFTING OF THE INSTRUMENTS OF ACCESSION

16 The work of the drafting Committee consisting of lawyers from each candidate state and the member states. Although the Community are divided on this point, it is possible that they may enquire, within the drafting Group, about the nature of domestic legislation which each member state proposes to enact to give effect to the Treaty of Accession.

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

HOME DEPARTMENT

Probation Service

Mr. Fowler asked the Secretary of State for the Home Department how many probation officers were recruited in England and Wales in the years 1965, 1966, 1967, 1968, 1969, and 1970, respectively; and how many probation officers resigned from the service prior to retirement in these years.

Mr. Carlisle: 328 in 1965 and subsequently 311, 365, 396, 419 and 430. The respective numbers for resignations were 142, 119, 132, 132, 167 and 190.

Buckoke and Others v. G.L.C.

Mr. Clinton Davis asked the Secretary of State for the Home Department if he has now considered the judgment of the Court of Appeal in Buckoke and Others versus the Greater London Council; if he will introduce amending legislation to enable drivers of fire appliances, ambulances and police vehicles to be exempt from prosecution when disobeying robot traffic signals while on emergency calls and when it is safe so to do; and if he will make a statement.

Mr. Sharples: My right hon. Friend is considering the implications of the judgment in consultation with my right hon. Friends, the Secretaries of State for Social Services, for Scotland and for the Environment.

FOREIGN AND COMMONWEALTH AFFAIRS

European Economic Community

Mr. Marten asked the Secretary of State for Foreign and Commonwealth Affairs whether, if Great Britain joins the Common Market, the residual national contributions will be replaced from 1975 onwards by up to 1 per cent. of the receipts from a value-added tax or by a 1 per cent. value-added tax.

Mr. Anthony Royle: The present system calls on the present member states of the Community for a financial contribution from 1975 which may not exceed 1 per cent. of the receipts from a value-added tax.

Her Majesty's Government will conform with the financial system of the Community by the end of the transitional period agreed in the negotiations.

Mr. W. H. K. Baker asked the Secretary of State for Foreign and Commonwealth Affairs what consultations he has had with the Governments of South Africa, Canada, Norway, Iceland and Denmark with regard to Articles 17 to 21 of R.2142/70 of the European Economic Community fisheries policy; and if he will make a statement.

Mr. Rippon: There have been no consultations with the Governments of South Africa and Canada on this subject. We have had contacts with the Governments of Denmark and Norway, who have also applied for membership of the European Economic Community, on matters of mutual interest arising out of the European Economic Community fisheries policy generally. We are also in regular contact with the Government of Iceland as a fellow member of E.F.T.A.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he is aware that the Danish Government have now agreed to hold a referendum on whether or not Denmark should enter the Common Market; and whether, in view of this new information, he will reconsider the question of Great Britain holding a similar referendum and arrange to have discussions with the Danish Government to ascertain how and in what way, they are to hold their referendum and to see to what extent a similar type of consultation with the people can be organised in Great Britain.

Mr. Anthony Royle: Arrangements for referenda in other countries on entry into the European Economic Community have no relevance to the position in this country. In arriving at a decision on terms agreed in the British negotiations with the European Economic Community established constitutional processes will be followed.

✳ **Mr. Arthur Lewis** asked the Secretary of State for Foreign and Commonwealth Affairs whether, in addition to Parliaments of member States being enabled to debate issues for decision in the Community before decisions are taken in the institution of the Community, the Parliaments of member States are also enabled

RECEIVED IN REGISTRY No. 37
17 MAY 1971
MJK 2/12
DATE 12 MAY 71
COL 128-129.
VOL 817.

1 2 cms The National Archives Ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

to debate and change their decisions after the Community and/or its institutions have reached a decision on any matter.

Mr. Anthony Royle: It would be open to Parliament to debate Community legislation after it has been made by the institutions of the Community. If Parliament approves instruments of accession to the Treaties of the Community, these and accompanying United Kingdom legislation would determine the rôle of Parliament in relation to Community legislation.

Mr. Elystan Morgan asked the Secretary of State for Foreign and Commonwealth Affairs if he will recommend the setting up of a Royal Commission to investigate the amount of moneys spent in Great Britain on advertisements in the Press advocating Great Britain's entry into the European Economic Community during the last 12 months.

Mr. Anthony Royle: No.

North Atlantic Assembly (United Kingdom Representatives)

Mr. Peel asked the Secretary of State for Foreign and Commonwealth Affairs if he will publish in the OFFICIAL REPORT a list of the United Kingdom representatives on the North Atlantic Assembly.

Mr. Anthony Royle: The following represent the United Kingdom on the North Atlantic Assembly:

From the Government benches:
The hon. Members for:
Leicester, South?East (Mr. Peel).
Cheltenham (Mr. Dodds-Parker).
Beckenham (Mr. Goodhart).
Bute and North Ayrshire (Sir Fitzroy Maclean).
Winchester (Rear Admiral Morgan-Giles).
Haltemprice (Mr. Wall).
Baroness Elliot of Harwood.
Lord St. Helens.
Lord Strathcona and Mount Royal.

From the Labour Party:
The right hon. Member for Kettering (Sir G. de Freitas).
The right hon. Member for Aberavon (Mr. Morris).
The hon. Members for:
Newark (Mr. Bishop).
Kirkdale (Mr. Dunn).
Huddersfield, West (Mr. Lomas).
Lord Arwyn.
Lord Wynne-Jones.

From the Liberal Party:
The hon. Member for Montgomery (Mr. Hooson).
Viscount Norwich.

SOCIAL SERVICES

Census

Mr. Arthur Lewis asked the Secretary of State for Social Services whether, in view of the information supplied to him by the hon. Member for West Ham, North, he will give an assurance that all persons living on boats, houseboats and other vessels moored on rivers, lakes, canals and the Norfolk Broads have received and filled in their Census forms.

Sir K. Joseph: Returns from Census field staff are not yet complete. A report on the coverage achieved by this Census will be made to Parliament in the normal way.

Mr. Arthur Lewis asked the Secretary of State for Social Services whether he will cause an investigation to be made to ascertain to what extent Census enumerators broke their oaths of secrecy in divulging to any unauthorised persons or organisations details which should not have been passed on to any person or organisation other than the Census Office; and what action he has taken, or intends taking, in each instance, except in the case in which proceedings have been issued.

Sir K. Joseph: Unlawful disclosure of any information acquired in the course of his employment as a Census enumerator would be a breach of the enumerator's undertaking. This is covered in the Census Regulations, 1970, and does not require investigation. Any such occurrence would be dealt with under these regulations.

Hospital Advisory Service (Annual Report)

Dr. Trafford asked the Secretary of State for Social Services when the first annual report of the National Health Advisory Service will be published; and if he will make a statement.

Sir K. Joseph: The Report is published today by Her Majesty's Stationery Office and copies have been placed in the Library of the House.

1 2 cms The National Archives ins 1 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

11th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in addition to Parliaments of member states being enabled to debate issues for decision in the Community before decisions are taken in the institution of the Community, the Parliaments of member states are also enabled to debate and change their decisions after the Community and/or its institutions have reached a decision on any matter.

NO. 54W

MR. ANTHONY ROYLE

It would be open to Parliament to debate Community legislation after it has been made by the institutions of the Community. If Parliament approves instruments of accession to the Treaties of the Communities, these and accompanying United Kingdom legislation would determine the role of Parliament in relation to Community legislation.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

11th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in addition to Parliaments of member states being enabled to debate issues for decision in the Community before decisions are taken in the institution of the Community, the Parliaments of member states are also enabled to debate and change their decisions after the Community and/or its institutions have reached a decision on any matter.

NO. 54W

MR. ANTHONY ROYLE

It would be open to Parliament to debate Community legislation after it has been made by the institutions of the Community. If Parliament approves instruments of accession to the Treaties of the Communities, these and accompanying United Kingdom legislation would determine the role of Parliament in relation to Community legislation.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

E.D.

PARLIAMENTARY QUESTION

for ~~ORAL~~ answer on 11th May 1971

WRITTEN

The draft reply should reach the Parliamentary Office through your Under-Secretary by 9.30 Tuesday 11/5

54W

*La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether, in addition to Parliaments of member states being enabled to debate issues for decision in the Community before decisions are taken in the institution of the Community, the Parliaments of member states are also enabled to debate and change their decisions after the Community and/or its institutions have reached a decision on any matter.

Mr. Anthony Royle,

It would be open to Parliament to debate Community legislation after it has been made by the institutions of the Community. If Parliament approves instruments of accession to the Treaties of the Communities, these and accompanying United Kingdom legislation would determine the rôle of Parliament in relation to Community legislation.

[REFERENCES

Flag A	4 May	Vol 816 Col 362w
Flag B	10 May	draft submission in answer to Mr Lewis
Flag C	12 May	draft submission in answer to Mr Lewis]

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford

Parliamentary Unit

1. I submit a draft reply for Mr Royle to use in answering a Question from Mr Arthur Lewis which asks whether, in addition to Parliaments of member states being enabled to debate issues for decision in the Community before decisions are taken in the institution of the Community, the Parliaments of member states are also enabled to debate and change their decisions after the Community and/or its institutions have reached a decision on any matter.

2. The Question is for oral answer on 11 May, but will not be reached.

3. The Question appears to arise out of an answer given in the House to Mr Lewis by the Lord President of the Council on 4 May, and is one of a sequence of Questions by Mr Lewis about the rights of Parliament in relation to EEC legislation.

Flag A

Flags B & C

4. The draft answer has been cleared with the Legal Advisers.

A H Brind
European Integration Department

10 May 1971

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

57 FCO

FOREIGN AND COMMONWEALTH AFFAIRS

European Economic Community

83. **Mr. Ronald King Murray** asked the Secretary of State for Foreign and Commonwealth Affairs whether, in light of the conditional and permissive character of the provisions of regional policy contained in Article 92(3) of the Treaty of Rome, he will seek an explicit declaration by the Six, prior to British entry, about their future intentions in this field.

Mr. Rippon: No.

Mr. Deakins asked the Secretary of State for Foreign and Commonwealth Affairs what steps he is taking in negotiations with the European Economic Community to ensure the continuance of the International Sugar Agreement in the event of the United Kingdom joining the European Economic Community.

Mr. Rippon: The continuation of the International Sugar Agreement of 1968 does not depend upon Britain's negotiations with the European Economic Community.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs when he expects to have the response from the European Economic Community on his proposals for some form of continuing arrangements, subject to review, so far as New Zealand's exports of dairy products are concerned; and whether he will publish this reply in the OFFICIAL REPORT.

Mr. Rippon: We hope the Community will be in a position to reply in the near future. The details must remain confidential during the negotiations but I shall keep the House informed of developments.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he will explain in more detail the type of sheepmeat regulation affecting exports of lamb, which would be unfavourable to New Zealand, and which would necessitate him reopening the matter with the countries of the Six.

Mr. Rippon: We have consistently emphasised to the Community the extreme dependence of New Zealand on her exports of certain products, including lamb. I do not think it would be useful to speculate in detail on a future regulation. If, however, the Community proposed to introduce a regulation which would inflict serious damage on New Zealand exports of lamb to an enlarged Community, this would have to be raised with them.

*Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs whether he will make a statement giving full details as to how Parliament will continue to exercise Sovereign powers in most areas of policy, except those delegated to European institutions on Great Britain's entry into the European Economic Community; on what basis of Parliamentary consent these delegated powers to European institutions will be arranged; and whether British Members of Parliament will have the right to participate in the day-to-day work of all of these European institutions.

Mr. Rippon: If we enter the European Economic Community, Parliament will, in most areas of policy, continue to exercise its powers in the same way as it does today.

After our accession it would be open to our Parliament, as it is to the Parliaments of other member States, to debate, before their enactment, those Community instruments to be submitted by the Commission to the Council of Ministers for approval. We shall be represented in all the Community institutions, including the European Parliament.

Mr. Arthur Lewis asked the Secretary of State for Foreign and Commonwealth Affairs if he will seek to hold an official meeting with the Prime Minister of New Zealand so as to discuss with him the results of recent meetings between him and the governments of the European Economic Community countries, in particular France.

Mr. Rippon: Neither my right hon. Friend nor I have immediate plans to do so. The position was discussed in full with Sir Keith Holyoake during his recent visit to London and the process of consultation with the New Zealand authorities will continue.

RECEIVED IN
REGISTRY No. 37
12 MAY 1971
MUK 4/12

DATE 10 MAY 71
COL 22
VOL 817

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

10th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he will make a statement giving full details as to how Parliament will continue to exercise Sovereign powers in most areas of policy, except those delegated to European institutions on Great Britain's entry into the European Economic Community; on what basis of Parliamentary consent those delegated powers to European institutions will be arranged; and whether British Members of Parliament will have the right to participate in the day-to-day work of all of these European institutions.

NO. 29W

MR. GEOFFREY RIPPON

If we enter the European Economic Community Parliament will, in most areas of policy, continue to exercise its powers in the same way as it does today.

After our accession it would be open to our Parliament, as it is to the Parliaments of other member States, to debate, before their enactment, those Community instruments to be submitted by the Commission to the Council of Ministers for approval. We shall be represented in all the Community institutions, including the European Parliament.

The National Archives
Ref.: FCO 30 / 1048 313345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

10th May 1971

La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he will make a statement giving full details as to how Parliament will continue to exercise Sovereign powers in most areas of policy, except those delegated to European institutions on Great Britain's entry into the European Economic Community; on what basis of Parliamentary consent these delegated powers to European institutions will be arranged; and whether British Members of Parliament will have the right to participate in the day-to-day work of all of these European institutions.

NO. 29W

MR. GEOFFREY RIPPON

If we enter the European Economic Community Parliament will, in most areas of policy, continue to exercise its powers in the same way as it does today.

After our accession it would be open to our Parliament, as it is to the Parliaments of other member States, to debate, before their enactment, those Community instruments to be submitted by the Commission to the Council of Ministers for approval. We shall be represented in all the Community institutions, including the European Parliament.

1 2 cms The National Archives ins 1 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Foreign and Commonwealth Office

Private Secretary

The answer is long but will not be reached.

M Reid Smith

7 May 1971.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Mr Ford OM. 7/5
Parliamentary Unit

1. I submit a draft reply for the Chancellor of the Duchy of Lancaster to use in answering a Question from Mr Arthur Lewis, which asks whether he will make a statement giving full details as to how Parliament will continue to exercise Sovereign powers in most areas of policy, except those delegated to European institutions on Great Britain's entry into the EEC; on what basis of Parliamentary consent will these delegated powers to European institutions be arranged; and whether British Members of Parliament will have the right to participate in the day-to-day work of all of these European institutions.

2. The Question is for oral answer on 10 May, but will not be taken orally and no notes for supplementaries are required.

3. The draft answer has been cleared with the Legal Advisers.

A Brind

A H Brind
European Integration Department

7 May 1971

c.c.
M de Winton Esq
Law Officer's Department

K Newman Esq
Lord Chancellor's Office

I have sent a copy to the Lord President's office.
Maurwell
7/5.

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

PARLIAMENTARY QUESTION

for ORAL answer on 10th May 1971

E.I.D. 3/5

The draft reply should reach the Parliamentary Office through your Under-Secretary by Noon Thursday 6/5

*La. Mr. Arthur Lewis (West Ham, North): To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he will make a statement giving full details as to how Parliament will continue to exercise Sovereign powers in most areas of policy, except those delegated to European institutions on Great Britain's entry into the European Economic Community; on what basis of Parliamentary consent will these delegated powers to European institutions be arranged; and whether British Members of Parliament will have the right to participate in the day-to-day work of all of these European institutions.

Mr. Geoffrey Rippon,

If we enter the EEC Parliament will, in most areas of policy, continue to exercise its powers in the same way as it does today.

~~In respect of those areas in which the EEC has powers~~ under the Treaty of Rome HMG will, ~~of course,~~ if the negotiations are successful, bring before Parliament the instruments of accession; the Treaties and the secondary legislation relating to them will also be available to this House. There will then be a full debate and decision ~~by Parliament on the issues involved~~.

After our accession it will be open to our Parliament, as it is to the Parliaments of other member States, to debate, before their enactment, those Community instruments to be submitted by the Commission to the Council of Ministers for approval. We shall, ~~of course,~~ be represented in all the Community institutions, including the European Parliament.

V.G.R. 7/5

(13523) Dd.643721 3m 1/70 G.W.B Ltd. Gp.863

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Pol legal & Constitutional implications

Reference 104 & pe

7 May 1971

Mr. I.T. Steven

"Ratification" of Community Decisions
(EEC Treaty, Articles 108(2)(c), 138(3), 201)

I should like to draw your attention to an interesting Commission Reply to Written Question No. 479/70 by Mr. Droscher (OJ No. C 39/23, 24 April 1971). The text is enclosed.

2. The Reply deals with the powers of national parliaments and authorities in relation to the implementation of Community acts. The term "ratification" is used - wrongly, but as it is often used on the continent - in the sense of parliamentary approval.

3. It is interesting that according to the Reply intervention by national authorities is required in the case of credits to be granted under Article 108(2)(c) but not, it seems, of other forms of mutual assistance rendered under the last subparagraph of Article 108(2).

Alkin

Alexander Elkin
KCS Room 347A
Ext. 502

c.c.
Mr. A.D. Watts
Mr. I.M. Sinclair

Mr. M.A. Marshall

RECEIVED IN REGISTRY No. 37
10 MAY 1971
MWK 2/12

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

OJ No. C 39 - 24.4.71
C 39/23

W 56

WRITTEN QUESTION No. 479/70

from Mr. Droscher

at the Commission of the European Communities

(27 January 1971)

Subject: Ratification of Community Decisions

During the course of the next few years the European Community will have to take decisions on the future development of the Communities, in particular as regards the economic and monetary union, which will relate to a large extent to matters which until now have come within the legislative jurisdiction of the national parliaments (tax harmonisation, etc.). Measures taken by Community institutions will initially have to be ratified by the national parliaments.

The uncertainty as to whether a Community measure should or should not be ratified could create difficulties and delays in the integration process, although the omission of ratification procedures could further jeopardise the parliamentary system of the Communities. Therefore, the European Parliament should be able to reach agreement in time on these matters with the national parliaments.

Is the Commission ready, in order to follow up this question, to compile a list of all the Community measures which will be subject to ratification by the national parliaments during the next two years?

REPLY

(6 April 1971)

Apart from rare exceptions (Article 108 (2) (c), Article 138 (3) and Article 201 of the EEC Treaty) the legal acts which the Community institutions are empowered to adopt in pursuance of the Treaties do not require intervention on the part of the national authorities in order to produce binding effects within the Member States. As a result, their entry into force is not dependent either on approval by the national parliaments or on ratification by the state authorities having the appropriate powers.

Doubtless, the enforcement of obligations arising for each Member State from measures adopted by Community institutions may call for internal implementing provisions, but when the national authorities adopt such provisions they only possess limited powers which are very different from the extensive discretionary powers exercised by national parliaments when they authorise the ratification of treaties.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

OJ No. C 39 - 24.4.71
C 39/ 23

In theory, the implementation of Community measures in the Member States is entrusted to the competent state bodies having powers according to the allocation of powers under the national constitutions. Since the constitutions of the various Member States do not allot legislative and executive powers in the same way it is very difficult to determine in an overall fashion for all the Member States which Community measures require ratification by Parliament.

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

Reference 55 Enter.

Mr Steven See minute overleaf
Mr Watts has seen - See reminder. DHF 6/5

I should be grateful for your urgent observations on the attached PQ. It follows Mr Lewis's earlier Questions in this field. I attach the draft submission for the Question answered on 4 May for reference.

The ~~first part of the~~ Question could possibly be answered as follows:-

> "It is open to Parliaments of Member States to debate issues for decision in the Community before decisions are taken in the Community. Thereafter, HMG, as a member of the Community will be able to express views in the formulation of decisions. Many decisions, including those in key areas must be agreed unanimously. After membership, British Members of Parliament will take part in the proceedings of the European Parliament and ~~Great~~ Britain will be represented in the other Community Institutions."

I am aware that this provides only the flimsiest answer to the middle part of the Question about the basis of Parliamentary consent for the delegation of powers to the Community. This would possibly be covered by reviving as an additional second sentence in the answer the words (or a variation of them) proposed at one time by Mr Newman of the Lord Chancellor's Office viz:-

> 'But approval by Parliament of Instruments of Accession to the Treaties of the Communities necessariiy implies a willingness on the part of Parliament to exercise certain restraints in the use of its constitutional powers.'

~~Alternatively,~~ If formulae like these give away too much perhaps the following ~~alternative answer~~ might be a better basis:-

'If the negotiations succeed and HMG brings before Parliament Instruments of Accession to the Treaties of the Communities these will clarify the extent to which Parliament's prerogatives will be affected by membership and will be subject of full debate and decision in Parliament.'

P R T Dain

6 May 1971

RECEIVED IN REGISTRY No. 37
10 MAY 1971
MRK 2/12

Mr. Dain

The first draft answer is not altogether correct since only decisions and acts initiated by the Commission & the Council will be open to the Parliaments of member states & debate. This excludes acts by the Commission and the others

DJ/

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

of the jurisprudence of the European Court. Nor do I think it is necessary to bring in the statements suggested by Mr. Lennox in connection with another P.Q., though that may be -

2. On the whole I prefer the final draft slightly amended and expanded as follows

"If the negotiations succeed, HMG will bring before Parliament the instruments of accession; and the Treaties and the secondary legislation relating to them will be available to this House. There will then be a full debate and decision by Parliament on the issues involved - After membership it will be open to our Parliament, as it is to the Parliaments of the member states, to debate, before their enactment, those Community instruments which are to be submitted by the Commission to the Council of Ministers for approval. We shall of course be represented in all the Community institutions, -

Cab C.R.

Further discussion with the Wales.

Lt. Minister

P.M.

12/5

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

54

Mr. Adams

Subject: Conservative Group's paper on Sovereignty -

You copied to me and to Mr. Sinclair (52) Euro minute of 29 April to Mr. Morland - I have now seen Mr. Sinclair's thoughtful minute of 30 April (53) with which I entirely agree and to which I have nothing to add -

J. A. Thomson
3/5

c.c.
Mr. I. M. Sinclair
Mr. M. Morland

RECEIVED IN REGISTRY No. 07
- 4 MAY 1971
MWK 2/2

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

53

Mr Adams (European Communities Information Unit)

52

1. Please refer to your minute of 29 April addressed to Mr Morland enclosing a copy of the draft paper on Sovereignty prepared by IRD for the eventual use of the Conservative Group for Europe.

2. I have a number of comments on particular passages which I will set out seriatim:-

(a) I think that the argumentation at lines 6-11 on page 3 is a little bit dangerous. It is certainly going too far to indicate that the Community has not tried to deny that Member States have a right of withdrawal; the whole concept of the Treaty of Rome is to establish a permanent Community and any admission that there is a right of withdrawal for individual Member States would be inconsistent with this fundamental concept. I would suggest that lines 6-11 on page 3 be replaced by the following:-

"Its only basis is the provision that the Treaty of Rome is of indefinite duration and contains no provision for withdrawal. But there are other treaties which are likewise unlimited in time and confer no specific right of withdrawal (e.g. the United Nations Charter). The intention of the Treaty of Rome is of course to establish a permanent Community sharing common ~~names~~ aims and aspirations and seeking common goals: to recognise any right of withdrawal would be inconsistent with this ~~fundamental principle~~ concept, but of course it goes without saying that the Community could not compel a Member State to remain within the Community system if there was a change of circumstances so fundamental as to place in jeopardy the principles and purposes on which the Treaty of Rome is based."

(b) In the tenth line on page 4 I would suggest deletion of the words "by majority vote". The internal deliberations of the Court of Justice are secret. It pronounces one single judgment with no dissenting judgments. It is indeed true that some judgments may be adopted by majority vote but the absence of dissenting judgments is such a feature of the Court's procedure that it would be unwise to stress that the Court comes to its decision by majority vote.

REGISTRY
FCO 1971
MWK 2/12

The National Archives
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

(c) I am dubious about the last sentence of the third paragraph on page 4 (lines 21-25). I am not sure what is meant by the phrase "in reality they are strictly limited". I would suggest, as an alternative, something on the following lines:

"Superficially these may appear far reaching powers but, in practice, they are, and can be, exercised only after a lengthy process of consultation with outside bodies and with other Community organs. In any event all basic regulations and directives have to be adopted by the Council of Ministers which, as already noted, consists of representatives of national governments who vote on all Community policies in accordance with their Government's views."

(d) The first paragraph under the sub-head "Policy Voting Procedure" (bottom of page 4 and top of page 5) is not, I think, entirely accurate. The position is not that the voting provisions of the Treaty have been virtually suspended; it is rather that the practice of unanimity has continued even although, on certain matters, the Treaty now provides for qualified majority voting. I wonder if I can suggest something on the following lines:-

"Although the original terms of the Treaty of Rome continue to apply, the voting procedure in the Council of Ministers does not at present accurately reflect those terms. In view of the predictions of immediate and irreversible losses of sovereignty made by opponents of Britain's entry, it may be noted that, in this case, the voting provisions of the Treaty have not been strictly applied since 1965 when one Member State - France - raised objection to the changeover on certain matters, from unanimity to qualified majority voting."

I may say that I am not entirely happy even with this alternative version; another possible alternative would simply be to delete altogether the paragraph which begins at the bottom of page 4 and continues at the top of page 5.

(e) I find the phrase "while possible under a strictly legalistic reading of the Rome Treaty" at lines 9-10 on page 6 inaccurate and slightly objectionable; I would prefer it to be replaced by "while wholly inconsistent with the provisions of the Treaty of Rome."

1 | 2 cms | The National Archives | ins 1 | 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

(f) The sentence beginning "many of our existing Treaty obligations ..." at lines 11-14 of page 7 goes too far. Agreements like the GATT do not involve restrictions on the sovereignty of Parliament as Britain's sole law giver; rather, they require Parliament to exercise restraint by not enacting provisions inconsistent with existing Treaty obligations. I would prefer the sentence to read:-

"There are other international agreements such as the General Agreement on Tariffs on Trades (GATT), the European Convention on Human Rights and the United Nations Charter which impose certain restraints on the powers of Parliament if Britain is to comply with the Treaty obligations which it has assumed".

(g) I am a little dubious about the last two sentences in the first full paragraph on page 8 (lines 12-18). I would suggest an alternative on the following lines:-

"Moreover, these EEC powers are exercisable essentially in relation to industrial and commercial concerns, and/to individuals in their private capacities. So far as Community law directly affects individuals in their private capacities it confers rights rather than imposes obligations. Thus, an individual or undertaking is entitled to challenge the validity of any Community decision addressed to him on the grounds that the Community institution has misused its powers".

I would like to omit reference to the possibility that a Member State can become a party to the proceedings in these circumstances; although this is true, it is in fact unusual for Member States to intervene in proceedings brought by an individual challenging the validity of a Community decision.

/not

I M Sinclair
Legal Advisers
K166 MA654

30 April 1971

copied to
Mr Morland
Mr Steven

1 2 cms The National Archives ins 1 2
Ref.: FCO 30 / 1048 312345
Please note that this copy is supplied subject to the National Archives' terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the 'Terms and Conditions of supply of the National Archives' leaflets

52

Mr Morland (EID)

1. As you will see from Mr Tucker's (5) minute below, the Conservative Group for Europe want to publish a pamphlet on Sovereignty. IRD have produced a first draft of this, and I should be grateful for your comments as soon as possible. I realise that we do not want to falsify the Sovereignty issue or give our future Community partners the idea that we are frightoned to commit ourselves in this respect. But you will also be aware of the Conservative Group for Europe's wish to play down this issue as far as possible and reassure those people in Parliament and in the country who get emotional about loss of Sovereignty.

W J Adams
European Communities
Information Unit

29 April 1971

Copied to:

Mr Sinclair (Legal Advisor)
Mr Steven (EID)

RECEIVED IN REGISTRY No. 37
MAY 1971
MWK 2/12