

The Symbols of Sovereignty_September 2013

The purpose of this paper is to propose the establishment of a coordinating focus for the proper governance of the national flag of the United Kingdom.

Introduction

1. Like every other nation, the United Kingdom has a range of national symbols signifying sovereignty on land, at sea and in the air. Because of our long and complex history, the UK quite possibly has a greater range of these symbols than any other country, and they have developed and matured in an unstructured manner over a very long time. One of the particular quirks about the UK is our lack of a written constitution in the form of a single and complete piece of legalisation. If we had a written constitution then it is reasonable to suppose that it would embrace symbols of sovereignty. The lack of such a document means that UK symbols of sovereignty are not encapsulated in any one reference and no single authority is responsible for them. This includes the national flag. Another dimension is the continued use of the Royal Prerogative for certain aspects of national life and the ambiguous manner in which this affects the national flag.

Symbols of Sovereignty

2. Any discussion about symbols of sovereignty must first establish what is meant by the term. These symbols can, and do, extend to a large number of icons including flags, badges, uniforms, achievements of arms and many other manifestations great and small. As a constitutional monarchy, UK symbols of sovereignty naturally include a wide range of royal badges, standards, crowns and other monarchical devices. However this paper concentrates on just one symbol – the most widespread and best known of all and the only one available to the entire population to employ (on land) as they choose – the national flag.

3. But even the term national flag must be given a caveat. The UK is one of a relatively small number of states whose national flag on land is different to that at sea. Indeed the UK has a large number of national flags for use afloat in the many red, white and blue ensigns authorised for use by designated bodies, and nowadays many of these ensigns are also used on land in the capacity of a national flag by entitled organisations. However, for two reasons, this paper does not cover them. Firstly there are so many of them, and their uses are so widespread and variable that the paper would lose focus if it tried to embrace them, and secondly (unlike flags on land) they are already subject to a legal governance regime under the Merchant Shipping Act 1995. Nor, for broadly parallel reasons, does the paper consider the national flags of the constituent nations and territories of the United Kingdom (which face similar ambiguities), but concentrates solely on the Union Flag. Other than the person of the Sovereign (and the devices that represent her directly), the Union Flag is the United Kingdom's most important symbol of sovereignty. Furthermore, it goes without saying that it is entirely apolitical and cannot be arrogated by any political movement or pressure group.

The Union Flag

4. Our national flag has two accepted names, both of very long standing. Union Flag is the more formal term and Union Jack the more populous but both are equally acceptable and there is much recorded evidence to support this duality. This paper uses the name Union Flag for convenience and it may be helpful to begin with a brief history of the flag to show how it became what it is today. The formal definition (heraldic blazon) of the current Union Flag was published by the College of Arms in 1801 and reads thus:-

The Union Flag shall be azure, the Crosses Saltire of St Andrew and St Patrick quarterly per saltire counterchanged argent and gules: the latter fimbriated of the second surmounted by

the Cross of St George of the third, fimbriated as the Saltire.

5. Although that is a very neat shorthand description it is not the precise manner in which the flag is customarily made (except for military Colours which retain that format), because the design was amended by the Admiralty during the early 19th century to give a greater contrast between the red and blue elements by widening some of the white stripes and borders. A more accurate description of the flag in use today, if rather fulsome, is as follows, although it is not statutory in any sense at all. It benefits from having a picture of the flag to hand when reading it:-

The Union Flag is composed of three crosses on a royal blue background, namely a red St. George's Cross, a white St. Andrew's Saltire and a red St. Patrick's Saltire. The proportions of the flag are thirty units wide to fifty units long (see note *). The saltires are counterchanged. The overall width of the diagonals is six units, comprised of three units of white, two units of red and one unit of white. When flown, on the side of the flag nearest the flagpole the broadest white diagonals are uppermost, and on the side furthest from the flagpole the narrowest white diagonals are uppermost. The diagonals run from corner to corner with the centre line of each six unit wide diagonal intersecting opposite corners of the flag and crossing the centre line of the other six unit wide diagonal in the centre of the flag. A red cross six units wide runs from the edge to edge, centred on the flag. This red cross is bordered by a white fimbriation two units wide. The colour specifications for the flag are Pantone 280 for royal blue (see note **) and Pantone 186 for red. No specification is given for white.

(Note *): for complex historical reasons the flag is very often flown in proportions 1:2 rather than 3:5. Nevertheless in June 1947 Garter King of Arms declared the proper proportions for a flag on land were 3:5 but this has been almost completely ignored ever since. In October 2010 Garter agreed it would be sensible to repeat the declaration in an appropriate format but this has yet to be done.

(Note **): The Scottish saltire when flown as a flag on its own is properly made in a lighter blue (Pantone 300), closer to the original blue of the first Union Flag in the 17th century (although darker saltires are also seen). The reason for the darker blue in the Union Flag today is most probably a decision by the Admiralty long ago, concerned at the colours fading when flown at sea. In the 1801 blazon the term azure covers any shade of blue.

Brief History

6. Following the personal union of the English and Scottish monarchies in 1603, the first Union Flag was declared by Royal Proclamation on 12 April 1606 and this flag was only for use at sea. In 1634 the first of several subsequent Royal Proclamations was published restricting its use to the Sovereign's ships, a restriction that remains to this day under the Merchant Shipping Act, and at about this time the name 'Jack' came into use. The union with Ireland caused the addition of the so called St Patrick's Cross (#) on 1 January 1801 when the modern version of the flag was created and it became possible to fly it upside down; an all too commonly seen aberration. On 14 July 1908, in the House of Lords, the Earl of Crewe said "My Lords..... the Union Jack should be regarded as the national flag, and it undoubtedly may be flown on land by all His Majesty's subjects" (*Hansard* 4th Series Vol 192 p. 579). On 27 June 1933, in the House of Commons, the Home Secretary said "... the Union Flag is the national flag and may properly be flown by any British subject on land" (*Hansard* 5th Series Vol 279 p. 1324). Thus both names are recorded in *Hansard*.

'So called' because St Patrick was not a martyr and therefore never had a cross. The device was borrowed from the achievement of arms of a leading Irish family, the Fitzgeralds. St Patrick's Cross is rarely seen as a flag in Ireland (north or south) although it is not unknown.

Current Situation

7. The Union Flag is a royal banner and despite its fame and fortune no government statute or other constitutional instrument has ever declared it to be the national flag of the United Kingdom. Apart from the two parliamentary answers quoted above from *Hansard*, the flag has never formally been given to the people. It is the de facto national flag but not de jure. Consequently there is no single authority responsible for its governance or the protocol surrounding it, nor even for its design, proportions and colours. Some people argue pointlessly about whether it may be called the Union Jack and very many people do not know which way up to fly it, or even if they may fly it. This ignorance flourishes largely because children are not taught the history of their flag within the national curriculum.

8. Several things are not in doubt however. The Union Flag is over 400 years old, and over 200 years old in its present design, and it is almost certainly the world's oldest, essentially unchanged, national flag of a continuously independent country. It is the flag of the people as well as the nation. It has spawned well over 600 different maritime ensigns, land flags, colonial and Commonwealth flags and flags of office, of which over 200 unique designs still fly today, all bearing the Union Flag as their primary distinguishing feature. In one form or another it is flown all over the globe by the citizens of several sovereign countries as well as our own, because it forms the defining element of a considerable number of national, provincial, state, island and territorial flags. It is one of the oldest, most widespread, most popular and most enduring national symbols and it deserves to be treated with dignity and respect. Therefore matters relating to the national flag should be addressed by an office that exercises authority throughout the realm. Governance of the flag cannot, by definition, be devolved to subordinate governments, assemblies, administrations or departments, or to any other authority that lacks a comprehensive nationwide remit. And herein lies another problem, because very few United Kingdom authorities any longer have a truly UK nationwide remit. So, over the course of time this lacuna has necessarily been filled to an increasing degree by the Flag Institute, a small charitable membership organisation whose object is to "advance education for the benefit of the public in all aspects of flags and vexillology".

9. A forensic examination of the several authorities which have a say in the management of the national flag would not be helpful at this point, however a list of those involved illustrates why there is no cohesive voice about our most important symbol of national unity. Buckingham Palace; the College of Arms; No. 10 Downing St; Department for Communities & Local Government; Department for Culture, Media & Sport; Department for Transport; Foreign & Commonwealth Office, Ministry of Defence and the Government Digital Service (www.gov.uk website, search 'Flags' and follow appropriate links) all play a significant role in how our national flag is used on a day-to-day basis; but they are not coordinated and none of them exercises proactive governance. These several authorities sometimes refer, or defer, to one another on an ad hoc basis but there is no consistent policy or knowledge base running through them all. Meanwhile the Scottish Government (especially the office of the Lord Lyon King of Arms), the Welsh Assembly and the Northern Ireland Executive all have their say within their particular areas of responsibility, but without coordination. There are loose halcyons everywhere you look and nobody is empowered to draw them together.

10. This is in marked contrast to other advanced nations and just one example will suffice. In Australia the Department of the Prime Minister and Cabinet is responsible for national symbols of sovereignty and this includes the national flag. This is a federal remit and not devolved to state governments. The function is exercised by the National Symbols Officer responsible to a minister within the Prime Minister's portfolio. The Australian Government publishes an excellent guide (Australian Flags) which is free to all who request one from their political representative. The Department runs a comprehensive website devoted to national symbols (www.itsanhonour.gov.au) where (inter alia) matters relating to the national flag are promulgated.

The Governor General, Prime Minister, State Governors and political leaders alike all promote the national flag actively and enthusiastically, and whilst state governments manage their own internal affairs, it is the national government that oversees national symbols unequivocally. Australians understand the importance of their flag in promoting national unity, and there is even a scheme under which a national flag is provided free to schools, community associations and other not-for-profit organisations which request one. Canada and New Zealand reflect a broadly similar approach and the enthusiasm for national flags, to underpin community cohesion, in the United States of America needs no further emphasis here.

Flags in Law

11. Notwithstanding devolved differences, throughout the UK the national flag, as with all other flags and banners, is classified as an advertisement. Advertisements are subject to planning legislation; however the Union Flag is one of a number of flags specifically exempt from advertising consent regulations and may be flown on land freely. There is no Flag Act in the UK, and whilst such an Act would no doubt address the current deficiencies in governance, the challenge of achieving consensus in drafting a Flag Bill is well recognised. At the very least there would most probably be firm views expressed by the Scots, Irish and Welsh on their aspirations for the (re)design of the flag. Nevertheless most nations do have legislation of this sort, for example the Australian Flags Act 1953, the New Zealand Flags, Emblems & Names Protection Act 1981, the French Constitution Article 2 (1958), the USA Executive Order 10834 (1959), the Swedish Flag Act 1982, and so on. However the good governance of our national flag should readily be achievable without recourse to statute. It does however require the acknowledgement and acceptance of a single authoritative focus empowered to liaise and advise nationwide, and sometimes to direct, on matters relating to the national flag.

Community Cohesion

12. A national flag is but a means to an end and not an end in itself. Its purpose is to be an unambiguous focus for the unity of the citizens of a nation – whatever their individual background or personal aspirations. Until the end of the Second World War the UK was a remarkably homogenous nation with, by and large, one overall culture, shared traditions and a common creed. This is no longer the case and over 10% of our present school children do not even have English as their mother tongue, whilst devolution has changed many people's sense of national identity. Consequently the need to promote unity and cohesion throughout society is ever more important, and the national flag is just one means to do this, but a very obvious, low cost and effective means. The proper governance of the national flag can only help to promote the unity of the nation, and other countries all over the world fully recognise this fact.

Summary

13. The national flag of the United Kingdom, despite its longevity, ubiquity, lasting worldwide popularity and uncontested importance, has no single authority exercising governance oversight on its behalf. A disparate group of uncoordinated authorities have elements of delivery responsibility for the flag. This is untidy and inefficient and it causes endless wrangling, misunderstanding and woolly thinking to prevail, even at the very heart of government. Evidence for this includes government authorities sometimes displaying the flag upside down or flying a dirty or frayed flag from a public building. The status of our national flag has been ambiguous for well over 100 years, drifting within that ill-defined space between Crown and State, and that is long enough. Meanwhile the current situation is unprofessional and militates against any official body becoming well versed in matters of policy relating to the flag or maintaining a bank of knowledge and corporate history concerning day-to-day matters. Most significantly, it fails to promote and exploit the most effective symbol of national unity for our increasingly diverse and rapidly changing nation. Public bodies and

private citizens alike are confused as to who is in charge of the national flag. This is muddling through to an extreme degree and is unacceptable in the 21st Century. Contrast this with the superlative manner in which the UK manages major national events and state occasions, and for which we are rightly admired worldwide. It is wholly incoherent not to consider the national flag with the same degree of professionalism and pride.

Recommendations

14. Two recommendations are made:

(1) It is recommended that a focus be established within the government of the United Kingdom, to act as coordinating authority for the proper governance of the national flag. This authority should have a mandate throughout the United Kingdom, the Crown Dependencies and the Overseas Territories, drawing on the expertise of existing disparate authorities and organisations.

(2) It is recommended that a minister within the Cabinet Office should have the governance of the Union Flag included within his or her portfolio of responsibilities.

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