

Part IV: The Royal Family.

SECT. 1.—*Members of the Royal Family.*SECT. 1.
Members
of the
Royal
Family.

487. For certain statutory purposes the Royal Family is limited to the descendants of the body of George II. (a), and as such now comprises His Majesty King George V. and the descendants of the following persons:—(1) the late Queen Victoria; (2) the first Duke of Cumberland and Teviotdale, fifth son of George III. and King of Hanover (p); (3) the first Duke of Cambridge, seventh son of George III. and uncle of the late Queen Victoria (q).

The Royal
Family.SECT. 2.—*The King or Queen Regnant.*SUB-SECT. 1.—*Style and Titles.*

488. Alterations or additions to the royal style and titles are made under statutory authority, and are customarily announced to the nation by proclamation (r).

Alterations in
royal title.

489. The present royal style and titles (s) are—"George V. by the Grace of God of Great Britain (t), Ireland (u) and the British

Royal style
and titles.

(a) For the purposes of the Royal Marriages Act, 1772 (32 Geo. 3, c. 11), see p. 442, *post*. As to the persons to whom the authority of the King extends at common law, see p. 436, *post*.

(p) As to the title to the throne of Hanover, see note (k), p. 432, *post*. The Duke of Cumberland and Teviotdale, together with other peers and British Princes who adhered to the enemy in the Great War, was deprived in 1919 of all privileges and rights to any dignity or title, whether in respect of a peerage or under any Royal Warrant or Letters Patent (Titles Deprivation Act, 1917 (7 & 8 Geo. 5, c. 47), and S. B. & O., 1919, No. 475), but this does not appear to have affected his membership of the Royal Family.

(q) For a list of the various descendants, see Burke's Peerage, ed. 1932.

(r) This is the present practice, though formerly, it seems, additions have been made without statutory authority (see *infra*). The titles borne by Queen Victoria until 1876, when the style of "Empress of India" was added (see note (j), p. 432, *post*), were those established by proclamation of George III., under the Union with Ireland Act, 1800 (39 & 40 Geo. 3, c. 67), art. 1 (see the *London Gazette*, January 3, 1801). As to the confirmation of the title of "Defender of the Faith" by Parliament in the reign of Henry VIII., see note (a), p. 432, *post*.

(s) The addition to the title of the words "British Territories beyond the Seas" was authorised by the Royal Titles Act, 1901 (1 Edw. 7, c. 15), which, with a view to the recognition of the colonial possessions, empowered His Majesty by proclamation to make such additions to the royal style and titles then appertaining to the Imperial Crown of the United Kingdom and its dependencies as to His Majesty might seem fit. The change of title was announced by proclamation of November 4, 1901 (see the *London Gazette* of that date), the new form being "of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, etc." The establishment of the Irish Free State was felt to render this title obsolete, and so the Royal and Parliamentary Titles Act, 1927 (17 Geo. 5, c. 4), s. 1, gave power to His Majesty by proclamation to make such alteration in the style and titles appertaining to the Crown as to His Majesty might seem fit. The present title was announced by proclamation of May 13, 1927 (see the *London Gazette* of that date).

(t) The title "Magnæ Britanniæ" was first assumed by James I. in an edict to foreign princes (see *Reliquiæ Spelmanianæ*, 241).

(u) The title "Dominus Hiberniæ" was first assumed by Edward IV., 146

SECT. 2. Dominions beyond the Seas King, Defender of the Faith (a), Emperor of India."

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Regnant.

The King also bears the title of Earl of Dublin, which is inheritable by future Kings (b), and is Duke of Lancaster by inheritance (c), whilst the title of Duke of Cornwall vests in him until the birth of an Heir Apparent, when it shifts to the latter (d). As to Lancaster (and *semble* as to Cornwall also) the title of Duke merges, it is said, in that of King (e).

Though the style of "Emperor" is not assumed by the Sovereign except with regard to India (f), the King's Majesty is declared to be "Imperial," and his dominions an "Empire," by various statutes (g).

The King may not *vide* his subjects as King of any foreign country (h), but only as King of England and the dominions belonging thereto as expressed in the royal title (i).

titles being "Rex Angliæ et Franciæ et Dominus Hiberniæ." This was subsequently changed by Henry VIII. to "Rex Angliæ et Franciæ et Hiberniæ" (*Reliquiæ Speidmanniæ*, 241).

(a) The title of "Defensor Fidei" was conferred by Pope Leo X. upon Henry VIII. as a reward for the latter's hook against Luther. The title was subsequently confirmed by Pope Clement VII., but withdrawn when Henry VIII. was deposed by papal bull. The title was, however, subsequently confirmed by stat. (1643-4) 36 Hen. 8, c. 3, repealed by stat. (1654-5) 1 & 2 Phil. & Mar. c. 8, s. 4 (repealed). It has been said by some writers that the title was used prior to the reign of Henry VIII. (see Oldmixon's *History of England*, ed. 1739, pp. 36, 36; *Reliquiæ Speidmanniæ*, p. 241. For the bull conferring the title, see Lord Herbert's *Life and Reign of Henry VIII.*, ed. 1821, p. 951.

(b) Queen Victoria conferred this title by letters patent in 1840 upon the late King Edward VII., then Prince of Wales, and his heirs, "Kings of Great Britain and Ireland" (see the *London Gazette*, September 11, 1849).

(c) As to the history of the title to the Duchy, see p. 337, *post*.

(d) See p. 440, *post*. As to the Duchy generally, see pp. 357 *et seq.*, *post*.

(e) *Lancaster (Duchy) Case* (1561), 1 Plowd. 212; 11 Digest 409, 25. See also the s. c. No. Lxxxiv. (6th Century) *Jenk.* 224, *nomine ducis mercitor in nomine regis*.

(f) The style of "Empress of India" was assumed by Queen Victoria by proclamation of April 28, 1876, under the Royal Titles Act, 1876 (39 & 40 Vict. c. 10), with a saving, however, as to all charters, commissions, letters patent, grants, writs, appointments, and other like instruments not extending in their operation beyond the United Kingdom (see the *London Gazette*, April 28, 1876).

(g) See stat. (1532-3) 24 Hen. 8, c. 12; Bill of Rights, 1688 (1 Will. & Mar. sess. 2, c. 2); Royal Titles Act, 1876 (39 & 40 Vict. c. 10); Royal Titles Act, 1901 (1 Edw. 7, c. 16). The preamble to the statute (1532-3) 24 Hen. 8, c. 12, commences: "Whereas by divers sundry old authentic histories and chronicles, it is manifestly declared and expressed that this realm of England is an Empire, and so hath been accepted in this world, governed by one supreme head and King, having the royal estate and dignity of the Imperial Crown of the same," etc.

(h) George I. was Elector of Hanover, and the title of "King of Hanover" was assumed by George III. and borne by succeeding Sovereigns until the accession of the late Queen Victoria in 1837, when, owing to the operation of the Salic law, the Duke of Cumberland, fifth son of George III., became King of Hanover.

(i) As to the statutory provisions relating to foreign influence, see p. 454, *post*. When Edward III. claimed the throne of France, it was feared that

SUB-SECT. 2.—*Royal Ensigns and Armorial Flags and Banners.*

SECT. 2.

The King or
Queen
Regnant.

490. The royal arms or ensigns armorial of the United Kingdom and the British dominions are quarterly, the first and fourth being the arms of England, the second of Scotland, and the third of Ireland (k).

Royal arms.

491. Licences may be granted by the Crown to use the royal arms (l). But a grant of a patent under the Patents and Designs Act, 1907, is not to be deemed to authorise the patentee to use the royal arms, or to place the royal arms on any patented article (m), and any person who without His Majesty's authority uses the royal arms (or arms so nearly resembling them as to be calculated to deceive) in connection with any business, trade, calling, or profession, in such a manner as to be calculated to lead to the belief that he is duly authorised so to do, is liable to a fine not exceeding £20 on summary conviction (n).

Licence to
use.

492. The Royal Standard is the personal flag of the Sovereign, and cannot properly be flown without His Majesty's permission, which is, it seems, only granted when either the King or Queen is

Royal
Standard.

England might become an appendage of that country; hence it was enacted by stat. (1340) 14 Edw. 3, stat. 3, that "the realm of England and the people thereof should not at any time to come be put in subjection nor in obedience of the King, his heirs or successors as Kings of France." The ancient claim of the Crown to the throne of France was preserved by the Bill of Rights, 1688 (1 Will. & Mar. sess. 2, c. 2), and the Act of Settlement, 1700 (12 & 13 Will. 3, c. 2), which purported to confer "the imperial Crown and dignity of the realms of England, France, and Ireland" (see note (i), p. 394, ante, and p. 395, ante). The style and title of King of France was retained by the various Kings and Queens of England from Edward III. down to George III., when it was discontinued by his proclamation announcing the royal title (see note (i), p. 431, ante).

(k) Proclamations of January 1, 1801, as amended by proclamation of July 26, 1837 (see S. R. & O. Rev., Vol. I., Arms, pp. 1, 8), issued under the authority of the Union with Ireland Act, 1800 (39 & 40 Geo. 3, c. 67), art. 1, which empowered the Crown to appoint by proclamation the ensigns armorial and the flags and banners of the United Kingdom and the dependences thereto belonging. By the first proclamation the fleur-de-lys of France quartered by Edward III. were directed to be omitted, and the escutcheon representing the arms of Hanover was to be ensigned with the Electoral bonnet. In 1816 George III. assumed the title of King of Hanover, and the bonnet was replaced by the Crown. On the accession of Queen Victoria the Duke of Cumberland became King of Hanover (note (k), p. 432, ante), and the arms of Hanover were directed to be omitted from the royal arms by a proclamation of July 26, 1837.

(l) Under the Stamp Act, 1891 (54 & 55 Vict. c. 39), ss. 1, 2, Sched. I., letters patent of any franchise, liberty, or privilege to any person or body politic or corporate are subject to an impressed stamp duty of £30; whilst the grant of arms or armorial ensigns only, under the sign manual, or by any of the Kings of Arms of England, Scotland, or Ireland, is subject to an impressed stamp duty of £10.

(m) Patents and Designs Act, 1907 (7 Edw. 7, c. 29), s. 90 (1).

(n) *Ibid.*, s. 90 (2). But nothing in this provision is to be construed to affect the rights (if any) of a proprietor of a trade-mark containing such arms to continue to use such trade-mark (*ibid.*). Lists of the persons authorised to use the royal arms are published occasionally in the *London Gazette* (e.g., *London Gazette*, January 27, 1886, pp. 360-362). For the effect of a royal warrant to a tradesman, see note (k), p. 367, post. And see title TRADE MARKS AND DESIGNS.

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The King or
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present (e). Its heraldic description is as follows: "Quarterly; first and fourth, gules, three lions passant gardant, in pale, or, for England; second, or, a lion rampant, gules, within a double tressure flory counter flory of the last, for Scotland; third, azure, a harp, or, stringed argent, for Ireland" (p).

Union Jack.



493. The Union flag (or Union Jack), which is directed to be used in all His Majesty's flags, banners, standards, and ensigns, both at sea and on land (q), is azure, the crosses saltire of St. Andrew and St. Patrick quarterly per saltire, countercharged argent and gules; the latter embriated of the second, surmounted by the cross of St. George, of the third, limbricated as the saltire (r).

White, blue,
and red
ensigns.

494. The white, blue, and red ensigns are purely maritime flags (s). The white ensign consists of the Cross of St. George, with a Union Jack described in a canton in the upper corner next the staff. The blue and red ensigns are blue and red flags, respectively, with a Union Jack placed as in the white ensign.

Unless authorised by warrant from the Crown or from the Admiralty, ships or boats belonging to any British subject are prohibited from hoisting any distinctive national colours (except the red ensign (t), or except the Union Jack with a white border), or any colours usually worn by His Majesty's ships, or resembling those of His Majesty, or the pendant usually worn by His Majesty's ships or any pendant resembling the same, and the master of the ship or boat, or the owner of the same if on board, and every other person hoisting the colours or pendant, are liable to a fine for each

(e) See per the Earl of Crew in answer to a question put to His Majesty's Government in the House of Lords in 1908 (Parl. Deb., 4th Ser., vol. CXCII., 579, 580).

(p) Enc. Brit., 11th ed., Vol. X., p. 468.

(q) Union with Scotland Act, 1706 (6 Ann. c. 11); 6 & 6 Ann. c. 3, Buff., art. 1.

(r) Proclamation, January 1, 1801 (S. R. & O. Rev., Vol. I., Arms, p. 1), under the authority of the Union with Ireland Act, 1800 (39 & 40 Geo. 3, c. 67), art. 1.

(s) By Order in Council, July 9, 1864, the classification of His Majesty's ships under the denomination of the red, white, and blue squadrons was discontinued, and it was directed that in future the white ensign should be used by all His Majesty's ships in commission, the blue ensign by merchant ships commanded by officers of the Royal Naval Reserve with permission of the Admiralty, and the red ensign by all other ships belonging to His Majesty's subjects (see S. R. & O. Rev. 1904, I., Arms, p. 1). For the use of the white ensign, see, further, title ROYAL FORCES. Apart from its use in connection with the Royal Naval Reserve, the blue ensign is exclusively the flag of the public service other than the Royal Navy. As to the use of the red ensign by British subjects, see the text, *infra*.

(t) The red ensign usually flown by merchant ships, without any defacement or modification whatsoever, is declared to be the proper national colours for all ships and boats belonging to any British subject, except in the case of His Majesty's ships or boats, or ships or boats allowed to use any other national colours in pursuance of a warrant from the Crown or from the Admiralty (Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 73 (1)). As to the occasions on which the proper national colours must be hoisted and the penalty for default, see the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 74; and generally hereon see titles ADMIRALTY, Vol. I., at p. 104; SHIPPING AND NAVIGATION.

offence not exceeding £500 (u). The Union Jack may be flown on land by every citizen in the Empire, as well as on Government buildings (v).

SECT. 2.
The King or Queen Regnant.

SECT. 3.—Who is King Regnant.

495. Every King for the time being, whether he be an usurper or not, is a King regnant and is protected by the law of treason (w), and references in statutes to the reigning Sovereign are to be construed as references to the Sovereign for the time being, unless the contrary intention appears (x).

King regnant.

SUB-SECT. 4.—The Queen Regnant.

496. The status of a Queen regnant is the same as that of a King; she may exercise the regal power as fully in all respects as a King regnant, and the mention of the King in statutes includes a Queen regnant (y).

Queen regnant.

SECT. 5.—Natural and Political Capacities of the Sovereign.

497. The special privileges and prerogatives (z) allowed by the law to the Sovereign are attributed to him primarily in his regal capacity or body politic (aa). But it appears that, in general, such privileges and prerogatives attach to the King also in his natural capacity (ab), the greater drawing to itself the less, and imbuing it, as it were, with its qualities (ac). Thus in legal contemplation the Sovereign is never a minor (ad), though regents are usually appointed when he is of tender years (ae); and grants and leases made by the Sovereign during infancy are valid, and cannot afterwards be avoided (af). So also in legal contemplation the King never dies (ag).

Attributes of Sovereign.

(u) Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 73 (2); see also Proclamation, January 1, 1801 (S. R. & O. Rec., Vol. L, Arms, p. 1). As to the forfeiture of colours used in contravention of this provision, the prosecution of offences, and recovery of fines, etc., see the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 73 (3)—(5).

(v) See the reference in note (a), on p. 434, *ante*.

(w) 3 Co. Inst. 7; *Rae, Abstr. Lit. Prerog. A*; and see stat. (1496) 11 Hen. 7, c. 1, and p. 414, *ante*. As to treason generally, see p. 418, *ante*.

(x) Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 30. This Act is binding on the Crown (*ibid.*).

(y) *Ibid.* See also stat. (1564) 1 Mar. sess. 3, c. 1.

(z) As to the prerogative generally, see p. 443, *post*.

(aa) See *Lancaster (Duchy) Case* (1661), 1 Plowd. 212, 213; 11 Digest 490, 76.

(ab) See pp. 443 *et seq.*, *post*.

(ac) "For when the royall bodie politique of the King doth meete with the naturall capacity in one person, the whole bodie shall have the qualitie of the royall bodie politique, which is the greater and more worthy and wherein is no minority" (Co. Litt. 43 a, b; *Lancaster (Duchy) Case, supra*; see also *Walsley v. Berkeley* (1661), 1 Plowd. 227, at p. 244). As to the natural and political capacity of the Sovereign with regard to the practice on petition of right, see title *Curwys Peartree*.

(ad) Co. Litt. 43 a, b; *Lancaster (Duchy) Case, supra*; *Calton's Case* (1608), 7 Co. Rep. 1 a, at p. 12; 11 Digest 496, 2; and see p. 448, *post*.

(ae) As to regencies generally, see p. 448, *post*.

(af) *Rae, Abstr. Prerog. A*; *Lancaster (Duchy) Case, supra*; see also pp. 565 *et seq.*, *post*.

(ag) See p. 447, *post*. The King dies *in Act Individuo*, but not *in genere* (*Calton's Case, supra*, at p. 10 b).

SECT. 2.
The King or
Queen
Regnant.



Crown
private
estates.

Crown lands.

Sovereign's
authority
over Royal
Family.

and the mention of the Sovereign in statutes includes successors (a). Allegiance is, moreover, due to the Sovereign in his natural body as in his political capacity (b); but in questions relating to rights of property, where the King takes in his natural capacity under a gift from a subject, the full prerogative rights do not, it seems, in all cases apply (c).

498. Estates belonging to the Sovereign in his private capacity are defined by statute, and may be dealt with freely by him (d). Such statutory private lands and hereditaments are, however, subject to taxation (e).

Estates vested in the Sovereign in his body politic are subject to statutory restrictions on alienation, and the greater portion are now managed as part of the national revenues (f); they are not, in general, subject to taxation (g).

SECT. 3.—*Education and Care of the Royal Family.*

499. At common law the education and care of the members of the Royal Family, and the right of appointing their governors, instructors, and other servants, as well as the approbation of their marriages, belongs to the King, and this right extends at least as far as to grandchildren and the heir presumptive (h), whilst instances are to be found of its reaching to nephews and nieces and more distant collaterals (i). These rights as to the marriages of descendants of the body of George II. are now superseded by statutory provisions (j).

(a) It is for this reason that the King has been said to be a corporation sole; but the practical consequences of this rule (other than those stated in the text) are meagre; see Maitland, *Coll. Exp.*, Vol. III., p. 253; Holdsworth, *Hist. Eng. Law*, Vol. IX., pp. 5, 6.

(b) See p. 415, *ante*.

(c) See also note (s), p. 584, *post*.

(d) See pp. 893 *et seq.*, *post*.

(e) Crown Private Estate Act, 1800 (20 & 21 Geo. 3, c. 88), ss. 6, 7; and see p. 897, *post*.

(f) See pp. 725 *et seq.*, *post*, and title REVENUE.

(g) See pp. 733 *et seq.*, *post*.

(h) This question was proposed to the judges by George I. in 1717, and ten out of twelve gave it as their opinion that the King's right of supervision extended to his grandchildren and the heir presumptive whilst minors, and that he had the right to approve their marriages, when they were grown up (see *Porter, Rep.* 401—440). The same opinion was unanimously given by the judges in 1772 as to children and grandchildren other than the issue of princesses married into foreign families, but to what other branches of the Royal Family the right extended they did not find to have been precisely determined (see *Lords' Journal*, February 28, 1772; 1 *Bl. Com.*, 14th ed., 225, 226; and the next note).

(i) According to Blackstone the instances of the King's interposition most frequently extend only to nephews and nieces, though examples are to be found of its reaching to more distant collaterals (see 1 *Bl. Com.*, 14th ed., 225, 226, where the authority of Rymer is given for the extension of the King's supervision to brothers and sisters, nephews and nieces, great-nieces, first, second, third and fourth cousins, and to the blood royal in general).

(j) See p. 442, *post*.