

# National security trumps open justice

by Francis Bennion

The leading article in *The Times* on the Government's secret courts Bill (19 November 2012) is mistaken in its opposition to the Bill. The Bill does not, as you say, sacrifice the founding principle of law. This is not that justice must be seen to be done but Sir Edward Coke's maxim *salus populi est suprema lex* (the welfare of the people is the supreme law)<sup>1</sup>. It is 'based on the implied assent of every member of society that his own individual welfare shall, in cases of necessity, yield to that of the community'.<sup>2</sup>

Justice cannot be seen to be done if that would make publicly visible secret information that might prejudice the nation's security. It is then necessary to trust the judge to do justice. [The reasoning of the distinguished authors of the first letter about this that you published on 21 November is far superior to that of the Liberal Democrat authors of the second letter.]<sup>3</sup>

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Any footnotes are shown at the bottom of each page  
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## References:

None

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<sup>1</sup> 13 Co. 139.

<sup>2</sup> E. H. Jackson & Others, *Latin for Lawyers* (Sweet & Maxwell, 2<sup>nd</sup> edn 1937), p. 241.

<sup>3</sup> Published in *The Times* 22 November 2012. The passage in square brackets was omitted. Signatories of the first letter included Lords Mackay of Clashfern, Woolf and Carlisle of Berriew and Baroness Neville-Jones. It referred to Public Interest Immunity (PII) and Closed Material Procedures (CMPs). It said that the latter were necessary to close 'a damaging gap in the rule of law' and should be extended. The second letter supported the leading article I criticised.