

## **Noel Cox: Crown remains at core of our constitutional heritage**

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The dialogue article by Justice Minister Phil Goff seems to confirm that the intention behind the review of oaths is to further the Government's programme of republicanism by stealth.

Under the guise of emphasising national identity, the proposal he seems to have in mind would effectively advance the Government's agenda of removing all references to the Crown.

It would also appear the minister is pre-empting the review, the timing of which indeed seems to have been brought forward, in advancing views on the form the review should take.

The oath of allegiance was simplified in 1979, and remains a short and dignified statement of loyalty to the constitutional order. It involves affirming loyalty to the Queen of New Zealand. This does not mean that we do not owe allegiance to New Zealand, for the oath is to the Queen in her constitutional position as sovereign of New Zealand.

It may be that the oath of allegiance for new citizens in Australia no longer refers to the Queen. But this was a change motivated by the republican campaign then raging in that country and was bitterly fought by supporters of the constitutional status quo.

Do we want to emphasise New Zealand's independence by denigrating the constitutional role of the Queen and the Crown, one of the few unifying elements in this country which is above racial and political controversy?

An oath of loyalty to New Zealand would be constitutionally meaningless, impressive though it might appear to be in a shallow way. The concept of such an oath is at odds with a national culture which finds saluting the flag or even flying the flag difficult.

The nature of the oath of allegiance is better understood in the uniformed services. The police oath is a good example of why the current oaths are important.

Constables swear to uphold the Queen's peace. This ancient concept is based upon the idea that the Crown maintains and preserves law and order.

It also emphasises that the constable's duty is to the law and not to the Government or any sector or group.

In his address to the Golden Jubilee parade in Auckland just over a year ago, the Commissioner of Police drew attention to the policeman's oath and emphasised its practical importance.

Public office holders, and members of the Armed Forces, also swear an oath of allegiance. This is not understood as a pledge of purely personal loyalty (though this forms a part), but rather as loyalty to the office of Sovereign, and to the constitutional system which it represents.

This is far more meaningful than a vague pledge of loyalty to the country, which has been used in a number of countries to justify military coups. Loyalty is to the Sovereign, who holds the supreme constitutional office in trust for the people, not to the Government of the day. Governments come and go, but the Crown remains.

Oaths are taken seriously by the armed forces, which appreciate that their allegiance is to the Queen of New Zealand, not to the Government, although it is from that they receive their orders.

Like the Commissioner of Police, at the Golden Jubilee parade in October 2002 the Chief of Naval Staff emphasises the importance of the relationship of between the armed services and the Crown.

New citizens ought also to take an oath of allegiance to the existing constitutional structure. This structure may be changed by law as the oath recognises, but we all owe our allegiance to the constitutional government.

Politicians also serve in the Queen's name; it is the Queen's Government of which they form a part.

The Prime Minister spoke several days ago on television about being prepared to fight to the death to preserve her heritage and culture. It would seem that this might not extend to protecting the Crown, which is the linchpin of our constitutional structure unless and until the people decide otherwise.

Removing the Crown without referendum, which is what numerous recent changes have been designed to do, is improper. Public support for change is clearly absent, since some 70 per cent of people support the retention of the constitutional monarchy which has given us peace and democracy for so long.

The real motivation for abolishing or eviscerating the oath of allegiance is republicanism. To suggest that removing reference to the Queen would emphasise New Zealand's independence is spurious. It could be seen as another slight to the Queen, and as offensive to those Maori people who appreciate the personal link between Maori and Crown.

The constitutional position of the Crown is particularly important because of the Treaty of Waitangi. It is also at the core of our political, legal and constitutional heritage.

Abolishing the oath of allegiance would be another example of an ongoing programme to reform the constitution without a referendum.

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