

## Monarchy in Evolution

With a history so very different from Australia's, argues **Noel Cox**, so its future should be too.

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**New Zealand is a monarchy. This may be self-evident were it not for the fact that the sovereign herself is absent. Yet signs of the presence of the Crown, Sovereign, Monarch or Queen, whichever style is preferred, are everywhere. We speak of Ministers of the Crown, the Royal New Zealand Navy, and the Royal New Zealand Ballet. Acts of Parliament are assented to by the Queen or her representative. Crowns are used on official stationery.**

Where the regime is represented by an individual who is separate from the political office-holders, whether a Sovereign, Governor-General, or non-executive President, the distinction is easier to understand. This was the basis of Bagehot's analysis of the British constitution. The Queen personifies the permanent part of government, that part which does not change every three years or so.

In New Zealand, our form of government is that of a constitutional- or limited-monarchy. This was inherited, along with our legal system, from the United Kingdom. New Zealand shares the same person as sovereign with over a dozen other countries. But the idea of the Crown has not been unchanging in the one hundred and fifty years since 1840. One principal change has been in the office of Governor-General- the Sovereign's representative in New Zealand, and the other in the concept of the Crown itself.

Once seen as an instrument of imperial will, the Governor-General is occasionally now seen as a constitutional safeguard against executive despotism. Sir David Beattie was in no doubt that the Governor-General has extensive and undefined powers to act in times of constitutional crises and that he can act in his own right as the Queen's representative, informing her of his actions thereafter.

However, arguments that the Governor-General can act as a guardian of the Constitution overstate the case. New Zealand's economic and social policies have been dramatically altered over the past decade, without intervention from the Governor-General, as the Governor-General can only intervene to preserve the constitutional order itself.

To be more active risks destroying the office, as nearly occurred in Australia in 1975. In forming governments and dissolving Parliament the Governor-General would have to follow the course of least resistance. Several instances have shown that the Crown retains a role in special circumstances, but any action risks destroying the institution. In part because he or she is a representative of the Crown, the Governor-General seeks to minimise the chances of conflict with Ministers.

A variety of commentators have suggested that the advent of Mixed-Member Proportional voting for the House of Representatives (MMP) in 1996 will result in a more activist Governor-General, faced with the need to oversee the formation of a coalition or minority government. The Crown's reserve powers, hitherto used extremely rarely if ever,

may be used more often, giving the Governor-General more opportunities to exercise control over the incumbent government.

However, as Andrew Stockley has observed, it is flawed logic to assume that MMP will require a more interventionist Queen's representative. The Governor-General's role is essentially non-political, in that they do not involve themselves, nor should politicians seek to involve them, in party politics. Political power rests with Parliament and the responsible Ministers drawn from members of Parliament.

Republican sentiment was not absent before 1994, but it was given a sudden boost that year when James Bolger, the then Prime Minister, raised the issue of New Zealand becoming a republic by the turn of the century. A republic was presented as a necessary adjustment following the advent of MMP. It was associated with the termination of royal honours, and moves to end the right of appeal to the Privy Council. The reason given was because "the tide of history is moving in one direction".

The immediate origins of Bolger's call for a republic belong in the neo-liberalism adopted by successive governments since 1984. The wish to bury the colonial inheritance, to face towards multiculturalism, and to locate New Zealand firmly in Asia was a conscious, market-related choice forced by external developments. The arguments raised by those advocating change are that New Zealand is a South Pacific nation, with a focus on Asia. National identity requires a New Zealand head of State. Especially political arguments revolve around nationhood, what New Zealand stands for, and its feeling of self-respect.

But Bolger underestimated the level of opposition to his proposal. His call caused considerable consternation among Ministers, three of whom immediately and publicly disavowed any desire to abolish the monarchy. Nor was the response from the left wing opposition as favourable as Bolger might have wished.

### **Republicanism**

Republican sentiment in New Zealand has never been as strong as in Australia. Although the prospect of an Australian republic only became significant in the current decade, the long history of republicanism in Australia is well documented. Always a substantial but unrecognised part of the Australian political tradition, in decline after 1901, it was revived in the mid-1960s, and received a boost with the controversy over the dismissal of the Whitlam Government by the Governor-General, Sir John Keir.

Republicanism in Australia has waxed and waned mostly in response to the ups and downs of Australia's relationship with the United Kingdom, but partly in time with Australian self-understanding. Nationalism led to gold rush republicanism, and federation republicanism. Anti-British feeling led to conscription republicanism, and 'bodyline' republicanism. More recent republicanism has been marked as inspired less by nationalism than by chauvinism. Once awakened, Keating's republican passions expressed themselves in antagonism to the United Kingdom, contempt for his political opponents, and impatience with the past, rather than any great affection for the country.

### **Symbol**

The most likely motivation for New Zealand becoming a republic is symbolic. Most important among the symbolic aspects, and that upon which Bolger relied, is that it is "inappropriate" for "the Queen of England" "to be Head of State and to have power to appoint a Governor-General to exercise her royal powers on her behalf in New Zealand". The position of the Crown, however useful the system of government may otherwise be, is potentially undermined by the very symbolism which is one of its strengths. This is the essence of the Australian republican movement.

Sir Geoffrey Palmer has observed that while no doubt the country's ties with the United Kingdom are not as strong as they once were, as the Queen is Queen of New Zealand, that is not relevant. But the New Zealand media have sometimes had difficulty in viewing the Queen other than the way most of the rest of the world view her- as the British Queen. Yet, according to Lange, this very focus on the British nature of the monarchy is actually part of its appeal. We are part of a wider heritage.

Indeed, in some respects the very absence of the Sovereign from New Zealand has done much to strengthen the institution of the monarchy. Largely entrusted to Governors-General, who serve limited terms of office, the Crown has gradually become entrenched as a useful synonym for the government. But it remains more than that.

One aspect of the Crown's symbolic presence in New Zealand is especially important. The Crown's obligations under the Treaty of Waitangi are now exclusively the concern of the Crown in right of New Zealand. However, the personal involvement of the Sovereign as a party to the Treaty remains important to the Maori. This is illustrated by the strongly asserted Maori appeal to Her present Majesty Queen Elizabeth, in 1984. There is no more unanimous support for the monarchy amongst Maori than amongst the general population- indeed the reverse appears to be the case. But symbolically, the position of the Crown as a party to the Treaty of Waitangi remains important.

### **Disadvantage**

The inherent disadvantage of a republic, whether in Australia or New Zealand, would be that the highest office becomes a matter for party political contest, or of factional division. A monarchical system of government removes the office of head of State from the realm of party politics. Any republican system risks the politicisation of the highest office, whether the president is elected or appointed. Public dissatisfaction with politicians is widespread, on both sides of the Tasman. There has yet to be shown any good reason for changing the role of head of State of Australia, or New Zealand, into just another prize for politicians.

Whatever Australia decides, New Zealand can choose its own way. We have our own unique political system, especially the Treaty of Waitangi, and fortunately lack the more extreme nationalism/republicanism that has bred across the Tasman. A republic in Australia makes the a New Zealand republic neither more nor less likely in the short term, as we are a distinct country and society founded on a compact between the Crown and the Maori people. Any move to a republic here would require careful consideration of the future role of Maori in society and government. If the protracted process of settling land disputes is any precedent, such a debate would require many years of effort before any conclusion could be reached. Though a failure to get what they want is unlikely to silence the republicans, New Zealand

should learn from the Australian experience, and not let a matter of national identity become the cause of division.

Whilst abolition might not be on the political agenda in New Zealand in the short-to-medium term, reform may be. In recent years there has been some speculation regarding the possibility of changes to the laws governing succession to the Crown. The local news media has tended to regard this as a matter for the British authorities, or as one which can somehow be resolved by non-legal means. But it is a debate which does raise important issues for New Zealand. The succession laws are not merely rules invented to amuse constitutional lawyers. They are rules which are in certain respects central to the constitution, and are important aspects of New Zealand independence.

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