



Review of Oaths and Affirmations

The Republican Movement of Aotearoa New Zealand (the Republican Movement) wishes to support the Government's move to modernise the oaths and affirmations (the oaths) that New Zealanders make in important situations. While we obviously do not support the current head of state, the Queen, we believe that most, if not all, of the oaths could be improved by removing reference to the head of state and replacing them with the key ideas related to the particular oath being taken.

Our main comments on the review are:

- we should swear to important ideas (ie rule of law, democracy), responsibilities or our country, not a person;
- the oaths are archaic and our practices are well behind those of other countries, as noted in the review; and
- this is not a constitutional issue, but a pragmatic one of ensuring that oaths have some meaning for those who take them.

We are republicans, but this is not a strict republican issue. We don't have to become a republic in order to update our oaths to reflect the times. While we are not yet ready to become a republic, changing the oaths is a recognition that our national values and attitudes are gradually changing. When we update the oaths, we should recognise that power comes from, and accountability is owed to, the people of New Zealand, not the monarch. Sometime in the future, New Zealanders will want the people to choose their head of state too.

Since republicans have a wide range of political views, we have only commented on limited aspects of the review where there is broad agreement amongst our supporters.

Swearing to what Matters

Oaths are designed for particular purposes. Recently we adjusted our constitution and our officers had to make a "solemn declaration" that they "conscientiously" believed that the changes had been made in accordance with the rules of the Republican Movement. The declaration was perfectly appropriate, reminding the officers of their responsibilities. Such an approach should be evident across all of our oaths. As an example, we support a citizenship oath that reflects key aspects of our legal system and society, such as the rule of law, respect for democracy, and respecting others' rights¹.

¹ Appendix 1 includes a range of citizenship oaths from other countries that provide useful ideas. Australia, in particular, has moved away from allegiance to the Queen while maintaining a constitutional monarchy. The US oath is also interesting, although renouncing allegiance to a "foreign prince" is unfortunately not the aim of this review.

The oath for MPs requires them only to swear allegiance to the Queen, but this is an irrelevant part of their role. Better inclusions would be respect for the laws of New Zealand or serving the people. Similarly, judges have no need to swear allegiance to the Queen, but the rest of their oath is appropriate, if a little dated.

While the independence of the Police is not a policy issue for us, we do question whether the independence of the Police comes from taking an oath to the Queen, as asserted in the consultation document. If the oath has been passed by Parliament, then the independence has been effectively granted by MPs and can be changed at any time. There is also no suggestion that other who take an oath to serve the Queen are somehow independent from parliament. It seems that the mythology surrounding the Police has been confused with current law and the belief that a split between the Executive and Police operational decisions is a good thing. Changing the oath will have no impact on Police independence as the oath does not currently give them any independence.

Loyalty to the Queen

We take issue with supporters of the Monarchy who constantly offering up empty platitudes about the unique nature of the historical relationship between the Queen and her "subjects". This is clearly not relevant and distorts the legal issues involved. Our Constitution Act lays out a very simple role for the Queen; she is our present head of state – no more and no less. The rhetoric around the role of the monarchy sadly lags behind the legal reality. Our oath of allegiance to the head of state is unusual in modern democracies and is merely a hangover of the English monarchy's dictatorial history when personal allegiance was more relevant.

We would go so far as to question whether there is even a duty of natural allegiance owed by all New Zealanders to the Queen. This is not a statutory requirement but appears to be part of the common law (or even mythology). We suggest that any duty of natural allegiance is owed more to the New Zealand people or the New Zealand Government. While this line of argument may seem unusual, the very fact that we are considering removing the Queen from the oaths suggests that the allegiance to the Queen is more mythical than legal. New Zealanders owe allegiance to New Zealand, not the Queen.

While we acknowledge that there is not yet majority support for a republic, there is certainly very little connection between the monarchy and New Zealand. This makes oaths to "bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of New Zealand, Her heirs and successors" quite alien to most New Zealanders. It seems archaic and unduly personalised. We therefore prefer an oath that simply requires allegiance to the head of state.

In most cases, however, allegiance to the head of state is not important to New Zealanders except where that person forms the top of a chain of command (ie the military and the Police). There is no constitutional reason for an individual New Zealander to swear allegiance to the head of state.

Finally, requiring allegiance to the Queen effectively discriminates against republicans taking up some positions of responsibility. The monarchy does not have anywhere

near the same support as would the rule of law or democracy in this country. Few New Zealanders doubt the basic legitimacy of a government elected through democratic processes while many doubt the legitimacy of the monarchy. Republicans are happy to uphold the rule of law and the responsibilities of key positions, but a specific oath to the Queen is unnecessary.

Outdated Oaths

The teachers' oath is an example of all that is bad in our current system of oaths. The language is outdated, the focus on disloyalty to the Queen is not even peripheral to the role of an effective teachers and the oath itself has not been implemented for many years. While it is likely to be removed as part of this review, we believe that it faithfully represents all the elements of what is wrong in the other oaths.

One More Oath

We note that the oath made by our head of state upon coronation is not included in our legislation. We suggest that this be dealt with. The laws of succession are included in our legislation and we believe that the oaths should be as well. We would be happy to offer comments on the oath once it is provided to us (it is not easily available at present).

Please forward any queries in relation to this submission to Dave Guerin, President, Republican Movement, PO Box 24-194, Wellington or dave@republic.org.nz or 021 404 334.

Appendix 1 – Citizenship Oaths

	Oath	Affirmation
NZ	I (your name) swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of New Zealand, Her heirs and successors according to the law, and that I will faithfully observe the laws of New Zealand and fulfil my duties as a New Zealand citizen. So help me God.	I (your name) solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of New Zealand, Her heirs and successors according to the law, and that I will faithfully observe the laws of New Zealand and fulfil my duties as a New Zealand citizen.
Canada	I swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen	I affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.
Australia	From this time forward, under God, I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.	From this time forward, I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.
UK	I, A.B. [full name], swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.	I, A.B. [full name], of , do solemnly and sincerely affirm, that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.
US	I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God.	
Ireland	I...of...(name in full) having applied to the Minister for Justice, Equality and Law Reform for a certificate of naturalisation, hereby solemnly declare my fidelity to the Irish nation and my loyalty to the State.	
South Africa	I..... (AB), do hereby solemnly declare that I will be loyal to the Republic of South Africa, promote all that will advance it and oppose all that may harm it, uphold and respect its Constitution and commit myself to the furtherance of the ideals and principles contained therein.	