Original Article

Some constitutional issues concerning the installation of the monarch

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Abstract An investigation of the under-researched area of the installation procedures for a new monarch before the coronation demonstrates considerable uncertainty as to the future relevance and applicability of existing laws and precedents. It suggests that, in the absence of prior reform, considerable power is available to a new sovereign to acquiesce in, or challenge, traditional practices that seem out of accord with contemporary attitudes. This illustrates the continuing potential power of a sovereign, who can in such situations potentially pose fundamental challenges to the existing constitutional and political arrangements.
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Despite its importance in the contemporary government of the United Kingdom, the monarchy does not seem to attract the attention from political scientists that it merits. This is particularly the case in relation to the consideration of the procedures for the installation to the office of sovereign that follows upon the death or exit from office of an incumbent. And this is an especially important matter at the present time when the current monarch has been in post for six decades, is widely admired, continues to be in good health and to exercise the role with exceptional poise and effectiveness, and when it might not be considered to be in good taste to engage in discussions as to what happens at the end of the reign. However, all important social and political roles and institutions must have agreed procedures for securing the replacement of key individuals when vacancies arise, and it is as well that they are examined and clarified in advance in order that they can be understood and effectively and legitimately deployed again when next required.

This article, then, examines the procedures that are invoked to install in office the successor to a monarch who has died. It does not cover the coronation some many months later, which completes the process. The extraordinary exit from office of Edward VIII in 1936 is not considered in detail, except when it has some relevance to the procedures involved in the more usual process of succession following the death of an incumbent. This exploration of these procedures nicely illustrates the point stressed by McLean (2010, p. viii), in quoting Sydney Low in 1904, that 'We live under a system of tacit understandings. But the understandings are not always understood'.

Readers are all probably familiar with the saying that 'the king is dead; long live the king'. But what exactly happens in the United Kingdom in such circumstances? And it is, perhaps, more important than ever that such procedures are reviewed, since the last time that they were formally exercised was in 1952 and 1953, well over half a century ago, and such has been the passage of time and events in the interim that changes may well be required the next time around. 'Tradition', as will be demonstrated, is rarely a complete determinant of future action because the formulae of the past may not be precisely attuned to the circumstances of the present, and thus may require appropriate adjustments when the time comes for the next iteration.

Such an investigation also illustrates a characteristic feature of much top level decision making in the UK political system which, as noted by Hennessy (1997, p. 39), encourages 'muddling through', 'ad hocery', last minute improvisation, and avoids 'the rational, the written, the planned or the strategic'. Hennessy illustrates his argument with reference to constitutional procedures as to who will be invited by the monarch to form a government when a general election has resulted in a 'hung parliament'. (Interestingly, this reliance on improvisation was countered to a significant degree in relation to the UK general election of 2010 by the preparation of more explicit plans for dealing with such a scenario). But Hennessy's argument that 'the working assumption .... is that the past will be an adequate guide to whatever minor adjustments might need to be made to the Constitution' (1997, p. 41) does, however, seem to have guided much constitutional practice in the past and appears to continue to apply with respect to the procedures for the succession to the throne and the installation of a monarch. Former Deputy Prime Minister, William Whitelaw's reputed comment that he did not cross bridges until he came to them, illustrates this view nicely. But perhaps there might be value in planning the route ahead to avoid unnecessary pitfalls and dangers, and to be well prepared for the bridge crossing when it is finally approached.

Such a review of the procedures of the installation of a new incumbent to the throne necessarily builds on the work of others. The benchmark source for any discussion has to be Vernon Bogdanor's *The Monarchy and the Constitution* (1995). The importance of this source is illustrated by King (2007, p. 341) in

The British Constitution, which refers the reader to Bogdanor's work rather than cover the topic of the monarch's constitutional role itself. But Bogdanor's near comprehensive work regards the process of installation of a new monarch (as opposed to the rules of succession to the office which are considered in some detail) as relatively automatic, does not examine some major aspects of the process and does not see it as possibly problematic and potentially contested – although it necessarily gives some considerable attention to the important and unusual case of the abdication of Edward VIII. Although in this case the apparent issue at stake was the king's choice of a marriage partner, the abdication occurred at a time between accession and the final culmination of the installation process of a new monarch at the coronation – so the installation was never completed.

Bogdanor regards the monarch as the ultimate guarantor of the legitimacy and stability of the UK's constitutional and political system, and given this importance it is as well that the procedures for installation are examined in more detail. Iain McLean's recent *What's Wrong with the British Constitution?* (2010) is not as comprehensive a treatment of the role of the monarchy in government as that of Bogdanor's, but it raises important issues concerning the perceived political neutrality of the monarchy in the twentieth century before the current reign – a perspective which may have some relevance at times of succession when there are major and potentially sensitive political and constitutional issues at stake. McLean's emphasis on the role of the monarch as an actual or potential veto player in critical political and constitutional situations, and Hennessy's and Bogdanor's emphasis on the current monarch's key role in several constitutional crises, also highlight the continuing significance of the monarch as a player at critical political and constitutional junctures. And in some respects the transition from one monarch to another can be regarded as a point of particular constitutional vulnerability, where a newcomer to the role of monarch can potentially exert important influence on the shaping of constitutional and political issues because of the obligations that fall upon her or him in this transitional period. Morris (2009) does discuss in more detail than the other writers aspects of the installation procedures and suggests some possible variations the next time around in the course of a wider investigation of church establishment, but, as will be demonstrated, his perspective seems to be influenced by his background as a retired senior civil servant and does not fully exhaust the wider political and constitutional constraints and possibilities surrounding the installation.

Exploring the procedures for the installation of a new monarch is useful for the knowledge itself, but it also assists in identifying issues that might arise the next time around and which have not previously been rehearsed or resolved for nearly six decades. When, in a comparable situation in 1901, Edward VII ascended the throne after the 64-year reign of his mother, Victoria, it turned

out that despite the long period of apprenticeship that he had experienced, particularly through his interest in foreign affairs, there were immediate issues needing resolution concerning the Accession Declaration, for which successive predecessor governments might have prepared, that then could not be satisfactorily resolved until 9 years later, when his son, George V, ascended the throne. And it was the latter monarch's determination upon accession that finally led to a resolution of that situation. In fact, of the five installations in the twentieth century, the first three, Edward VII, George V and Edward VIII, exhibit evidence of issues of considerable and contentious constitutional significance, and in the case of the new and more compliant monarchs, George VI and Elizabeth, there are less well known matters of great importance that resulted in decisions of the respective UK cabinets, without ratification by parliament, that continue to be of possibly great constitutional significance and that will require resolution again the next time around (Bonney, 2011).

Accession

In the United Kingdom, the next in line succeeds to the throne automatically and immediately upon the death, abdication or removal from office of his or her predecessor. The king is dead; long live the king! The new monarch immediately assumes all the duties, privileges and prerogatives of the office (McKay, 1998, pp. 6–7) and continues to do so during a period of installation that lasts until the coronation, which occurs some months, and often over a year later. The immediate assumption of power is necessary for the smooth continuation of government and state business. The coronation is the final culminating constitutional and religious process of the installation of a monarch, which involves the administration of the oaths required by the Coronation Oath Act of 1688 by the Church of England on behalf of the state. The process of installation thus continues over a considerable period of up to perhaps 1 year and a half. An understanding of the installation procedures for a new monarch thus has to cover an extended length of time during which various formalities have to be exercised and decisions made by the monarch, the UK cabinet and sometimes the UK parliament. Chief among these, and before the coronation, are the proclamation, the conferral of the titles, what is known as the Accession Declaration of the monarch and the Scottish Oath. Although the chronological order of the latter two events is the reverse of the order of their consideration in this paper, there are logical grounds for this, which will become apparent as the argument develops.

Usually the accession of a new monarch is unpredictable. It can never be completely predicted who will assume the office of monarch upon the demise or exit of a current incumbent, as it is not known when the existing reign will

terminate and who will be eligible to be the successor through continued survival and qualification when that eventuality arises. Hence, there is a line of succession to the 39th position to enable there to be a clear successor should the need arise, and however complex the circumstances might be (Monarchy, 2011a).

As the termination of a reign could happen at any time, there must be set procedures for acknowledging the immediate assumption of office of a new monarch. There are presumably official secret plans for the proclamation of a new monarch immediately as the need arises and they will be based on past precedents and acted upon swiftly when required. There is no reason at the present time for believing that there will be any fundamental variation on the next occasion from the procedures of 1952 and 1953. No public pronouncements or decisions have been made by the monarch, the UK cabinet or the UK parliament that suggest that there will be any departure from past precedents, and particularly from those involving the installation of the current monarch.

At the end of a reign, a special UK cabinet meeting reviews and sets in motion the official proceedings in relation to the installation. Thereafter, there is an Accession Council, a special meeting of the former monarch's Privy Council to which the Lord Mayor and the Aldermen of the City of London are also summoned. In 1952, for the first time, representatives of the other members of other commonwealth realms were present (Pimlott, 2002, p. 178). The Council is convened to determine and confirm the accession, its accompanying proclamation and other pressing matters. Its origins are said to relate to the need to finalise the succession of James I of England and Wales in 1603, while he was still in Scotland as James VI of the latter realm (Heraldica, 2011). Another view is that it is the residue of medieval times and the process of election when there was an urgent need by the nobility and clergy assembled in the Witan, or Great Council, to determine who among the potential claimants was the rightful or effective successor (Schramm, 1937, p. 178; McKay, 1998, p. 5).

Elizabeth II was proclaimed queen in the following terms:

> Whereas it hath pleased Almighty God to call to His mercy our late Sovereign Lord King George the Sixth of Blessed and Glorious Memory by whose Decease the Crown is solely and rightfully come to the High and Mighty Princess Elizabeth Alexandra Mary: We, therefore, the Lords Spiritual and Temporal of this Realm, being here assisted with these of His late Majesty's Privy Council, with representatives of other members of the Commonwealth, with other Principal Gentlemen of Quality, with the Lord Mayor, Aldermen, and citizens of London, do now hereby with one Voice and Consent of Tongue and Heart publish and proclaim that the High and Mighty Princess Elizabeth Alexandra Mary is now, by the Death of our late Sovereign of happy Memory, become Queen Elizabeth

> the Second, by the Grace of God Queen of this Realm and of all Her other Realms and Territories, Head of the Commonwealth, Defender of the Faith, to whom Her lieges do acknowledge all Faith and constant Obedience, with hearty and humble Affection: beseeching God, by whom Kings and Queens do reign, to bless the Royal Princess Elizabeth the Second with long and happy Years to reign over Us.
> Given at St James's Palace, this Sixth day of February in the year of our Lord One thousand nine hundred and fifty-two. (Heraldica, 2011)

The accession proclamation is subsequently read out publicly in Cardiff, Belfast, Edinburgh and other major towns, and appropriate variants of it are declared in the other realms of the monarch, which currently number 15.

The proclamation is a joint declaration by the Privy Council and Lords, Spiritual and Temporal, representatives of official civil and religious power in the United Kingdom, and temporal power in the other realms and the commonwealth, of the assumption of power and title by the new monarch. It illustrates the fusion of religious and governmental power at the highest levels of the UK state with the initiative appearing to be taken by members of the House of Lords, including some of the 26 bishops of the Church of England that are currently members of the unelected house of the legislature, in conjunction with the members of the late monarch's Privy Council. The feudal origins of the proclamation are evident in the initiative being apparently taken by the Lords Spiritual and Temporal, and with precedence given to the former of the two reflecting their relative standing in medieval times, and the fact that before the reformation they were more numerous in the House of Lords than their temporal peers (Shell, 2008, pp. 53–54). The involvement of the bishops and archbishops and the wording of the statement also incorporate a religious dimension to the proceedings, as does the invocation of a blessing by God, 'by whom kings and queens reign' on the new monarch and head of the commonwealth.

Like the coronation, the accession is a contemporary manifestation of the relationship between the state and religion as shaped by Parliament in 1559 and the religious settlement of 1688 – reinforced by the Act of Settlement of 1700. To unravel it, suggests Strong (2005, p. 500), would lead to a major constitutional crisis. However, reform of the Act of Settlement, which determines the line of succession itself, as Blackburn has argued (2006, p. 138), is more easily stated than done, but some amendments in relation to religious and gender discrimination in the succession rules have now been proposed for consideration by the realms of the monarch by the UK government as a result of the October 2011 meeting of Commonwealth Heads of Government in Perth, Australia. However, despite the new attention being given to the rules of succession, there is no public evidence of any intention by the relevant

authorities to vary the installation procedures themselves the next time around. Given the shift of the House of Lords from an hereditary chamber to one largely staffed by life peers, and other major constitutional changes in the UK since 1952, such as parliamentary devolution and the establishment of a London Assembly, it is a moot point whether the composition and procedures of the accession and its proclamation ought to be varied. Both the think tank Demos (1998) and Morris (2009) have suggested that there might be major variations in the next accession procedures to make them more attuned to, and more representative of, contemporary life, but if this was to be the case then decisions would have to be made well in advance of the need for them. Otherwise, there will be an automatic application, because of the need for speed and continuity of government, of the inherited procedures – repeating the formula of 1952.

The Title of Head of the Commonwealth

Elizabeth II (Elizabeth I of Scotland) was proclaimed as head of the commonwealth, currently a free association of 54 states, but which in 1952 comprised an empire, independent dominions of which she was head of state, and a number of former colonies and possessions. India was by this time an independent presidential republic, which recognised the monarch as head of the commonwealth of which it was a member. This followed an agreement in 1949 among the states involved that the UK monarch should be head of the commonwealth. Following the death of George VI, Pandit Nehru, prime minister of India, invited her to be head of the commonwealth. There was concurrence with this decision at the accession council for the new monarch by representatives of those commonwealth countries who were in attendance, but the formal decision was not ratified by the commonwealth until 6 December 1952 and confirmed in the UK Royal Titles Act of 1953 (Bogdanor, 1995, pp. 263, 273).

Bogdanor argues that there will be a presumption that the succeeding UK monarch to Elizabeth will also be head of the commonwealth, as it is unlikely that there is any other person who could be a symbol of commonwealth unity and generally be acceptable to all. But will it be so straightforward? It is certainly not automatic. The position of head of the commonwealth is a matter for its members (Commonwealth, 2011). In all likelihood, the next head will be the monarch of the United Kingdom, as other possible heads of state that could fill the position do not enjoy the potentially lengthy tenure, and relatively unchallenged position, expected of the UK sovereign. But it is not certain. Were it not for his advanced age, it could be imagined that Nelson Mandela might be fitted to hold the post even though he is not now head of state of

South Africa. Other candidates of similar stature who also hold office as a head of state of a member country are not immediately apparent.

The position of the head of the commonwealth could also become a circulating position among the heads of states of members, such as some offices of the European Union, and as suggested by the existence of the circulating post of chair-in-office of the current 54 member Commonwealth itself, which is occupied in turn for short periods by prime ministers as the heads of governments of member states (Commonwealth, 2011).

Therefore, unless there is an agreement among members of the commonwealth during the current reign that the next UK sovereign should be head of the commonwealth, or some extremely rapid decision-making by the 54 members in the immediate aftermath of the creation of a vacancy, the next UK monarch might not be immediately so proclaimed at accession. The head of state of the United Kingdom could subsequently be agreed as head of the commonwealth by the member states, but some other decision, perhaps of a circulating headship, could also be made.

The Title of 'Defender of the Faith'

Another significant issue relates to whether the next monarch will be proclaimed 'Defender of the Faith'. This is an issue for each independent realm to determine along with the monarch's other titles in each jurisdiction. Elizabeth was proclaimed with this title in 1952 in the United Kingdom and in Canada, Australia and New Zealand (Wheare, 1960, p. 167). Currently, the term is not used in the royal title in Australia (Monarchy, 2011b).

The title of 'Defender of the Faith' was awarded to the throne of England by Pope Leo X to Henry VIII, paradoxically, because of a treatise by the monarch defending the Roman Catholic Church against Martin Luther, before the king's break with Rome and the foundation of the national Church of England. However, the title has continued since then along with the monarch's position as head of the Church of England. The 39 articles of 1569 that are a foundation document of the Church of England lay down the doctrines of the Church 'for the avoiding of diversities of opinions and for the establishing of consent touching true religion' and to avoid 'nourishing Faction both in Church and Commonwealth', and were issued by the monarch with 'our just title, Defender of the Faith and Supreme Governor of the Church, within these our dominions' (Church of England, 2011). Since then, the title of Defender of the Faith has always been associated with the monarch's role as Supreme Governor of the Church of England 'within these our dominions'.

The current heir to the throne, in the context of a visit to Northern Ireland in 1994, in which he went to both predominantly republican (Roman Catholic)

and unionist (Protestant) areas, presumably seeking to promote good relations with the adherents of both sides of the politico-religious divide in that province, stated that if he becomes king, he 'would personally rather see (his role) as Defender of Faith, not the Faith' (Loughlin, 2007, p. 377). He has also said that he will not comment further on the matter during the current reign (Monarchy, 2011c).

The Prince makes clear that he is a committed Anglican and that he wishes to encourage inter-faith dialogue and understanding. There is nothing to stop him doing this, although whether it is advisable is another question, and it is very much the current policy of the monarchy and, by implication, that of previous and current governments. But constitutional propriety and adherence to precedent would dictate that he cannot be officially named as Defender of Faith as long as current customs and precedents prevail.

For this change of title to happen, without prior governmental agreement and parliamentary approval, would be a *coup d'etat* that changed the entire existing religious basis of the state and could only generate a severe constitutional crisis and likely accompanying commotion and social disorder. It is claimed (by an anonymous referee for this article) that the original Latin version of the title – 'Fidei Defensor' – is translatable into either of the two formulations, and thus both versions might be defensible, but the switch from the definite article to its omission would involve a major change of historical usage and meaning. Should such a change occur, it would mean that the monarch was being proclaimed not just as Defender of Christianity or Anglicanism, but also of numerous other faiths or faith in general. Changing the title by edict would involve a potential confrontation not only with the existing Christian and Protestant statutory basis of the monarchy, strongly emphasised in the relevant legislation on succession to the throne and the accession and coronation oaths and rituals, but would also probably offend large sections of the secular and religious population who would be unhappy with the elevation of numerous other religious belief systems, such as Judaism, Islam, Hinduism and Sikhism, or religion more generally, to symbolically enhanced and protected status. Such a momentous proposed change in the religious character of the monarchy and the UK state would best be advised to receive the approval of Parliament rather than be brought about by edict at accession or thereafter.

Monarchs are not, however, without power to seek to amend, sometimes with effect, the inherited precedents and laws that govern their installation. A key source maintains that it is expected that the monarch will be consulted about the procedures to be followed at the accession and coronation (Morris, 2009). Prince Charles' stated preference to be known as Defender of Faith would presumably be known to those organising the accession proclamation. However, it is possible that he would be content that he had made his wish

known, despite having to act within the constraints of custom and precedent, and that he would therefore retain the hereditary form of the title. Morris (2009, p. 207), quoting some ambiguous comments by the Archbishop of Canterbury about such a possible shift, argues that a change in the monarch's current title of Defender of the Faith could come about upon accession by the new sovereign declaring it in a public speech, following consultation with (government) ministers and religious interests, without the involvement of parliament. Such a procedure, though, would be constitutionally questionable, as it marks such a profound change in the title and the position of the monarchy with respect to denominations and religions in the public life of the state. Unilateral action with only limited consultation with government and religious interests would clearly be insufficient in a society where large sectors of the population are secular, and they and others may be resentful of the elevation of the status of certain or all religious faiths in the official public realm. Parliamentary approval would clearly be advisable for any such profound change of the symbolic and constitutional position of the religious status of the monarchy in UK society and government.

The matter needs to be debated and determined in advance of the next reign. And the wisdom of the need for such a debate is becoming more apparent. The monarchy has been moving increasingly towards the public recognition of diverse major religions in recent years (Bonney, 2010), and the prime minister in a speech on 16 December 2011 professed his Christianity, stressed that Britain was a Christian country and that other faith communities were 'incredibly important' and were, such as Christianity, a source of morality. He explicitly rejected 'a secular neutrality' towards religion (Cameron, 2011). These remarks, combined with the encouragement of religious schools in England, appear to be preparing public opinion for the change that could occur if the title of 'Defender of Faith' was unilaterally and peremptorily bestowed on the next monarch.

If any change in the title of Defender of the Faith is brought about at the accession without parliamentary approval, it would probably not be acceptable to large sectors of opinion. If it is to be changed following the accession of the next monarch, it should not be a rushed process as part of the accession procedures, but should come about through wide public and parliamentary debate as opposed to the fiat of senior government ministers and religious officials in the rushed timescale of accession. This debate would need to consider whether the monarchy should have a religious dimension favouring one denomination or many faiths, how it should relate to them, if at all, or whether it should become entirely secular with a neutral attitude towards all groups of religious believers and the substantial sector of the population which is not religious in any meaningful way. What is certain is that, if the next monarch was declared 'Defender of Faith' immediately at his or her accession,

without prior parliamentary approval, it would in all likelihood promote a grave constitutional and political crisis.

The Accession Declaration of Protestant Faith

As the discussion has already indicated, monarchs are not inert ciphers. They can, especially at critical junctures, such as their installation, exercise influence. This was particularly in evidence in relation to what is known as the Accession Declaration, which requires new monarchs to affirm that they are faithful protestants. Edward VII was so unhappy in 1901 with the requirement to read, at the first session of parliament after accession or at the coronation, a declaration of his protestant devotion that owes its origins to the fears of the popish plot period of the late seventeenth century, that he read the oath in a low voice in the former venue and attempted, unsuccessfully, to secure a change in the legislation. A subsequent parliamentary debate on the advisability of continuing with the requirement left the matter unresolved. Edward's successor, George V, refused to swear the oath unless its content was changed, as both he and his father, and numerous subjects in the United Kingdom and the dominions, particularly Canada and Australia (where there were numerous Roman Catholics in the population), regarded it as offensive to this religious group. The Accession Declaration Act of 1910, passed after parliamentary debate, amended the wording to meet his objections and to make the oath shorter and less obviously offensive to such a large group of citizens, but still retained the intent of the original legislation. The current wording reads:

> I (monarch's name) do solemnly and sincerely in the presence of God profess, testify and declare that I am a faithful protestant, and that I will, according to the true intent of the enactments which secure the protestant succession to the throne of my realm, uphold and maintain the said enactments to the best of my powers according to law (House of Commons, 2008, p. 5).

Although declaring that he or she is a faithful protestant, the new monarch does not explicitly appear to reject Roman Catholic doctrine, other than by this profession, but the 'true intent of the enactments' that secure the protestant succession involve, in the superseded version of the oath, the rejection of transubstantiation and the adoration of the Virgin Mary, the belief that the Roman Catholic mass is idolatrous and superstitious and a disavowal of any acceptance at any time of the authority of the pope (Bonney, 2011).

The Accession Declaration remains, along with the religious qualifications for succession to the throne, one of the last remnants of statutory restrictions on the holding of public office by Roman Catholics in the United Kingdom that were otherwise largely removed by the Catholic Emancipation Act of 1829. Edward VIII, upon his accession in 1936, was a popular king and tried to remove the obligation to make the declaration in its current form at the first meeting of parliament. As part of a desire to implement a number of reforms, including slimming down the administration of Buckingham Palace and doing away with the presentation of debutantes to the monarch, he explained that the requirement was repugnant to him 'as wholly inappropriate to an institution that is destined to shelter all creeds' (Bloch, 1991, pp. 34–36, 107. Ziegler, 2001, p. 265).

Although Edward VIII's reservation in relation to the Accession Declaration might seem plausible, it neglects to consider that the UK monarch is actually selected on the basis of religious discrimination – Roman Catholics or people married to Roman Catholics, and others not being in communion with the Church of England, being eliminated in the line of succession from the descendants of the Electress Sophia of Hanover of the early eighteenth century, and thus being ineligible to succeed to the throne. Had these discriminatory provisions not been in place, Edward VIII might well thus not have been on the throne to have reservations about the Accession Declaration in the first place. It is part of the overall package of the protestant succession.

The UK sovereign, selected on the basis of religious discrimination and required to renounce Roman Catholicism and act as the Supreme Governor of the Church of England, thus constantly faces a conflict between the discriminatory religious basis of his or her selection and constitutional rationale and the obligation to act fairly and evenly towards all the citizens of his or her realms. The tension between these conflicting obligations has played out in each reign of the twentieth century and into the present era, particularly with regard to Roman Catholic citizens in the former dominions, especially in Ireland, Canada and Australia, with regard to the accession and coronation oaths, but also historically, as described elsewhere, towards the UK free churches, and increasingly today towards Catholics, Muslims and others in the United Kingdom (Bonney, 2011). There is, then, nothing new about the perceived discrepancy between the sovereign's religious obligations and beliefs and the denominational and other faith loyalties, and the lack of them, among the citizenry. What is new is a potential sovereign's expression of a personal desire to become known as being more inclusively disposed towards a wider range of denominations and religions in his future possible role by preferring the title of 'Defender of Faith' should he succeed to the throne.

The issues surrounding the accession declaration professing faithful protestantism in the successive cases of Edward VII, George V and Edward VIII,

indicate that there are inbuilt tensions in the existing arrangements. George VI and Elizabeth II were relatively compliant with what was required of them, the former because of the abdication crisis of 1936 and the urgent need to attempt to restore the status quo ante, and the latter, perhaps because she was a young woman following the example of her respected father and influenced by her mother who wished to repeat the formula of 1937 (More4 TV, 2008).

When the next monarch comes to the throne there is the possibility that he or she might not be content, such as Edward VII and George V, to take the prevailing form as required by the current Accession Declaration legislation. However, as the debate over the 1910 legislation demonstrated, a major intention behind the continuance of the provision, even its amended form, is that it should deter a monarch from converting from Anglicanism into Roman Catholicism when in office, and to remind him or her that continuation in office, as James II discovered in 1688, is dependent on the maintenance of the protestant settlement and the supremacy of parliament.

Morris (2009) argues that consideration of whether to amend the Accession Declaration could follow the next accession itself and he suggests that repeal of the Accession Declaration Act of 1910 would be a reasonable step. There would, in most circumstances, be time after accession to consider whether the new monarch should be required to take the Accession Declaration, as it is taken at the opening of the first parliament after accession or at the coronation. However, Edward Vll (Plumtre, 1995, p. 136) did not find time in such an interval to secure any change in the relevant legislation and his government was not keen to assist him in this respect. Edward VII had, during his long period of waiting in line to succeed, familiarised himself closely with foreign affairs, but had not prepared adequately for dealing with this matter upon his accession.

So rather than deferring the issue, it would seem to be a matter that could be constructively debated by parliament on a free vote at the present time to determine whether public opinion is warm to the idea of removing the requirement on a new monarch to affirm that he or she is a faithful protestant. The debate could be a bell-weather more generally on public feeling and parliamentary attitudes towards the current religious connections and role of the monarchy in the United Kingdom. And it would best be conducted earlier, when there is an opportunity to explore the matter in appropriate depth, rather than later when it may be subject to the urgencies and contingencies of conducting a debate in the rushed early months of a new reign.

The Scottish Oath

Another constitutional requirement of a new monarch that needs discussion as part of the installation process is the oath required by the Acts of Union of

1707, immediately at the start of the reign at the initial Accession Council, to swear 'to inviolably maintain the true protestant religion and Presbyterian church government in Scotland'. Existing authoritative sources are not in complete agreement as to the precise form of this obligation. The Acts of Security of the Church of Scotland, passed by both the parliaments of England and Scotland in the context of the Acts of Union of 1706/07, which united the two parliaments, stated in its Scottish version that:

> it being reasonable and necessary that the True Protestant Religion as presently professed within this Kingdom with the worship, discipline and Government of the Church should be effectively and unalterably secured … to continue without any alteration to the people of this land and for all succeeding generations … . The Sovereign succeeding to her (Queen Anne's) Royal Government of the Kingdom of Great Britain shall in all time comeing at his or her accession to the Crown Swear and Subscribe That they shall inviolably maintain and preserve the foresaid settlement of the True Protestant Religion … . This Act shall be held and observed in all time comeing as a fundamentall and essential condition of any treaty of union between the two kingdoms. (Donaldson, 1970, pp. 275–277)

According to the Church of Scotland Website (2011), the Oath of Accession includes a promise to 'maintain and preserve the Protestant Religion and Presbyterian Church Government'. A House of Commons research paper, however, distinguishes between a declaration, presumably of commitment to the 'true protestant religion', and an oath to preserve the Church of Scotland:

> The Act of Union of 1707 requires the sovereign to make a declaration and take an oath to preserve the Church of Scotland. This is done at the first meeting of the Privy Councillors immediately following the accession. (House of Commons, 2008)

The official Website of the monarchy, however, only refers to the oath to preserve the Church of Scotland. It states 'the monarch takes the oath to preserve the Church of Scotland at the meeting of the Privy Council immediately following his or her accession' (Monarchy, 2011d).

The actual wording of the oath as sworn by Elizabeth R in 1952 is as follows:

> I, Elizabeth the Second (sic) by the Grace of God of Great Britain, Ireland and the British dominions beyond the seas, Queen, Defender of the Faith, do faithfully promise and swear that I shall inviolably maintain and preserve the Settlement of the True Protestant Religion

> as established by the laws of Scotland in prosecution of the Claim of Right and particularly an Act entituled an Act for the Securing the Protestant Religion and Presbyterian Church Government and by the Acts passed in both Kingdoms for the Union of the two Kingdoms, together with the Government, Worship, Discipline, Rights and Privileges of the Church of Scotland. (National Archives of Scotland, 1952)

Abolishing the Scottish Oath would require amendment of Acts which are integral parts of the Acts of Union and which appear to be unalterable in any way. However, as the UK parliament is sovereign, it could amend these elements of the Acts of Union as part of current or subsequent debates on the changing constitutional status of Scotland within the United Kingdom and, as in fact has been done, to release academic staff in the four ancient universities of Scotland from having to adhere to the doctrines and discipline of the Church of Scotland.

Given the immediacy of the requirement to take the oath following the assumption of the throne by a new monarch, the Scottish Oath is clearly a matter that ought to be debated in the UK parliament well in advance of the next monarchical succession. There could also be a debate in the Scottish Parliament, which does not technically have power on the issue, as the constitution is statutorily reserved for the UK Parliament. This restriction did not prevent the Scottish Parliament in 1999 from passing motion S1M-117 to remove religious discrimination from the Act of Settlement and succession to the UK throne. A debate in the Scottish Parliament on whether to discontinue the Scottish Oath would be a good sounding board for Scottish opinion, before the issue's consideration and determination in the UK parliament.

In the absence of such early debates and decisions, the Scottish Oath would be automatically applied at the inception of the next reign. Morris (2009) suggests that discussion of the matter should take place after the accession of the next monarch, but action at that point to vary the procedures on such complex issues would probably be unsuccessful given the requirements of precedent and the existing legislation for immediate action at accession. As demonstrated in relation to the difficulties surrounding proposed changes to the Accession Declaration in 1901 and 1910, it would clearly be beneficial for there to be thorough debates in the UK parliament, the Scottish Parliament and other public fora well in advance of the next reign so that the complexities of the issues can be explored and appropriate ways forward decided.

Of course, at the start of the next reign, it would be open for the monarch to refuse to take the Scottish Oath in order to force a reconsideration of it, as George V did in 1910 in relation to the Accession Declaration, but this cannot be relied on. Earlier consideration and resolution of the matter by the

UK parliament would thus be in the public interest. Failing this, the new monarch might refuse to take the oath on the grounds that it is out of character with the contemporary nature of Scottish society, offensive to some secular and religious opinion in the country and not in conformity with the role of a 'Defender of Faith'. This would force a constitutional crisis that would require the UK parliament to decide whether to continue with the oath, amend it or require the monarch to step down from office.

At present, there is no evidence of strong support in Scotland for any action to amend or abolish the oath. Nor is it prominently advertised by the monarchy, the government or the Church of Scotland. Those governmental, royal, political or religious officials with any knowledge of it probably regard it as a formality with little significance or an embarrassing obligation not to be emphasised. Probably, most of the Scottish population do not know that it exists. The protestant character of the UK monarchy is, however, of great significance to the distinct and substantial Orange protestant elements of the Scottish population that annually display their beliefs and loyalties in parades in parts of the central belt of Scotland and at Glasgow Rangers football club matches and with some other teams. A refusal by a new monarch to swear the oath in its present form could force consideration of the issue and possibly lead to deep fissures in Scottish society and politics as debate raged as to whether it should be abolished. For religious sectarianism is an issue that surfaces occasionally in Scotland in the present day, especially, but not exclusively, around loyalties to football teams, and the proposed abolition of the Scottish Oath would certainly generate great opposition from bodies such as the Orange Lodge in Scotland, and possibly even from elements in the Church of Scotland itself as it would remove its privileged position as the 'official and endowed' national church (Donaldson, 1972).

A monarch who wishes to be 'Defender of Faith' and even handed towards all major religious groups might feel that she or he could not, in all conscience, swear the Scottish Oath and give special recognition to one religious denomination in Scotland. He or she could thus force the UK parliament and the people of Scotland to decide whether they wished the monarchy to continue to conform to the religious requirements of over three centuries ago. But clearly it would be much better if the decision to retain or dispense with the Scottish Oath was made by the UK parliament before the accession of the next monarch possibly precipitates the issue.

Conclusion: The Potential Power of the Sovereign at Accession

This article has explored some remote and dusty corners of the constitution of the United Kingdom that might, in the not too distant future, be of some

importance for the operation of the UK political system. The focus has been on the installation procedures of a new monarch before those of the coronation, which is the final and culminating religious and constitutional ratification of the new incumbency, and which, itself, of course, requires separate and detailed investigation that is not undertaken in this article.

It is possible that the pre-coronation aspects of the installation procedures of a new monarch will remain obscure and of little consequence. They might continue to be regarded, if known, as unexamined formalities which are adhered to out of regard to tradition, researched and deployed by government and royal officials when required, and seen as having little relevance, other than ensuring a smooth formally correct succession, to the ongoing and respected role of the sovereign in the routine business of government and the ultimate legitimation of the UK state.

Such recent efforts at reform of the monarchy as there have been have focused on the rules of succession, rather than installation procedures. There have been numerous attempts to initiate reform of the religious or gender discriminatory aspects of the succession rules in the UK parliament since 1997 by MPs such as Kevin McNamara, Evan Harris and Keith Vaz, but they have, until recently, come to little. The standard responses of governments – that the issues are so complex, that any changes have to be coordinated with the governments of the other realms of the monarch and that there are other priorities for government and parliamentary time – have routinely meant that change has been ruled out. Changes are now, however, being investigated by the United Kingdom and 15 other realm governments that have the Queen as head of state, as mentioned above, into gender and religious discrimination in the rules of succession to the throne. Theoretically, similar such discussions in the future could lead to variations in the constitutional and religious aspects of the accession and coronation procedures which are the focus of this article and which are not directly affected by these latest proposals.

But for the time being these latter issues have been excluded from consideration in inter-realm discussions. Any powers of immediate initiative on these matters, as they concern the United Kingdom, will continue to lie with the monarch, government or parliament. The Prime Minister's December 2011 speech on religion suggests that he wishes to preserve and possibly extend, but not diminish, the existing religious basis of the UK state and monarchy. But any action to vary existing laws and precedents will raise potentially profound issues which governments have in the past sought to avoid rather than confront because of their potential to promote challenging constitutional conundrums and possibly deep social and political conflict. Should the monarchy continue to be religiously legitimated? Should it continue to be Christian, profess Protestantism and reject the doctrines of Roman Catholicism? And should it have specific and additional protestant and Presbyterian characteristics in

Scotland? Such are the uncomfortable questions that a government would be forced to confront if it began to attempt to vary the inherited religious features of the rules of succession and accession and coronation procedures.

There will still, then, continue to be powerful tendencies within UK government for avoidance of the issues, for 'ad hocery' and for improvising versions of the inherited procedures for the installation of a new monarch the next time around. However, issues that are continually ignored or deferred eventually require attention and the near automatic response when the need arises is to resort to the traditions that are enshrined in ancient laws and customs. Government requires continuity and effective successors must be found immediately for the absent incumbent of the throne. Tradition is a ready source of solutions in such situations.

In the absence of prior action by government or parliament, a considerable power of initiative thus falls upon the new incumbent on the throne to attempt, like Edward VII and George V, to vary the procedures to make them more attuned to the values of the day. He or she might, for instance, promote a constitutional crisis by challenging the automatic conferral on the incumbent at the accession of the title of Defender of the Faith because of a preference for being known as Defender of Faith. In such a situation, the government would be right to insist that there is no constitutional basis for any change in the title, but that such action by the sovereign could promote appropriate debate and legislation in parliament to resolve the issue.

There is also the issue of the Scottish Oath that a monarch is required to swear immediately upon accession. Might not a new monarch possibly refuse to swear the oath on the grounds that he or she wished to promote a debate in Scotland as to whether or not this requirement should be continued? But by taking such a step would the new monarch be disqualifying himself or herself from office in refusing to undertake a duty that is explicitly and legally required immediately after accession?

A new monarch could also raise the issue of the desirability of continuing with the Accession Declaration of protestant faith. This matter would not require as much immediate attention as the two previously mentioned matters, as it currently has to be administered at the first meeting of parliament after the accession or at the coronation. As demonstrated by the debate surrounding the changes in the legislation in 1910, it might be possible to resolve the matter through parliamentary debate and legislation within the available time frame. And in such a time scale, the issue could be precipitated by the monarch, the cabinet or parliament.

Questions such as these are not purely hypothetical. The attitudes of Edward VII and George V towards the Accession Declaration in 1901 and 1910 demonstrate that new monarchs can be important players in determining whether inherited installation practices should be continued or varied. Unless

there is profound prior public debate and prior decisions about these issues by parliament, the UK opens itself up to the possibility that a candidate monarch might force the issues by refusing to take the relevant oaths, declarations and titles in their current form.

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