



14 May 2010

Members
Justice and Electoral Select Committee

Inquiry into the process for deciding whether to retain or change the New Zealand flag

The Justice and Electoral Select Committee has been asked to conduct an inquiry into “the process for deciding whether to retain or change the New Zealand flag”. This paper has been prepared to assist the Committee with its examination. Issues are identified and possible lines of inquiry are provided for the Committee to consider. The Committee may also wish to raise these matters with the witnesses who have been asked to appear before the Committee to give evidence on this inquiry.

History of attempts to change the New Zealand flag

On a number of occasions, individual politicians and others have floated the idea of changing the New Zealand flag. In 1967, American expatriate Clark Titman was one of the first to propose (and design) a new New Zealand flag. The Austrian artist Friedensreich Hundertwasser gifted his design for a new flag on becoming a citizen of New Zealand in 1983. But the most significant attempt to set a change of flag in motion occurred in 2004.

In 2004, businessman Lloyd Morrison, with the support of a number of prominent New Zealanders, founded the NZFlag.com Trust, with a view to stimulating debate and promoting alternative designs for the flag. At the same time, the Trust launched a petition to gather a sufficient number of signatures to force a referendum on the issue. The campaign gained around 100,000 signatures, but fell short of the 270,000 needed for the Government to consider a referendum.

On Waitangi Day this year, the NZ Herald newspaper renewed the campaign for a new flag with a series of articles on the topic.

Constitutional issues: what needs to happen to change the flag

The New Zealand flag can be changed by a simple majority vote in Parliament.

The Flags, Emblems, and Names Protection Act governs the design and use of the New Zealand flag. A parliamentary majority to amend Section Five and substitute a new design to Schedule One of the Act is required for the New Zealand flag to change.

There are a number of legislative options available to get to this point:

- The Government could introduce a Bill proposing a change
- A private member's Bill could be drafted (but would need to be drawn from the ballot)
- A Select Committee could decide to hold hearings.

For the New Zealand public, there is the option of initiating a referendum to attempt to bring about change. This is the approach that was tried by Lloyd Morrison and others in 2004.

It is worthwhile noting that the issue of changing the flag can be considered quite separately from constitutional issues such as changing the head of state or becoming a republic.

How other countries have approached changing their flag

Several Commonwealth countries have changed or have considered changing their flags, for many of the same reasons that have been raised in New Zealand.

Canada

As early as 1945, the Canadian Prime Minister of the day made attempts to change his country's flag and create an emblem for his country that reflected its independence and separation from its colonial past. That attempt failed to gain support. By 1958, polling indicated that over 80 per cent of Canadians wanted a new national flag, and 60 per cent favoured a maple leaf emblem. The Conservative Government was unwilling to act on this, and it wasn't until a Liberal Government was elected in 1963 that the issue of changing the flag was formally considered.

In June 1964, the "great flag debate" began when Prime Minister Lester Pearson proposed his plans for a new flag in the House of Commons. The debate went on for three months, as the Opposition Conservative party successfully stalled progress through continuous filibustering. In September 1964, to break this deadlock, a committee of 15 Members of Parliament was charged with producing a new flag for Canada "within six weeks."

The Committee held 35 meetings and considered more than 3,500 design proposals. On 22 October 1964, the Committee unanimously settled on historian George Stanley's Maple Leaf flag. The decision went to the House of Commons for ratification, and the Conservatives once again launched a filibuster. After six weeks of debate a vote was taken and the Committee's recommendation was accepted.

Queen Elizabeth approved the Maple Leaf Flag by signing a Royal Proclamation in January 1965, and the flag was inaugurated in February 1965 at an official ceremony in the Canadian Parliament.

South Africa

South Africa's present flag represents post-apartheid South Africa, and is the product of the negotiations that took place as the country made the transition from white minority rule to a full democracy in 1994.

The process to select a new flag was initiated by South Africa's Parliament in 1993, with a nationwide competition to design a new flag. More than 7000 designs were submitted to the National Symbols Commission. Six designs were selected and presented to the public and to the Negotiating Council, but none elicited enthusiastic support. A number of design studios were contacted to submit further proposals, but these were no more successful in gaining wide support. Parliament went into recess in 1993 without a suitable candidate for the new national flag.

In February 1994, the chief negotiators for the African National Congress and the National Party government of the day were given the task of resolving the flag issue. An interim flag was designed by the State Herald, Frederick Brownall, for the April 1994 elections and for Nelson Mandela's May 1994 inauguration. This flag design was to have a probationary period of five years, after which there would be discussion about whether or not further change was needed. However Brownall's design was well received, and was officially included in the final draft of South Africa's new Constitution.

Australia

Attempts to persuade Australians and Australian governments to adopt a new flag have been numerous and regular, but to this point unsuccessful. The organisation campaigning for a flag change - Ausflag - comprises a number of high profile Australians, and has commissioned several flag design competitions over the years. The debate has come to a head on a number of occasions - particularly around Australia's Bicentenary in 1988 and before the 2000 Sydney Olympics, but also during the Prime Ministership of Paul Keating who publicly supported a change in the flag. In January this year, on Australia Day, high profile TV personality Ray Martin threw his weight behind the Ausflag campaign saying that Australia had "well and truly reached the point where we should have our own flag". However the majority of the Australian public and its politicians remain unconvinced.

In 1998, the Government amended the Flags Act of 1953 to ensure that the Australian national flag could be changed only by referendum of the Australian people.

Factors relevant to a process for change

As our and other countries' flag change experiences have shown, the process leading to change has a number of elements. Not all of these will apply in all instances, but experience suggests that most will be prerequisites for a successful outcome.

Public support for change

A national flag is a potent cultural symbol for most nations and evokes strong sentiments of national pride among many citizens. This strong attachment to the flag

is reflected in the many failed attempts over the years to persuade New Zealanders and Australians that the current flag should be replaced. Unless a majority of the population believes it is time for a change, it is highly unlikely that an attempt to change the flag will be successful.

Government support for change

Change can only occur through a vote in Parliament. Therefore it is highly unlikely that change will occur without the support of the Government of the day.

Multi- party support

Support from across the political spectrum is desirable so that any change to the flag endures through different administrations.

Design contest

Nearly all flag changes are preceded by a flag design contest or an invitation for fresh designs to be submitted. This is an important way of engaging the public in the process – as designers and as critics. It is also important as a way of ensuring that a full range of options is canvassed. Whether or not the final design emerges from the process – and experience shows that it may not – it is still considered by most countries to be a worthwhile exercise to engage in.

Public consultation

The degree to which the public is involved in making the decision on the flag design or the adoption of a new flag is a point of discussion. There are four decision points at which public consultation (through a referendum or other consultative processes) could occur. These opportunities occur when deciding:

- whether the existing flag should be changed
- the process for change
- which potential new flags should be on the shortlist
- which flag is the preferred option

Whatever process is decided upon, the public should be sufficiently involved in the process to have a sense of ownership of the result.

Expert advice

Expert advice will almost certainly be needed on some aspects of the process. Flags have to comply with established conventions. Input from experts such as the New Zealand Herald of Arms Extraordinary would be important.

The degree to which professional designers are involved in the process would need to be agreed upon. Would the flag design invitation be extended only to professional designers? Would the “finalists” be selected by a panel of designers and or other “experts”?

Maori advice

Maori have a special relationship with the Crown and as a Treaty partner could be expected to play a unique role in the process of deliberating upon a new flag. Maoridom has its own flags: the relationship between these and any new national flag would need to be clarified.

Report to the House

The Committee is required to report its findings on this inquiry to the House. The purpose of your report is first to inform the House and encourage debate. In doing so your report should reflect both the oral and written evidence the Committee received, the issues the Committee considered in-depth, and the views of the members. From these the Committee should develop conclusions and recommendations to the Government.

Susan Wauchop
Report Writer
Youth Parliament 2010
Ministry of Youth Development

Members may wish to ask:

- What is the single most important factor we should take account of in deciding whether to retain or change the flag?
- What do we know about current public opinion on the issue of changing the flag?
- Are there any lessons to be learned from Lloyd Morrison’s attempt to enlist public support for a referendum?
- What role would Maori expect to play in the process of deciding upon a new flag?
- What advice would an expert on constitutional change give us on the process of deciding whether to retain or change the flag?
- How big a role do you see “experts” having in this process?
- How big a role do you see the NZ public having in this process?

References

www.nzflag.com

www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10624252 (Accessed 6 April 2010)

http://en.wikipedia.org/wiki/Flag_debate

www.ausflag.com.au

Ministry of Culture and Heritage