



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

Recommendation

The report of the Justice and Electoral Committee makes the following recommendations to the Government:

- that an indicative referendum, on whether the New Zealand flag should be changed, should be held in conjunction with the 2014 general election
- that the enabling legislation for the referendum include terms of reference for a Royal Commission of Inquiry to be established if a majority of voters in the referendum are in favour of the question
- that the terms of reference include the consideration of candidate designs (including the current flag), of how to choose between them, and of the form of any further referendums.

Introduction

The purpose of this report is to summarise our consideration of the question of what process should be followed in order to decide whether the current New Zealand flag should be retained or changed.

History of the New Zealand flag

New Zealand has had three official flags. The first was the flag of the United Tribes of New Zealand, designed by a member of the Church Missionary Society and adopted in 1834 by 25 chiefs of the far north. The second was the Union Jack, adopted following the signing of the Treaty of Waitangi in 1840. The current flag was made the legal flag of New Zealand in 1902. It had originally been New Zealand's maritime flag but its use on land had

gradually increased over the years. It became prominent amidst the pomp and patriotism of the South African war, which led to the change.

Attempts to change the New Zealand flag

There have been several proposals for new New Zealand flags, notably from Clark Titman in 1967, and from Friedensreich Hundertwasser in 1983. In 2004 a petition circulated by the NZFlag.com trust gained around a third of the number of signatures required to instigate a citizens initiated referendum on the issue. A series of articles in the New Zealand Herald earlier this year has led to further public interest, which this inquiry is in part a response to. However, the latest opinion polling that we are aware of still shows a majority opposed to changing the flag.

Approaches taken in other countries

Canada changed its flag in 1965, 20 years after the first attempts by its Government to create an emblem for the country that reflected its independence and separation from its colonial past. Public opinion had increasingly favoured a change in the flag, and largely supported the maple leaf emblem, a version of which was eventually used.

South Africa's present flag is the product of negotiations that took place as the country made the transition from white minority rule to a full democracy in 1994. It was initially adopted as an interim flag to be used for the first post-apartheid elections and presidential inauguration, but became popular enough to become the country's permanent flag.

Australia has not changed its flag despite a number of campaigns to do so, particularly around the bicentenary in 1988, and the Sydney Olympics in 2000. 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.

Submitters

We heard submissions from three organisations, each with particular knowledge or expertise regarding what would be required to change the flag and what such a change might mean.

Ministry for Culture and Heritage

We heard from the Manager of Heritage Operations at the Ministry for Culture and Heritage that the flag is an important symbol and is more than just a national "brand", that there is no obligation to retain the Union Jack as part of the flag (only three current Commonwealth countries do so), and that there was no need to wait for Australia to change its flag.

Morrison and Company

Morrison and Company's General Counsel told us that the need to change the flag was so evident and obvious that Parliament should legislate to set a change in motion without waiting to be prompted by public opinion. He agreed that a flag was more than a brand, but argued that a good flag needed a similar distinctiveness and relationship to its country that a good brand would have. We heard that the Union Jack in the current flag ties the flag to a single element of the country's current diversity, and that a good flag would be a

national symbol that was not tied to any particular sector of society. He said that time should be taken to develop an appropriate process for settling on a new flag.

Returned and Services' Association

The Chief Executive of the Returned and Services' Association (RNZRSA) told us that the then-new New Zealand flag was also prominent as a symbol of New Zealand at Gallipoli. He said that while the RNZRSA is strongly attached to the current flag, its policy is that the flag should be changed if a substantial majority of people are in favour of a change, and that this could only be tested by way of a referendum. He considered that it should be confirmed that a new flag was required before attempting to decide on a new design.

Conclusions

We considered recommending that public opinion on the issue be regularly monitored, and that the matter be considered again once some threshold was reached; but we considered opinion polling to be too imprecise to gauge public opinion accurately, and that this might lead to a situation as in Canada where public opinion moved ahead of the government by almost a decade.

We also considered recommending that a Royal Commission be set up as soon as possible to produce a selection of candidate designs to put to the public in a series of referendums, but decided that this course of action would be too expensive, particularly without a clear indication that a change would be favoured by a majority of voters. We believe that the Government should not change the flag without regard to public opinion; we took note of Australia's decision to require a referendum to change the flag, but did not believe this was necessary for New Zealand.

We decided that the least expensive way to get an accurate indication of public opinion would be to hold a referendum in conjunction with a general election. We consider that if this is done with sufficient (several years') notice, interest groups (both for and against) and media will ensure that the public are fully aware of all the issues involved. We recommend that a referendum be held in conjunction with the 2014 election (or a subsequent election if enabling legislation can not be passed in time).

We recommend that the referendum ask voters to indicate whether they would prefer the current flag to be retained or changed. We recommend that the legislation setting up the referendum specify that if a majority of voters wish to retain the current flag, then no further action should be taken. We believe that such a result would mean that the issue would not be seriously pursued by anyone for a number of years.

We recommend that the enabling legislation include terms of reference for a Royal Commission of Inquiry, to be instituted should a majority of voters favour changing the current flag, and that the terms of reference should include the consideration of candidate designs (including the current flag), of how to choose between them, and of the form of any further referendums.

Minority view

Some of us consider that a Royal Commission should be set up, as the first step, to gauge the need for a referendum.

Appendix

Committee procedure

The committee met on 6 and 7 July 2010 to consider the inquiry. The committee received and heard three submissions. Evidence was heard from the Ministry for Culture and Heritage, Morrison and Company, and the Returned and Services' Association.

Committee members

Akash Rampal (Chairperson)

Lincoln Dam

Lorna Donnelly

Amy Halligan

Anna Hamer-Adams

Josh Harvey

Abbey Kendall

Jack McDonald

Javier Mihaere

Hannah Singh

Alex Summerlee

Robert Whitefield