

National Affairs by Claire Hoy ? That's the way democracy works

Here's a question:

Suppose you wanted to join a particular club but you didn't like the rules of entry? Would you just not join? Would you join and then try to change the rules once you were a member?

Or would you ? as three disgruntled Canadian residents did lately ? run off to court and attempt to get them to change the rules to satisfy your own bias?

We speak, of course, of last week's welcome decision by the Ontario Court of Appeal ? although one wonders how the matter even got that far in the first place ? shooting down the efforts of three people to change the requirement to swear an oath to the Queen before becoming a Canadian citizen.

One of them, a former Toronto Star journalist Michael McAteer, 80, an Ireland-raised republican who sees the monarchy as an ?anachronism,? has lived here since 1964.

McAteer claims: ?It's an insult on my integrity to take an oath that I don't believe a word of ...?

Perhaps nobody told McAteer that Canada is a constitutional monarchy and the Queen is head of state. He obviously doesn't like it but it's surely beyond simple arrogance to demand we refashion our system just to fit his own personal republican biases.

Then there's Simone Topey, a Rastafarian, who says swearing the oath would ?deeply violate her religious belief.? She sees Queen Elizabeth as the ?Queen of Babylon,? a scurrilous assertion that is surely an affront to the vast majority of Canadians who, whether monarchists or not, who share the widespread respect the Queen deserves.

And finally there's Dror Bar-Natan, an Israeli immigrant. To him the oath is ?repulsive.? Why? Because he says the Queen is a symbol of inequality. Really? If only she were as perfect as he is then apparently all would be well with the world.

In any event, the court found that these three complainers totally misunderstand the nature and legality of the supposedly offensive oath.

Imagine having to be told that simply swearing an oath to the Queen doesn't mark you as an ardent monarchist. What it means, as the Globe and Mail editorial aptly put it, is ?that you recognize and accept Canada's system of democratic, rights-based government, which the Crown symbolizes. That constitutional system includes the absolute right to advocate and work for the rewriting of the oath ? and even to bring about the end of the monarchy itself.

?When new citizens swear an oath to the Queen, they are not promising to personally serve an 88-year-old woman who lives in Buckingham Palace.?

Rather, as Justice Karen Weiler put it, ?the oath to the Queen of Canada is an oath to our form of government, as symbolized by the Queen as the apex of our Canadian parliamentary system of constitutional monarchy.?

When you get charged with a crime and appear in court, for example, the state is represented in court by the ?crown.? That doesn't mean Queen Elizabeth is about to trot into the court to prosecute the accused. But it does mean the prosecution is acting on behalf of the ?crown,? i.e. the Canadian state.

The actual oath for new citizens ? apparently so horrific to our three malcontents ? reads: ?I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, 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.?

That's it. Hardly an assault on anybody's personal comfort or well-being, but currently a legal part of the constitution.

You don't get to pick and chose which parts of the constitution you will follow and which parts you will ignore, at least not without some consequences.

On the other hand, if there are parts of the constitution ? or any other law on the books ? that you don't like for whatever reason, as a Canadian citizen you are absolutely free to pursue any legal avenue you wish to bring about the change you want.

When the Quebec separatist Bloc Quebecois MPs were Her Majesty's Loyal Opposition in the Commons from 1993 to 1997 you can be sure none of them were monarchists and all would cheer if the Queen were excised from the constitution.

But, respecting Canadian law as it is ? as opposed to what they would wish it to be ? they all dutifully swore an oath to the Queen in order to take their seats in the Commons.

That's the way democracy works. And thank heavens for it.

