Canada's Constitutional Monarchy

VERONIKA REICHERT
University of Alberta

Anytime a royal makes an appearance at an event, great public interest in royalty is generated, and with that the monarchy as an institution is brought to the attention of Canadians and the Commonwealth. There is a popular opinion that the monarchy no longer plays, and should no longer play, an important role in contemporary Canada, and with that a view that the monarchy is a useless appropriation of tradition, or even a harmful symbol of oppression, the latter view taken by Marc Chevrier who writes that "the Canadian *neomonarchy* feeds illusions of false grandeur that have no meaning in America and distract the people from thinking that they can be sovereign."¹ Others, however, see the monarchy as an important part of modern Canada, a "contemporary and relevant

Canadian institution."² Does the monarchy play an important, positive role in Canada today? Those who would answer "no" to its importance or its being positive have argued that we should abolish the Crown in Canada. However, by looking at the constitutional structures of Canadian institutions, the design of our federalist democracy, and aspects of the Canadian identity, I will show that the monarchy does play an important, and positive, role in contemporary Canada. Further, the criticisms of the monarchy would be better addressed through reform of the role of the Crown, in terms of preserving the important function the monarchy plays as well as being a much more accomplishable task.

One argument against the monarchy is that it is viewed as an archaic institution, and thus it should have no place in today's world, and especially not in a federalist democracy. This "medieval institution" encourages a concentration of power in the hands of one, the sovereign, and thus contradicts federalism,

¹ Marc Chevrier, "Our Republic in America," in *Vive Quebec! New Thinking and New Approaches to the Quebec Nation*, ed. Michel Venne and Louisa Blair (Toronto: James Lorimer & Co., 2001), 96.

² Kevin MacLeod, "A Crown of Maples: Constitutional Monarchy in Canada," *Department of Canadian Heritage*, 2008, 39.

as well as “confuses citizens about what their rights and duties are.”³ For Chevrier, the monarchy deprives citizens of their democratic honour; they are not actually citizens, but subjects with favours received “from a benevolent sovereign.”⁴ Our constitution is designed in such a way that all power is vested in the Crown by law.⁵ Regardless of the convention that the Crown must obey the elected officials, Chevrier still views this as undemocratic, and says Canada, or more specifically Quebec, should become a republic, a republic transcending the institutional order and being “a state of mind, a vision of politics.”⁶ Naturally, the republican sentiment is stronger in Quebec because the Crown is of British origin.⁷ But throughout Canada as well the Crown is seen as a foreign institution.⁸ Our official Head of State, the Queen of Canada, is British, not Canadian. In this light, the Crown can be seen as a symbol of colonialism: an echo of Canada’s colonial past and Britain’s imperialist one.

In 2002, the then Minister of External Affairs and Deputy Prime Minister John Manley proposed abolishing the monarchy, but support was not widespread.⁹ However, in 2005, fifty-five percent of Canadians favoured separation from the monarchy at the end of Queen

Elizabeth II’s reign.¹⁰ Indeed, the majority of Commonwealth nations are republics, “with their heads of state being chosen from among their own citizens.”¹¹ As the monarchy is viewed as outdated and colonial, many nations that have the Queen as their head of state are becoming increasingly republican, most notably in Australia, but even the U.K.¹²

However, turning Canada into a republic would likely be exceedingly difficult. First, our amendment formula makes it challenging to change anything regarding the constitution, and a transformation of such proportions of trading a constitutional monarchy for a republic would likely never be agreed upon.¹³ And regardless of whether it was agreed upon, the scale of the change itself would propose challenges. The Crown is so built into the federal and provincial government structures that it would be difficult to smoothly transition from constitutional monarchy to republicanism. Removing the monarch for an elected president alters “the whole constitutional apparatus.”¹⁴ Would it be a matter of name change only? Or would there be new elections, and a new electoral structure? Many other technical questions and issues arise, but a greatly significant one involves the agreements made between Canada’s Aboriginal peoples and the Crown.

Simply the extent to which the Crown is present in our constitutional structure shows that the monarchy still plays a relevant role in Canada. It is the basis for our constitutional and federalist governmental structure. “The Crown provides the legal foundation for the structure

³ Chevrier, “Our Republic in America,” 93.

⁴ Ibid., 96.

⁵ Patrick Malcolmson, Richard Myers, “The Crown and Its Servants,” in *The Canadian Regime*, 4th ed (University of Toronto Press, 2009).

⁶ Chevrier, “Our Republic in America,” 95.

⁷ Ibid., 92.

⁸ David E. Smith, “The Crown and the Constitution: Sustaining Democracy?” in *The Evolving Canadian Crown*, ed. D. Michael Jackson and Jennifer Smith (Kingston: Queen’s University School of Political Studies, 2012), 67.

⁹ Colin MacMillan Coates, “Introduction: Majesty in Canada,” in *Majesty in Canada: Essays on the Role of Royalty* (Toronto: Dundurn, 2006), 11.

¹⁰ Don Markwell and Jonathan Ritchies, “Australian and Commonwealth Republicanism,” *The Round Table* 95 (387): 2006, 733.

¹¹ Markwell and Ritchies, “Australian and Commonwealth Republicanism,” 728.

¹² Ibid.

¹³ Ibid., 733.

¹⁴ H. V. Hodson, “The Crown and Commonwealth,” *The Round Table*, 333 (1), 1995.

of government.”¹⁵ To begin with, the fundamental part of the Crown, or the Sovereign or the Queen, must be examined. Queen Elizabeth II is the Queen of Canada, “a role totally independent from that as Queen of the United Kingdom and the other Commonwealth Realms.”¹⁶ Thus, Canada is not ruled by a British Crown or a British monarchy, but a Crown and Sovereign of Canada. In fact, Canada was the first Commonwealth nation to proclaim Queen Elizabeth as Queen in 1952.¹⁷ The monarch is the embodiment of the constitutional concept of the Crown, the representative of constitutional power.¹⁸ The Crown is not simply an abstract form of power written in our constitution, but actually has a role as the source of power. Power is vested in the institution of the Crown, which is then “entrusted to governments to use on behalf of the people.”¹⁹ So, while Parliament has legislative power, royal assent is always needed. However, by convention, royal assent cannot be denied by the Crown.

It is in fact the Crown that holds all our conventions.²⁰ The parliamentary structure as it is cannot be found in the constitution. It is through our history with the Crown that our institutions came to be structured and organised as they are. Many of the conventions have to do with the relationships between the first ministers and their corresponding Crown representative. As Malcolmson and Myers have presented thoroughly, the Queen has a permanent representative in Canada. At the Federal level, this is the Governor General. The

Governor General represents our Head of State, and is the guardian of one of our most important conventions: responsible government. This means that the Governor General is “the official who ensures that we have a government that enjoys the confidence of the House.”²¹ It is up to the Governor General, then, to make sure our elected officials are doing what they should be doing. In order to do this, the Governor General has three reserve powers, Malcolmson and Myers continue to explain. A Governor General first has the power to appoint the Prime Minister. Despite our common way of talking about elections and politics, we do not directly elect a Prime Minister; rather, we elect a Parliament. And from this elected group, it is the responsibility of the Governor General to choose who is best to head the Parliament, normally (and conventionally) selecting the leader of the party with the majority of seats. The second reserve power is the “power to dismiss a prime minister who attempts to govern without the confidence of the House of Commons.”²² Though not used often, and never used federally, this power is especially important, because without it a Prime Minister could remain in office without resigning or calling for elections. Third, and related, Governor Generals can dissolve Parliament and call for elections.²³

Other responsibilities of the Governor General have to do with standing to represent the monarch in non-legislative roles. The Governor General is to preside over political ceremonies, represent Canada at events where official representation is necessary, and is the official head of the armed forces.²⁴ With our latest minority government, and prior to that during the Liberal majority government, we have seen increased publicity for the role of

¹⁵ Smith, “The Crown and the Constitution: Sustaining Democracy”, 63.

¹⁶ MacLeod, “A Crown of Maples: Constitutional Monarchy in Canada,” 10.

¹⁷ Peter Trepanier, “A Not Unwilling Subject: Canada and Her Queen,” in *Majesty in Canada: Essays on the Role of Royalty* ed. Colin M. Coates (Toronto ON: Dundurn, 2006), 142.

¹⁸ Hodson, “The Crown and Commonwealth.”

¹⁹ MacLeod, “A Crown of Maples: Constitutional Monarchy in Canada,” 16.

²⁰ Ibid. 19.

²¹ Malcolmson and Myers, “The Crown and Its Servants,” 101.

²² Malcolmson and Myers, “The Crown and Its Servants,” 101.

²³ Ibid.

²⁴ Ibid., 103.

Governor General, and the position seems to perhaps be moving into view as an efficient institution.²⁵ We have certainly been able to see recently the influence of the actions and power of the position of Governor General.

Quite importantly, the relationship between Canada and its Aboriginal peoples—the First Nations, Inuit, and Métis—is actually a relationship between Canada’s Crown and these peoples. The Crown originally and historically had a nation-to-nation relationship with Aboriginal peoples, and thus the agreements made were nation-to-nation agreements. The treaties (there are ninety-seven treaties and final agreements today) remain agreements held with the Canadian Crown.²⁶ This means that they are not signed with the federal Parliament, or the provincial legislatures, but directly with Canada’s source of power, the Crown. When Queen Elizabeth II presented a tablet from Balmoral Castle at the First Nations University of Canada in 2005, she said that the tablet represented “the foundation of the rights of First Nations peoples reflected in the treaties signed with the Crown...[and] will serve as a reminder of the special relationship between the Sovereign and all First Nations people.”²⁷ This presentation by the monarch demonstrates that it is with the Sovereign, the “concrete person” who acts with the power and the honour of the Crown, not simply an abstract concept, that the agreements are based upon.²⁸ Necessarily there must be a person who acts for the Crown, as these agreements are based on personal honour and promise, and more generally there needs to be a Crown, in order to uphold these covenants.

The Crown also has a strong role to play in Canada’s federalism. David E. Smith says that

while U.S. federalism is based on representation, Canadian federalism is based on jurisdiction.²⁹ In Canada, federalism is about dividing up power and authority amongst different levels of government, the provincial and federal governments, and though each presides over different aspects of society, they are to be seen as equals. This equality is clearly reflected through the Crown; the monarchy has a “vital provincial dimension.”³⁰ The provincial dimension is vital because the monarchy is represented at the federal level, and at the provincial. While federally we have a Governor General representing the Sovereign, each province has a Lieutenant Governor acting as a representative at the provincial level. It therefore can be said that Canada is a “compound monarchy,” composed of eleven Crowns.³¹ Each operates within their own jurisdiction, representing the Queen and performing the functions of the Queen as Head of State.³² Because Lieutenant Governors are also direct representatives of the Crown, they are not to be subordinated to the federal representative the Governor General. Each has the same relationship to the essential first minister of their jurisdiction, where they are to be consulted, to encourage, and to warn in their meetings with this minister; the Governor General to the Prime Minister, and the Lieutenant Governors to the Premiers.³³

The monarchy also plays a role in maintaining Canadian democracy. Our democracy is protected by the role of the

²⁵ Smith, “The Crown and the Constitution: Sustaining Democracy”, 62.

²⁶ Nathan Tidridge, *Canada’s Constitutional Monarchy*, (Toronto: Dundurn, 2011), 126.

²⁷ Tidridge, *Canada’s Constitutional Monarchy*, 128.

²⁸ *Ibid.*, 131.

²⁹ Smith, “The Crown and the Constitution: Sustaining Democracy”, 63.

³⁰ Jackson, D. Michael and Lynda M. Haverstock, “The Crown in the Provinces: Canada’s Compound Monarchy,” in *The Evolving Canadian Crown*, ed. D. Michael Jackson and Jennifer Smith (Kingston: Queen’s University School of Political Studies, 2012), 12.

³¹ *Ibid.*, 11.

³² MacLeod, “A Crown of Maples: Constitutional Monarchy in Canada,” 34.

³³ Jackson and Haverstock, “The Crown in the Provinces: Canada’s Compound Monarchy,” 18.

Crown, not the elected government; hence the three reserve powers of the Governor General.³⁴ However, it is not simply the powers of the Crown that serve democracy. The non-partisan nature of the position serves democracy in that theoretically the Sovereign's representatives should be less biased; they are not seen as having vested interests like elected representatives of the people who desire to be continuously elected.³⁵ The Governor General is usually accepted as being "above" politics, not involved in the debates and conflicts, and thus at a clearer and less biased vantage point. And unlike the Queen in England, the Canadian Governor General requires the approval of our elected representatives to act.³⁶

The monarchy has a major influence on Canadian identity. Of course, firstly, there is the historical relevance of the Crown—both the British and French Crowns have roots here. And as with many of the aspects of the Canadian identity, the monarchy allows us to distinguish ourselves from the Americans. This may have roots in the very creation of our country; it was conflicts between the Crown and the Americans that shaped our society, with both the loyalist migration into Canada and the effects of the War of 1812.³⁷ This distinction from the U.S. has been cited as a reason for low republican sentiment in Canada, because both Canada and Canadians have a need "to differentiate themselves" from the United States.³⁸ Dramatically put, Chevrier says that English Canada "goes into convulsions at the prospect of any modernizing of the political system that would make it more like the American republic," which expresses the extent to which some feel we need to clearly be

distinct from Americans.³⁹ The Crown institutions themselves also express Canadian identity. The appointed positions of Governor General and Lieutenant Governors "highlight not only our social and cultural richness, but also the uniqueness of the Canadian Crown."⁴⁰ Our Crown representatives have been fairly diverse in ethno-cultural, linguistic, gender, and occupational terms, especially when compared to our Prime Ministers. We see the diversity and uniqueness of Canadian society embodied in the Crown representatives. The Crown also functions to "serve and embody who we are as a people and a country by representing the values, goals, and aspirations that we share."⁴¹ It is the Crown's role to protect our democratic values in the system, but also the diversity seen in the position serves to fulfill Canadian political values such as bilingualism and multiculturalism. But the monarchy also serves a less political aspect of identity. The Queen (and the other members of the royal family) promotes aspects of Canadian culture and life. Her Majesty and the royal family are patrons of many Canadian organizations, from the Canadian Cancer Society, to Waterski and Wakeboard Canada, to the Regina Symphony Orchestra.⁴² Through these patronages, we can see the Crown supporting various aspects of Canadian culture and lifestyle. The royal tours focus on and highlight Canadian culture and achievements; they focus on showcasing Canada, and not simply the royal British visitors.⁴³ The tours also allow for "very personal contact with the people [the Crown] represents—all Canadians, regardless of language, race, colour, or religion."⁴⁴ Royalty transcends the political aspects here, and can

³⁴ MacLeod, "A Crown of Maples: Constitutional Monarchy in Canada," 25.

³⁵ Smith, "The Crown and the Constitution: Sustaining Democracy", 68.

³⁶ Ibid.

³⁷ Tidridge, *Canada's Constitutional Monarchy*, 141.

³⁸ Markwell and Ritchies, "Australian and Commonwealth Republicanism," 733.

³⁹ Chevrier, "Our Republic in America," 94.

⁴⁰ MacLeod, "A Crown of Maples: Constitutional Monarchy in Canada," 10.

⁴¹ MacLeod, "A Crown of Maples: Constitutional Monarchy in Canada," 51.

⁴² Tidridge, *Canada's Constitutional Monarchy*, 111-112.

⁴³ Ibid., 179.

⁴⁴ MacLeod, "A Crown of Maples: Constitutional Monarchy in Canada," 54.

simply be a reflection and a display of the cultural identity of Canada.

Despite this strong and relevant role, there are still of course issues with the monarchy. One such issue lies in that it could easily be said that having an appointed position as the embodiment of constitutional power is not democratic. Of course, most simply, having the representative of the Sovereign as an elected post would make the constitution look more democratic, because though the Governor General's role and position would remain the same, there would be citizen involvement. There are many aspects to be considered for a change to an elected sovereign, such as election methods, and whether the distribution of power would remain the same. But the idea for change in terms of an elected sovereign is not broadly discussed. Around this issue, several suggestions have been put forth in order to more democratise the position of Governor General. One is that the chamber, not only the Prime Minister, must request to prorogue Parliament, thus, while not changing the Crown directly, the Crown's executive power can be reduced, as it would be responding to more than one official.⁴⁵ Such a policy would be generally more democratic, but would not involve a change to what many see as the main issue: the power centred in an appointed position. Another suggestion is that the Governor General should provide written statements of their decisions and actions. This requirement would "force the governor to examine whether the reasons are appropriate for modern Canada."⁴⁶ It would also mean that the Governor General would have to be more accountable to citizens, providing for them justification for the actions taken on behalf of the Sovereign. Also, there is the idea which has been proposed in the U.K. of redefining the role

of the monarchy, reducing its extent. In the U.K. the redefining of the role of the monarch included altering the "Civil List," which details what is to be given to the monarch.⁴⁷ In Canada, it would more likely involve redefining what role we have set for the Crown, and perhaps give more of the Crown's power to elected officials.

Any smaller reforms such as these are much more likely to occur than abolishing the monarchy altogether, which would require vast changes and be difficult with our amendment formula. But at the same time, I believe, it almost seems as though any changes would simply be "on paper;" our government and constitution would appear theoretically more republican and democratic, but in reality it would function the same way. Our government has been functioning in this Crown centred manner for a very long time, and so it seems that any minor changes would be quite superficial. Even a major change, like becoming a republic, seems like it would only alter the surface of our constitution, and not really alter the way democracy is done in Canada.

The monarchy does play an important and positive role in that it structures our constitutional format, maintains our democracy and federalism, and exhibits the Canadian identity. While many claim that the monarchy is an outdated, colonial institution that should be rejected and replaced with republicanism, we can see that this would be exceedingly difficult to accomplish, with the drastic nature of the change, and the challenge of our amendment formula. What is more likely to happen are reforms addressing specific issues with the monarchy in Canada in order to make the position more democratic, but even so and regardless of the success or failure of these reforms, any change should not be expected to be too great.

⁴⁵ Smith, "The Crown and the Constitution: Sustaining Democracy", 59.

⁴⁶ Smith, "The Crown and the Constitution: Sustaining Democracy", 60.

⁴⁷ Hodson, "The Crown and Commonwealth."

Bibliography

- Chevrier, Marc. "Our Republic in America." In *Vive Quebec! New Thinking and New Approaches to the Quebec Nation* ed. Venne, Michel, and Louisa Blair. Toronto: James Lorimer & Co., 2001. 87-97.
- Coates, Colin MacMillan. "Introduction: Majesty in Canada." In *Majesty in Canada: Essays on the Role of Royalty*. Toronto: Dundurn, 2006.
- Hodson, H. V. "The Crown and Commonwealth." *The Round Table*, 333 (1), 1995.
- Jackson, D. Michael and Lynda M. Haverstock. "The Crown in the Provinces: Canada's Compound Monarchy." In *The Evolving Canadian Crown*, ed. D. Michael Jackson and Jennifer Smith. Kingston: Queen's University School of Political Studies, 2012. 11-29.
- MacLeod, Kevin S. *A Crown of Maples: Constitutional Monarchy in Canada*. Department of Canadian Heritage, 2008.
- Malcolmson, Patrick and Richard Myers. The Crown and Its Servants. In *The Canadian Regime*, 4th ed. University of Toronto Press, 2009.
- Markwell, Don and Jonathan Ritchies. "Australian and Commonwealth Republicanism." *The Round Table* 95 (387): 727-737, 2006.
- Smith, David E. 2012. The Crown and the Constitution: Sustaining Democracy? In *The Evolving Canadian Crown*, ed. D. Michael Jackson and Jennifer Smith, 57-72. Kingston ON: Queen's University School of Political Studies.
- Tidridge, Nathan. *Canada's Constitutional Monarchy*. Toronto: Dundurn, 2011.
- Trepanier, Peter. A Not Unwilling Subject: Canada and Her Queen. In *Majesty in Canada: Essays on the Role of Royalty* ed. Colin M. Coates. Toronto ON: Dundurn, 2006. 142-156.