"WORK IN PROGRESS IN A COUNTRY THAT WORKS"[1]

The Right Honourable Sir Anand Satyanand*

I. Introduction

The fundamental thing …is that the Governor-General has the responsibility to ensure the continuity and legitimacy of government … and to do that effectively it is crucial that he or she be, and be seen to be, publicly neutral and impartial.

Rt Hon Sir Michael Hardie Boys

Neil Williamson Lecture 2003 [2]

A human being should be able to change a diaper, plan an invasion, butcher a hog, steer a ship, design a building, write a sonnet, balance accounts, build a wall, set a bone, comfort the dying, take orders, give orders, cooperate, act alone, solve equations, analyze a new problem, pitch manure, program a computer, cook a tasty meal, fight efficiently, die gallantly. Specialization, is for insects.

Robert Heinlein

A quotation from The Notebooks of Lazarus Long[3]

These two quotations provide, I think, two ideas. One is the centrality to government of the role of the Governor-General and the other is a sense of the range of things that are transacted through the Office of Governor-General, or that come to the attention of a working Governor-General in the course of each week, certainly each month and, undoubtedly, each year. To these things there is to be added the value of continuing to ask questions. The matter of asking questions is something which the present writer has continued to maintain in the Governor-General role, as much as in previous occupations.

Over 20 years it has become a practice for New Zealand Governors-General to write some account of their perception of the role from the inside, often around the conclusion of his or her term.[4]

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1 In his Commonwealth Lecture on 14 March 2000, the then UN Secretary-General, Kofi Annan, described New Zealand as 'a country that works' '….not without problems but with solid frameworks of law and trained personnel to deal with those problems.'

2 Rt Hon Sir Michael Hardie Boys "Nodding Automaton? Some Reflections on the Office of the Governor-General", *Canterbury Law Review* (2002), Vol 8, at 425, 429.

3 Robert Heinlein *Time Enough for Love* (G Putman's Sons, A Berkley Medallion Book, 1973).

4 For example Rt Hon Sir Michael Hardie Boys above n 2 at 425; Hon Dame Silvia Cartwright "Modern Aspects of the Role of Governor-General of New Zealand",(Address to New Zealand Institute of International Affairs, Wellington 27 June 2006) <www.gg.govt.nz>; Dame Catherine Tizard "The Crown and Anchor: The Present Role of the Governor-General in New Zealand" (Founders Lecture, 26 June 1993) <www.gg.govt.nz> and see Bibliography at end.

At this point of writing, nearly four years of the present five-year-term have been completed, and one of almost every expected occurrence has happened.

For someone with a recreational as well as professional interest in his role, now seems a good time for the present writer to relate some experiences and views of substantive as well as procedural matters that have been encountered, and for some issues to be raised.

Discussions of the role of Governor-General are traditionally dissected into three layers – Constitutional, Ceremonial and Community.[5] I propose to deal with each in turn and to provide first, a description, and then some issues as they have occurred, and which have accumulated in my mind as I come to contribute to the discourse.

II. Constitutional

Constitutionally, the task of a New Zealand Governor-General is set out in law in Letters Patent 1983 and in the Constitution Act 1986. Those two pieces of legislation, which are, respectively, a prerogative instrument and legislation by the House of Representatives, set out the Governor-General's core legal powers; and, in the quarter century that has followed 1983 and 1986, they have proved to be durable.

Key sections in the Constitution Act affirm that the Sovereign is the Head of State of New Zealand and that every power of the Sovereign is exercisable through the Governor-General when not done by the Sovereign in person. There are eighteen clauses in the Letters Patent SR 1983/225. They describe the territorial extent of New Zealand,[6] the Governor-General's powers and authorities exercisable personally on the advice of a Minister or as a result of resolutions of the Executive Council, (which comprises all Ministers of the Crown, and is presided over by the Governor-General) and to do such things as to appoint Ministers, certain officials and diplomats, and to exercise the Prerogative of Mercy. Each of these powers is exercised on the advice of the relevant responsible Minister or Ministers.[7]

A third piece of legislation, the Civil List Act 1979, sets out the salary and allowances payable to a Governor-General and the annuities after completing office. This Act also covers the remuneration of Ministers of the Crown and of Members of Parliament. At the time of writing, the Civil List régime has been the subject of a review by the Law Commission and there is a proposal for the remuneration and funding arrangements for the Governor-General to be placed into stand-alone legislation.

5 Called 'the triad' by Rt Hon Sir Michael Hardie Boys. See "The Role of the Governor-General Under MMP" (1995) 21New Zealand International Review 4 at 2, 3.

6 Letters Patent SR 1983/225. Clause I of the Letters Patent says that the realm of New Zealand comprises New Zealand, the Cook Islands, Niue, Tokelau and The Ross Dependency.

7 See Caroline Morris "The Governor-General, the Reserve Powers, Parliament and MMP: A New Era" (1995) VUWLR at 345, 348: "The present constitutional position of the Governor-General is more that of symbolic authority than mere power".

In passing, the writer would make some observations about the interplay between law and constitutional convention (particularly those conventions rooted in democratic principle), as exemplified in the legal instruments that govern the Office of the Governor-General.

Both the Constitution Act and the Letters Patent state the rather substantial legal powers of the Governor-General (which powers include the appointment of Ministers, and the summoning and dissolving of Parliament) in absolute terms, without reference to the fact that, by convention, the powers are exercisable only on the advice of democratically elected Ministers.[8] For a more complete picture of the exercise of the vice-regal powers, chapters 1 and 6 of the Cabinet Manual[9] provide a useful explanation of the interplay between the law and convention, as does the Introduction to the Cabinet Manual, by the Rt Hon Sir Kenneth Keith.

The Constitution Act was passed by a democratically elected Parliament, and one commentator has suggested that it might also be appropriate for the Letters Patent to be enshrined in statute.[10] It is worth noting, however, that the Letters Patent are in fact firmly rooted in New Zealand democratic tradition. They are approved by the Executive Government in New Zealand, and signed by the Queen on the advice of the New Zealand Prime Minister.

In the five-year term of each New Zealand Governor-General, at least one general election must be called. Such has occurred in my own term, in November 2008. As a result of the decision made by the voters to effect change, the former Prime Minister, the Rt Hon Helen Clark, came to Government House to present her resignation and those of her Ministers. I thereafter received the Leader of the National Party, the Hon John Key, who asserted in the time honoured form that he commanded a majority in the House of Representatives, resulting in him being able to be appointed Prime Minister and being sworn in – and the new Ministers likewise, shortly after that. This change of Ministry occurred, I am very pleased to say, in a remarkably short time and with conspicuously good manners on both sides, outgoing and incoming.[11]

Appointing Ministers can be called 'core business' because the Governor-General's task is to act upon the advice of Ministers and the business of government cannot proceed until their appointment.[12] In other words, the Governor-General does not do anything off his or her own bat, and

8 See Constitution Act 1896, s 6 which requires all Ministers of the Crown to be Members of Parliament.

9 Cabinet Office *Cabinet Manual 2008*.

10 GA Wood, "New Zealand's Patriated Governor-General'" (1986) 38 Political Science 2 at 113

11 What is involved has been described by Hon Dame Catherine Tizard in the following graphic terms "…. it's a practical arrangement – power must be transferable if it is to be democratically accountable. In turn, the legitimacy that elevates power into authority is sustained through its proper transfer. The Governor-General is the person who gains by successfully passing the parcel. Only in this way can a Governor-General embody continuity and properly witness that the government is legitimate." See Hon Dame Catherine Tizard above n 4.

12 See Constitution Act 1986, s 6; Letters Patent 1986, Clause VIII; F M Brookfield "The Governor-General and the Constitution" in H Gould (ed) *New Zealand Politics in Perspective* (3rd edition, Pearson Education, 1992) Ch 5 at 77, 78.

that applies in almost every circumstance. At a credentials ceremony, for example, the new Ambassador reads a letter from his or her Head of State in the expectation of being formally received. There is, however, always a Minister of the Crown in attendance who says something to the effect that, "The New Zealand Government recommends that you accept the Letter of Credence from the Ambassador from [the appropriate country]." Only then, can there be acceptance, and only then may the person commence work in an official capacity as Ambassador (or High Commissioner, if from a Commonwealth Country). The Ministers depend in their turn on the Prime Minister maintaining a majority in the House.[13]

Much of this generic kind of thing – of appointment of people to jobs, or of making proclamations or orders – is done 'on the papers' and there is a steady flow of documents every day of things coming from either the Executive Council, or from individual Ministers and, of course, from Parliament. Each will contain advice from the appropriate Minister. It has become a practice that supporting material accompanying the advice will refer to the legal background and the basis for the decision in question. Documents for the appointment of people to official positions will generally include the intended candidate's curriculum vitae, and reasons in support of the appointment or making the order will be provided.

Discussion of the Governor-General powers often makes reference to the so-called "reserve powers," which have been defined as the Governor-General exercising independent judgement to appoint or dismiss a Prime Minister, refusing a request for a dissolution or forcing a dissolution, or refusing the royal assent to a bill (although some commentators dispute the last). Professor Philip Joseph, of the University of Canterbury Law School, has called the term "reserve powers" a "misnomer". As he notes in *Constitutional and Administrative Law in New Zealand*: [14]

> While these actions are taken only in extremity, they entail exercise of the Governor-General's ordinary legal powers … [These] situations are distinguished, not by any exceptional power, but by the rejection or lack of ministerial advice. The question is whether, owing to exceptional circumstances, the usual convention enjoining ministerial advice does or does not apply. Constitutional convention cannot extinguish or attenuate legal powers, nor can it amplify or create legal powers.

Apart from the appointment of a Prime Minister, which inherently involves the use of this power, no New Zealand Governor-General has had to intervene in the day-to-day politics of the moment. While there have been occasional political crises, none have developed so far as to result in a constitutional crisis that might necessitate the Governor-General's involvement. And that is as it should be. New Zealand is a democracy. New Zealanders elect their representatives to make laws for the good governance of the nation and, I might add, to sort out the occasional crises that are the stuff of a life in

13 See Marshall "The Power of Dissolution as Defined and Exercised in New Zealand" (1977) Parliamentarian 58 at 13, 16.

14 Phillip Joseph, *Constitutional and Administrative Law in New Zealand* (3rd Edition, Thomson Brookers, 2007) at 697

politics. It is neither the role nor the right of an appointed Governor-General to usurp the decision of a democratically elected Government or to intervene in the occasional political ups and downs that might occur along the way.

One significant event to occur during my term was the publication of the 2008 edition of the Cabinet Manual, an authoritative guide to the workings of executive government, and one that articulates many of the constitutional conventions that govern its processes. The 2008 edition updated practice in a number of areas. For the writer, paragraphs 6.56 to 6.58, dealing with early elections, were of particular interest. Those paragraphs explained the significance of the caretaker convention (now well established in New Zealand) in our MMP environment, in circumstances where a Prime Minister wishes to advise the Governor-General to call an early election. The relevant paragraphs state:[15]

> As the Governor-General's principal adviser, the Prime Minister may advise the Governor-General to dissolve Parliament and call an election. … Usually that advice will be timed in accordance with the electoral cycle.
>
> In some circumstances, a Prime Minister may decide that it is desirable to advise the Governor-General to call an early election. In accordance with convention, the Governor-General will act on the advice so long as the government appears to have the confidence of the House and the Prime Minister maintains support as the leader of that government.
>
> A Prime Minister whose government does not have the confidence of the House would be bound by the caretaker convention. … The Governor-General would expect a caretaker Prime Minister to consult other parties on a decision to advise the calling of an early election, as the decision is a significant one. … It is the responsibility of Parliament to resolve matters so that the Governor-General is not required to consider dissolving Parliament and calling an election without ministerial advice.

This clear articulation of the relevant principles, as applied in New Zealand's unique constitutional environment, will be of great assistance if the constitutional players are ever required to negotiate the treacherous waters of a mid-term loss of confidence in the government. In other jurisdictions, such circumstances have created controversy and sometimes constitutional crises. In New Zealand, the existence of clear and publicly available guidance for those involved is tremendously helpful to ensure safe passage through the reefs.

It is perhaps not surprising to learn, therefore, that the former government of the United Kingdom, facing its first unclear election outcome, recently referred to the New Zealand Cabinet Manual as a useful model on which to draw, in expressing its own set of principles and guidelines.

The writer has also been involved in other developments relating to the Governor-General's constitutional functions. For example, at my encouragement, a survey was undertaken of all of the documents coming for consideration and signature by the Governor-General, some needing simply a signature, others calling for some kind of certificate, and others again, for affixing of the Seal of New Zealand. Many important documents, such as warrants for Judges and appointments of Ambassadors, call for the signature

15 Cabinet Office *Cabinet Manual, 2008* at [6.56 – 6.58]

of the Governor-General, affixation of the Seal and the countersignature of the relevant Minister or Attorney-General. However, the term used in many documents showed the words "As witness the hand of the Governor-General" with a space for the relevant Minister to countersign the document.

To the uninitiated, this phrase might have suggested that the Minister had been present to witness the Governor-General's signature. In fact, the phrase "As witness the hand" was intended to have a different purpose, which must be seen in the context of the historical form of deeds and other legal instruments. An integral part of such a deed is the testimonium (or execution clause), which states that the parties have signed and sealed the deed. There are a number of formulations for the testimonium clause, including "In Witness …" or "As Witness the hand …".

The testimonium is intended to prove the authenticity of the documents and the powers that they provide, and to make the appointment enforceable against all comers. The original Latin was *in cujus rei testimonium* which is variously translated as "in witness whereof" or, sometimes, "in testimony whereof".

The intention of the testimonium in the Letters Patent Constituting the Office of Governor-General, for example, is clear. The document says:[16]

> In Witness Whereof We have caused these Our Letters to be made Patent, and for the greater testimony and validity thereof We have caused the Seal of New Zealand to be affixed to these presents, which We have signed with Our Regal Hand.

The modern formulation of a testimonium, however, had become briefer saying, ("As witness the hand of His Excellency the Governor-General …"). Nonetheless, the intention was the same. The Governor-General's signature was intended to provide proof of the appointment. The Minister's countersignature, beneath, was to record that the Governor-General had acted on the advice of a Minister, rather than confirming the Governor-General's signature.

The concern of the writer, however, was directed to those not familiar with the rather arcane intricacies of the relevant jurisprudence. To at least some of those people the wording on many documents might suggest that the Minister had been present and had witnessed the Governor-General's signature, when that was in fact not the case. In order to avoid this misleading impression, following consultation, a differing wording has been adopted as follows: "Given under the hand of the Governor-General and issued this [blank] day of [blank]". This phrase removes any suggestion of witnessing, and the words are consistent with saying in effect something like, "Following signature by the Governor-General".

A subsidiary issue relates to the Seal itself. In the United Kingdom, signature of the Sovereign becomes perfected by affixing the Seal on certain documents, the latter being attended to by the relevant government officials. In other words, the Seal is something kept separate from the Sovereign – and it would seem for the Sovereign's representative likewise. In the United Kingdom, custody of the Seal is with the Lord Chancellor. The procedures

16 Letters Patent Constituting the Office of the Governor-General of New Zealand SR 1983/225

guiding the use of the Seal of New Zealand are symbolic of the constitutional relationship between the sovereign and the government, and of the doctrine of ministerial responsibility: for over 500 years, the sovereign has required the authorisation of a Minister for a document to pass under the most significant seals. Accordingly, although section 4 of the Seal of New Zealand Act 1977 states "The Seal of New Zealand shall be kept in the custody of the Governor-General,"[17] in accordance with constitutional convention and practice I have delegated the custody of the Seal to the Clerk of the Executive Council.

One cannot help but refer to some of the matters coming before the Governor-General under odd circumstances and out of areas of the law with which the writer was not ever familiar. I bring to mind, for example, an order a little time ago bringing quite a considerable tract of land in the middle of Southland under the Land Transfer Act 1952, even though it had been occupied and farmed since the early 1860s. Or the fact that the term 'Royal' used by a company or an organisation within New Zealand requires permission of the Governor-General, and advice in regard to that is furnished by the appropriate Minister. Not so long ago, permission for a firm called *The Nippon Royal Company Limited* to trade as a car dealer was forthcoming on the advice of the Minister of Consumer Affairs. A third item relates to the Ross Dependency being part of New Zealand along with Niue and Tokelau and the Cook Islands. It is pursuant to legislation passed in the United Kingdom at Westminster in 1887 and an Executive Council decision in London in 1923 providing the Governor-General of New Zealand with the necessary authority, that from time to time a document comes up for a person to be appointed as a Justice of the Peace with jurisdiction over the Ross Dependency.

Some of this may seem, in some ways, to be rather straightforward and mundane. But there is an opportunity for anyone who is interested in the processes, to suggest positive change and I can look back upon a number of steps of that kind that have been taken in my time. Two examples include the form of documents supporting material coming before the Executive Council each Monday after Cabinet, which, where appropriate, enable the relevant Minister to certify that necessary preparatory steps, such as consultation with parties who will be affected by the new law, have been completed. Another example has been development of forms which have been devised during the writer's term (and with his encouragement), in plain language, for people applying for the Royal Prerogative of Mercy to be exercised.

This account has started the Constitutional description with that relating to Executive Council[18] and Ministers of the Crown. But it [the account] could equally have started with Parliament. This is so because, whilst the Governor-General plays no role in the Chamber of Parliament or in the debate processes

17 Seal of New Zealand Act 1977, Art 4

18 The Executive Council comprises all Ministers of the Crown. The Governor-General presides over, but is not a member of, the Executive Council. Two Executive councillors, plus the presiding officer, constitute a quorum. The Clerk of the Executive Council also attends. The numbers present vary according to the agenda items with Ministers generally attending to support regulations, orders and appointments within their portfolio.

within it, there are fundamental legal roles incumbent on every Governor-General with regard to the House of Representatives and its life. The central connection is provided by Section 14 of the Constitution Act 1986 saying that "There shall be a Parliament of New Zealand which shall consist of the Sovereign in right of New Zealand and the House of Representatives." This begins with the Governor-General dissolving Parliament at the end of the Parliamentary term and directing the Electoral Authorities to conduct a General Election. When the votes have been counted, the parties negotiate to form a government, and the new Parliament convenes. The first step in the opening of the Parliament is the Commission Opening. The Governor-General sends three Royal Commissioners (who are usually the Chief Justice or another senior judge and two other judges) to attend Parliament, to which the newly elected members have been summoned. The Commissioners are authorised by the Governor-General to administer oaths to the newly elected members of Parliament. The members are sworn in by the Clerk of the House of Representatives, and they then elect the person who is to be the Speaker. The Governor-General confirms the Speaker in office and once this has been effected, there can be a formal Opening of Parliament where the Speech from the Throne is read.

This speech sets out what the Government intends to undertake during its term and although the document has been prepared by the Prime Minister, it is read out by the Governor-General. The business of Parliament can then proceed under the stewardship of the Speaker. Each piece of legislation, once passed by a majority, is certified or authenticated by the Clerk of the House as having been passed by a majority. There is then a certificate from the Attorney-General certifying that, in his or her opinion, the relevant Bill contains nothing which requires the Governor-General's assent to be withheld, and finally, there is a formal request, generally signed by the Prime Minister, for the Governor-General to provide Royal Assent to the law that has been passed. It would be essentially unthinkable for a Governor-General to refuse to provide assent to legislation that has been passed by a democratically elected Parliament and, in reality, in the United Kingdom no Monarch has refused to give assent to a government bill since 1707,[19] and in New Zealand not since the New Zealand Parliament assumed full law making authority.[20]

III. Ceremonial

I turn then to the ceremonial aspects of the job, which occur almost every month and in almost every week during those months. Every year there is a Waitangi Day, an ANZAC Day, a Commonwealth Day and an Armistice Day – days on which the nation reflects on some of the most

19 R Q Quentin Baxter, "The Governor-General's Constitutional Discretions: An Essay Towards A Re-Definition" (1980) VUWLR 10 at 289, 292.

20 However see Dr John E Martin "Refusal of Assent – A Hidden Element of Constitutional History in New Zealand" (2010) VUWLR 41 at 51, 55 in which the writer refers to 13 occasions when Britain either disallowed legislation assented to by the Governor or alternatively refused assent. The practice ceased after New Zealand adopted the Statute of Westminster in 1947.

important events in our history, and in which the Governor-General always plays a ceremonial part. There are monthly Credentials ceremonies for new diplomats beginning their role. Every so often there has been a change in the Cabinet with a Minister resigning or changing portfolio and another being appointed. Of course, following the general election there was the general swearing-in of an entire ministry. Investitures occur twice each year, with some 200 New Zealanders at each time coming forward to receive the honours that, on the advice of the Prime Minister, the Queen has awarded them.

Under the ceremonial heading also comes an item of increasing frequency in modern times relating to the Governor-General: that of formally receiving and entertaining visiting Heads of State and Prime Ministers which at times have an almost monthly frequency. That has been matched by increasing use being made of the Governor-General by governments of the day to undertake visits to foreign countries, representing and adding width to the relationship with other nations. In the writer's case, this has included visits to Pacific countries such as Samoa, Papua New Guinea and the Solomon Islands as well as to Singapore, Timor-Leste, India, Canada, and Turkey further afield. In this term, in each of these ceremonial events, whether locally or off-shore, the opportunity has been taken up extensively for the writer's spouse to play a supportive role.

There are occasionally issues arising with ceremony that call for reconsideration and change. I bring to notice four things. The first is the New Zealand Governor-General's flag which at the start of the present term in 2006 had been operational for 75 years. The 1931 flag comprised the depiction of a lion on top of the Crown.[21] Work was underway, which the writer encouraged, towards the establishment of a new flag in 2008, with the New Zealand crest topped by the St Edward's Crown as worn by Her Majesty Queen Elizabeth II. A second relates to Government House being decommissioned at the moment for a major restoration and conservation project. Consequently, a great many ceremonial actions have to take place off site for two years; requiring preservation of the expected procedures but in different circumstances. The third is the formality attaching to the appointment of Consuls in a document called an *exequatur* which presently calls for affixation of the Seal of New Zealand and for the signatures of Governor-General and Minister, and which is being reviewed with a view to a simpler process and document; one which achieves the result and without need for the extra formality of having the seal. A fourth issue bearing recall was to do with the swearing-in ceremony. It was proposed that the incoming Governor-General might receive a Māori welcome, then undertake an inspection of the Military Guard before proceeding to the dais for swearing-in. When an issue was raised of whether the yet-to-be-sworn-in (civilian) Governor-General should then inspect the Guard, it was decided that the Māori welcome might be followed by the swearing-in, with the Oaths of Office being administered by the Chief Justice. The Governor-General might

21 Called in heraldic descriptions, 'lion passant gardant'. See Jacqueline Fearn *Discovering Heraldry* (Shire, 2006) at Chapter 3.

then inspect the Guard, after having been sworn-in and as Commander-in-Chief, as envisaged by Part I of the Defence Act 1990 – accompanied by the Chief of the Defence Force when so doing.[22]

IV. Community

The third layer is the association with the wider New Zealand community. This area takes up the most time by a considerable margin –with several hundred encounters in each year. This is so, whether it be related to business, to youth, New Zealand's ethnic communities, organisations which are given patronage, the education or health sectors, or to central and local government. Beyond participation by means of accompaniment and support, a number of opportunities have been taken by the writer's spouse to extend the reach of the Governor-General role, to make direct connections with and to encourage, events affecting children, the environment and women. Sometimes this may take the form of sitting on committees which decide on allocation of scholarships or distribution of funds. The upside is that this provides a very happy connection with positive things that are occurring every week and every month in some part of the New Zealand population.[23] It is necessary to prepare carefully so as to be able to participate fully in each event and, as is often required, to make a thoughtful and well informed speech. It is also necessary to ensure that one stands between being regarded as a demand-driven sponge or as someone who is endeavouring to manage the outcomes. It is here that having a strategic plan[24] seems to be vital (as is examining it regularly) to make sure that there is a fair spread of activity, be it geographical or sectoral. A useful practice has been to develop one or more of the following themes in speeches on community occasions – the increasing diversity of the New Zealand, the benefits that flow from people's engagement with their community and the desirability of acquiring civic knowledge.

Community contact generates the necessity for different sorts of communications, such as messages to organisations when it is not possible to attend their function; and cards upon specific occurrences, such as, to people achieving 100 years of age or having a significant wedding anniversary, or at Christmas time. Communication also occurs by means of brochures and by having an active website.[25] A great deal of work has been done in the last three years in this regard, for which satisfaction has been expressed in a number of quarters.

22 See however the procedure described by Professor Quentin-Baxter "The Governor-General's Constitutional Discretions: An Essay Towards Re-Definition" (1980), VUWLR 10 at 289.

23 This community rule is sometimes described as the Governor-General "representing the nation to the people". See Cox, "The Evolution of The Office of Governor-General of New Zealand" (2001) *Mountbatten Journal of Legal Studies*, at 14, or the Governor-General "acknowledge[ing] a sense of community spirit and affirm[ing] those civic virtues that give New Zealand a sense of identity and purpose". See also Dame Catherine Tizard above n 4, at 4 and Cox and Miller "Chapter 2.3: Head of State" in Raymond Miller (ed) *New Zealand Government and Politics* (4th Edition, OUP, 2006) at 133.

24 The Strategic Plan document in current use is called *'Te Whakatakoto'*

25 www.gg.govt.nz

The issues that arise out of the community segment include just having sufficient time to undertake what is asked, and also the continuing contestability of dates, and often times within each date. Even in this area, where people are doing things well, problems can be generated that need attention, and that can be a challenge. In some cases the trustee role envisaged for the Governor-General raised the prospect of possible conflicts of interest which, with the advice of the Solicitor-General, meant that the writer had regretfully to decline appointment. There are community things which arise that involve continuing positive and interesting challenge: such as, speaking in Māori (even if just in greetings), and speaking to groups of children; neither of which the writer had personally undertaken, certainly in public, for some considerable time before appointment, nearly four years ago.

V. Conclusion

This discursive survey has, I hope, painted something of a picture of what goes on in a day-to-day fashion and gives the reader some idea that, for someone of a legal background, there arises continuing fascination with what is there to be done. The renowned 19th Century constitutional writer had it that "the Sovereign [and I interpolate Sovereign's representative] has, under a constitutional monarchy such as ours, three rights – the right to be consulted, the right to encourage, the right to warn."[26] Each of these rights is provided in the writer's experience by governments of the day albeit in a suitably low key and informal New Zealand fashion. The Governor-General space is one where imagination and general knowledge is tested and stretched – but in a congenial way – all the time.[27] In all aspects of the tasks mentioned, there needs to be recorded the hard work and sound advice that is provided by three layers of the civil service – the Official Secretary and Government House staff; the Clerk of the Executive Council and other staff in the Cabinet Office; and, finally, the Solicitor-General and resources of the Crown Law Office and the Ministry of Justice.

To conclude, and with an apposite quotation, I think one comes to hand from Sir William Deane, a recent Governor-General of Australia, who, I think, in his ability to write and speak in a forthright and liberal fashion, has provided for me yet another excellent role model for many occasions. Sir William said, as he came to canvass things to do with being a Governor-General:

> The Governor-General is entitled to raise concerns and to explore issues of national importance; but not to debate solutions, for solutions are the domain of the politicians.

26 Walter Bagehot *The English Constitution* (Chapman and Hall, London, 1867) at 103

27 Viscount Cobham "The Governor-General's Constitutional Role" (1963) 15 Political Science 2 at 4. In this article Viscount Cobham wrote "It is axiomatic that hard cases make bad law. This being so, it is perhaps fortunate that the life of a Governor-General mostly proceeds along lines well-defined by precedent."

Finally, a crucial pointer as to what a Governor-General kind of role involves, was provided by Charles II in the 1660s when he said, "my actions are my own: my words are my Ministers". And so it is for the present manifestation of what Her Majesty is pleased to call her "trusty and well-beloved representative".

Appendix

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