



Future challenges for the monarchy

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IfG–Bennett foreword

In February 2022, the Institute for Government and the Bennett Institute for Public Policy launched a Review of the UK Constitution, to offer an evidence-based and non-partisan analysis of the strengths and weaknesses of the constitution, and where necessary make recommendations for change.

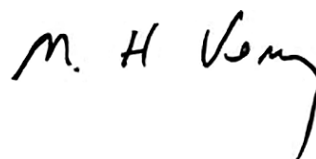
To address the bold scope of this project, we have complemented our own in-depth research with a breadth of perspectives from some of the UK's foremost constitutional experts. In this series of expert guest papers, we publish the views and proposals of academics and practitioners, who take a range of stances from constitutional conservation through to major reform. While these papers respond to the pressing constitutional questions of the day, they all also look to construct long-term solutions that will inform political decision making as well as public debate.

Given the range of views expressed, we do not necessarily endorse all of the ideas found in these papers, but we can commend the rigour with which the arguments have been constructed and sincerely thank the authors for their thoughtful contributions.



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Summary

The Queen's death has naturally prompted reflection on the role of the monarchy in our political system. The monarchy is tightly regulated by law and by convention. Laws passed by parliament regulate the rules of succession and the institution's funding. They also prescribe religious tests, provide for deputies in the event of the monarch's incapacity and have first abolished and then restored the monarch's prerogative power to dissolve parliament.

King Charles has very little autonomy in his constitutional role as head of state, but rather more in his ceremonial role as head of the nation. Charles introduced some important innovations upon accession: in his televised address to the nation, his tour of the home nations and early meeting with parliament. He can also develop his own style through his patronage of organisations and the institutions he chooses to visit.

The main challenge to the monarchy lies in the threat to the union. Were Scotland to vote to become independent, that would be a severe blow to the monarchy, even though responsibility will lie with the politicians. In contrast, if some of the 14 other realms where Charles is now head of state decide to become republics, the monarchy may privately be relieved.

This short paper explores these future challenges for the monarchy and is based on two recent books by the author.¹

Introduction

The death of Queen Elizabeth II led to an outpouring of tributes to her lifelong service, her powerful sense of public duty, and the exemplary way in which she performed her role as head of state and head of the nation. This was reflected not just in the number of people who queued to observe her lying in state, and the mounds of flowers laid at Buckingham Palace and Windsor Castle, but in the tributes of the 321 MPs who spoke about her in the House of Commons, and in the messages that poured in from leading politicians and statesmen from around the world.

Alongside these tributes to a much respected and beloved monarch, there was also an upwelling of questions about the monarchy's future. Journalists from British and foreign media repeatedly asked me whether the succession should skip to the more popular Prince William; whether the monarchy should be slimmed down, and its costs reduced; whether Charles has to be 'supreme governor' of the Church of England; and whether he might prove to be a meddlesome monarch, pursuing on the throne the causes that he championed as Prince of Wales. They also asked how he would respond to the threatened disintegration of the union, from Scottish independence or Irish reunification; and to the loosening of bonds within the Commonwealth, with the possibility of one or more of the 14 realms (the other countries around the world where the British monarch is also head of state) becoming republics during his reign.

Underlying these questions is the implicit assumption that the new monarch has some agency, that these are issues where he can influence the outcome. But the UK is a constitutional monarchy in which the new king has relatively little autonomy, with many aspects of the monarchy being closely regulated by law. Critics who blame the monarchy for its cost, its pomp and pageantry, or its ties to the Anglican church should first blame the government and parliament for setting the legal and financial framework within which the monarchy operates. The first part of this paper explains how tightly regulated the monarchy is, through laws passed by parliament over the last 350 years; the second part then explores how much autonomy is left to the individual monarch; the third part considers future challenges.

The monarchy is tightly regulated by law

Ever since the civil war in the middle of the 17th century and the Glorious Revolution at its end, which led the throne to be offered to William and Mary, the monarchy has been subject to regulation by parliament. Parliament has changed the rules of succession four times, most recently in 2013; it has set and subsequently amended the religious tests required of a new monarch; it has revised and updated the Regency Acts, which provide for a substitute in the event of the monarch's incapacity; it has changed the funding basis for the monarchy, in 2011; it has abolished the prerogative power of dissolution in 2011, and restored it in 2022.

The rules of succession

When William and Mary were invited to assume the throne in 1689, they did so subject to the Declaration of Right presented to them by parliament, which subsequently became the Bill of Rights 1689. The Bill of Rights declared that, through his flight from England, James II had abdicated the throne. It barred Roman Catholics from the throne, as "it hath been found by experience that it is inconsistent with the safety and welfare of this Protestant kingdom to be governed by a papist prince". William and Mary had no children; when none of Queen Anne's children survived, parliament passed a new law to bypass the more distant Catholic heirs to ensure the Protestant succession.

The Act of Settlement 1701 provided instead that the crown would go to Princess Sophia, Electress of Hanover (granddaughter of King James I), and her descendants. The Act also laid down that no Roman Catholic, nor anyone married to a Roman Catholic, could hold the crown. In changing the line of succession parliament thus ushered in the Hanoverian dynasty, who still reign over us. The next occasion that parliament changed the line of succession was in 1936, in His Majesty's Declaration of Abdication Act 1936, to ratify the abdication of Edward VIII, and pass the succession to his brother, George VI.

The fourth and most recent change happened just 10 years ago, in the Succession to the Crown Act 2013. This replaced the rule of male primogeniture with succession by the eldest child, whether male or female. It also ended disqualification of those who had married a Roman Catholic; and reduced the restrictions in the Royal Marriages Act 1772,

so that in future only the six people closest to the throne would require the monarch's permission to marry. The ban on Catholics becoming monarch remains, as does the requirement for the monarch to be in communion with the Church of England.

The accession and coronation oaths

On the accession of a new monarch, there are three religious oaths that must be taken, requiring the monarch to swear to be a true and faithful Protestant, and to uphold the Church of England and, in Scotland, the Presbyterian Church of Scotland.² These oaths all go back to the time of William and Mary, when continental Europe was largely Catholic and was seen as an existential threat: much as communism was seen as an existential threat during the Cold War. These are statutory oaths required by the Coronation Oath Act 1689, Acts of Union 1707, and Accession Declaration Act 1910: any change to the oaths would require amending legislation.

By tradition the first oath taken by a new monarch at the Accession Council is the Scottish oath. Thus King Charles at his Accession Council on 10 September 2022 said: "I understand that the law requires that I should, at my accession to the crown, take and subscribe the oath relating to the security of the Church of Scotland. I am ready to do so at this first opportunity." Holding a bible, he then took the following oath:

I, Charles III, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland, and of my other Realms and Territories, King, Defender of the Faith, do faithfully promise and swear that I shall inviolably maintain and preserve the settlement of the true Protestant religion as established by the laws made in Scotland in prosecution of the Claim of Right, and particularly by an Act intituled "An Act for Securing the Protestant Religion and Church Government", and by the Acts passed by the parliaments of both Kingdoms for Union of the two Kingdoms, together with the government, worship, rights and privileges of the Church of Scotland: so help me God.

The second oath is the accession declaration oath, required by the Bill of Rights 1689 to be taken at a new monarch's first state opening of parliament or at their coronation, whichever occurs first. The original oath was a lengthy denunciation of the Church of Rome, amended at George V's insistence by the Accession Declaration Act 1910 to read as follows:

I [monarch's name] do solemnly and sincerely in the presence of God profess, testify, and declare that I am a faithful Protestant, and that I will, according to the true intent of the enactments which secure the Protestant succession to the Throne of my Realm, uphold and maintain the said enactments to the best of my powers according to law.

Even in its modified form, the oath is a hangover from an earlier age, when ensuring the Protestant succession was seen as essential to the security of the realm. As prime minister, Herbert Asquith's preferred solution was to abolish the oath altogether. He maintained during the debates that led to the 1910 Act that "the declaration itself has

no effect of any sort or kind as a safeguard for the Protestant Succession. That is amply secured in other ways".³ But he did not press the point at a time when the government was engaged in a major constitutional struggle with the House of Lords, and still hoped to grant home rule to the whole of Ireland.

The third oath is one taken at the coronation, which also dates back to the time of William and Mary and the Coronation Oath Act 1689. It is a three-part oath, of which the third part reads as follows:

Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? Will you maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England? And will you preserve unto the Bishops and Clergy of England, and to the Churches there committed to their charge, all such rights and privileges, as by law do or shall appertain to them or any of them?

All this I promise to do.

It seems unlikely that Charles will want the oath to be amended; at a meeting with faith leaders on 16 September, he said: "I am a committed Anglican Christian, and at my coronation I will take an oath relating to the settlement of the Church of England." There is also very little time for parliament to amend the oath before his coronation. If the oath is to be amended, it will have to be done before the next coronation, of Prince William; and ideally before his accession, so in the present reign.

The Regency Acts

The Regency Acts provide for a substitute monarch – a regent – in the event of the reigning monarch being incapacitated or under age.* Prior to 1937, Regency Acts were passed when necessary to deal with a specific situation. When George VI came to the throne and the heir apparent, Princess Elizabeth, was aged only 11, the Regency Act 1937 introduced for the first time a general provision, that the regent should be the person next in line of succession who was of age (at the time, Prince Henry, Duke of Gloucester). The Act also established the office of counsellor of state, two or more of whom could deputise when the monarch was absent from the realm or experiencing a temporary illness. This happened most recently in May 2022 when the Queen was not sufficiently mobile to attend the opening of the new session of parliament, and she appointed Prince Charles and Prince William as counsellors of state, so that Charles could read the Queen's Speech in her place.

The Regency Act 1937 provides for a limited list of people to act as counsellors of state: the monarch's spouse, and the next four adults in line of succession. When Charles became King, the potential counsellors of state became Queen Camilla, Prince William,

* A new regent has also to swear an oath on taking office, in the Schedule to the Regency Act 1937. It commits the regent to the same political and religious obligations as a sovereign.

Prince Harry, Prince Andrew and Princess Beatrice. This could give rise to difficulties if King Charles and Queen Camilla travel abroad together on state visits, a point we return to below.

Funding the monarchy

In 2012 the arrangements for funding the monarchy were fundamentally changed, by the Sovereign Grant Act 2011. The new system is designed to be a more permanent arrangement than the old Civil List, which was reign-specific. The Civil List Act 1972 allowed the Treasury to review the level of the grant every 10 years; in 2001 it was set at £8 million a year for the next decade. Funding for the Sovereign Grant now comes instead from a percentage of the profits of the Crown Estate, initially set at 15%. Since 2017/18 the percentage has been increased to 25%, to pay for the 10-year refurbishment of Buckingham Palace, costing £370m. The grant is reviewed every five years by the Royal Trustees (the prime minister, chancellor of the exchequer and keeper of the privy purse); the latest 2021/22 review will take effect in 2023.

The Sovereign Grant for 2022/23 is £86.3m – equivalent to £2.40 per taxpayer in the UK. It meets the central staff costs and running expenses of the royal household, which employed an average of 491 staff (full-time equivalent) in 2021/22.⁴ It also covers maintenance of the royal palaces in England and the cost of travel to carry out royal engagements. It does not, however, cover security costs, estimates for which range from several million to a hundred million pounds a year.⁵

Separately, the new king will benefit from the profits from the Duchy of Lancaster fed into the privy purse for the support of monarchy. At accession, King Charles lost the equivalent income from the Duchy of Cornwall, which has transferred to Prince William. The Duchy of Cornwall is a private landed estate created by charter in 1337 when Edward III granted it to his son and heir, Prince Edward (the Black Prince) and all subsequent heirs. It provides each duke with an income from its assets, including some 130,000 acres, which generate an annual income of £20m (in 2021/22).⁶

The sovereign is not legally liable to pay income tax, capital gains tax or inheritance tax. Since 1993, however, the Queen had paid income and capital gains tax, on a voluntary basis. The Prince of Wales also pays tax voluntarily on his income from the Duchy of Cornwall to the extent that it is not used to meet official expenditure. The Queen also agreed to pay inheritance tax on a voluntary basis, but under a 2013 memorandum of understanding with the Treasury no inheritance tax is payable on assets held by the Queen as sovereign. The official residences, the Royal Archives, the Royal Collection of paintings and similar assets fall into this category. The Treasury memorandum also provides that inheritance tax will not be paid on gifts or bequests from one sovereign to the next. The reasons given are that:

Private assets such as Sandringham and Balmoral have official as well as private use, and the monarchy as an institution needs sufficient private resources to enable it to continue to perform its traditional role in national life, and to have a degree of financial independence from the Government of the day.⁷

The dissolution of parliament

The law on dissolving parliament has changed twice in the last 10 years. Under the Fixed-term Parliaments Act (FTPA) 2011 the monarch's prerogative power of dissolution was abolished, and control over dissolution passed to parliament. Ministers explained the change was being made to limit the power of the executive, which was too dominant in relation to the legislature,* and to remove the advantage given to the incumbent prime minister to choose the date of the next election.

The FTPA allowed for early dissolution in only two circumstances: if two thirds of all MPs voted for an early general election; or if the House passed a formal no confidence motion, and no alternative government could be formed within 14 days. Theresa May easily obtained a two thirds vote (by 522 votes to 13) for an early dissolution in April 2017; but her successor, Boris Johnson, failed on three occasions in 2019 to obtain the necessary two thirds majority, and eventually sidestepped the FTPA in the Early Parliamentary General Election Act passed in October 2019.

These difficulties brought the FTPA into disrepute, leading both Labour and the Conservatives to commit to its repeal in the December 2019 election. The Johnson government published a draft FTPA (Repeal) Bill intended to revert to the previous system and restore the prerogative power of dissolution. As the government's foreword explained:

The Bill makes express provision to revive the prerogative power to dissolve Parliament. This means once more Parliament will be dissolved by the sovereign, on the advice of the prime minister. This will enable Governments, within the life of a Parliament, to call a general election at the time of their choosing.

The government's suggestion that dissolution would automatically be granted on the advice of the prime minister was heavily criticised by a joint committee of both Houses, which reminded the government that dissolution was a discretionary power, exercisable in accordance with the Lascelles principles.⁸ These had been published in a letter to *The Times* in 1950 from the King's private secretary, Sir Alan Lascelles, writing under the pseudonym Senex. The letter explained that "a wise sovereign" might justifiably refuse dissolution in three circumstances:

(1) the existing Parliament was still vital, viable, and capable of doing its job; (2) a General Election would be detrimental to the national economy; (3) he could rely on finding another prime minister who could carry on his Government, for a reasonable period, with a working majority in the House of Commons.⁹

The FTPA (Repeal) Bill was subsequently passed as the Dissolution and Calling of Parliament Act 2022. How much discretion the monarch might have to refuse a dissolution is discussed in the next section.

* The control the executive has over the legislative process in particular is the subject of a IfG/Bennett Institute 'Review of the UK Constitution' research report, *The Legislative Process: How to empower parliament*, Institute for Government, December 2022, www.instituteforgovernment.org.uk/publications/legislative-process

How much discretion or autonomy does the monarch have?

The second part of this paper considers how much autonomy the monarchy still enjoys, despite the tight legal framework described above. It begins with the new King's constitutional role, as head of state, before considering how much latitude the monarch enjoys in his wider ceremonial role as head of the nation.

The monarch's prerogative powers

The most important constitutional powers of the monarch are: to appoint and dismiss ministers, in particular the prime minister; to summon, prorogue and dissolve parliament; and to give royal assent to bills passed by parliament. The first and third can be swiftly dealt with, because the monarch no longer has any discretion. The last time the monarch exercised any personal choice in the appointment of the prime minister was when King George V pressured Ramsay MacDonald to remain in office in 1931. And the last time the monarch exercised any influence over the appointment of other ministers was in 1945, when George VI persuaded Clement Attlee to have Ernest Bevin as foreign secretary instead of Hugh Dalton. In the days when party leaders were anointed rather than elected, the Queen had no influence over the selection of Eden, Macmillan or Lord Home, appointing them as prime minister on the advice of Conservative Party elders. Now that all party leaders are elected, it is even clearer that the monarch has no discretion, a point emphasised by *The Cabinet Manual*:

In modern times the convention has been that the sovereign should not be drawn into party politics, and if there is doubt it is the responsibility of those involved in the political process, and in particular the parties represented in Parliament, to seek to determine and communicate clearly to the sovereign who is best placed to be able to command the confidence of the House of Commons.¹⁰

Royal assent, the final legislative stage of passing a bill into law, is now granted automatically once the bill has passed through all its stages in both Houses. The monarch has no discretion, with the Office of Parliamentary Counsel firmly stating: "Royal Assent is of course never refused for a Bill that has successfully made its way through Parliament."¹¹ Both precedent and principle indicate that royal assent is not an executive, but a legislative function, the King in parliament, certifying that a bill has been properly passed.¹² Quite separate from the process of royal assent is the requirement for Queen's and Prince's consent to bills affecting the prerogative. This requirement applies at the start of the legislative process, for introduction of a bill, not as the final stage. And it applies only to those bills which affect the prerogative or the interests of the crown. It is true that having advance sight of bills enables the Palace to suggest changes before their introduction. But consent is always granted on ministerial advice: it is ultimately a decision for ministers whether to agree to any concessions in response to lobbying from the Palace.¹³

Prorogation and dissolution are different. It is true that the Queen acceded to the Johnson government's request to prorogue parliament in August 2019, even though the Supreme Court subsequently ruled that the prorogation was unlawful.¹⁴ If in future a prime minister has the temerity to take a chance, the court laid down clear guidelines by which to judge any questionable request:

... the relevant limit on the power to prorogue is this: that a decision to prorogue (or advise the monarch to prorogue) will be unlawful if the prorogation has the effect of frustrating or preventing, without reasonable justification, the ability of Parliament to carry out its constitutional functions as a legislature and as the body responsible for the supervision of the executive.

Those guidelines will apply as much to the monarch considering any future request for prorogation, as to a prime minister asking for it: no monarch will want their order of prorogation to be declared unlawful.

Dissolution is also a discretionary power, with the Lascelles principles suggesting the circumstances in which it might properly be refused. So far as we know, dissolution has never been refused in the UK, but it has been in other countries that use the Westminster system, and indeed it was precedents from Canada and South Africa that informed the principles announced by Sir Alan Lascelles in *The Times*.*

The accession and coronation oaths

The three religious oaths to be taken by a new monarch on his accession and coronation were described above. They are statutory oaths, and only the government and parliament can amend them. But the oath taker is not without agency, as King George V demonstrated in 1910. When he objected to taking the original oath required under the Bill of Rights and Act of Settlement, with its fierce denunciation of the Church of Rome, the Asquith government toned down the oath in the Accession Declaration Act 1910. So far as we can tell, King Charles is perfectly comfortable with professing his Anglican faith, saying in his address to the nation on 9 September:

The role and the duties of monarchy also remain, as does the sovereign's particular relationship and responsibility towards the Church of England – the church in which my own faith is so deeply rooted.¹⁵

But if Charles, or in time Prince William, have reservations about the oaths, they could put pressure on the government to change them – as George V did in 1910. Because the oaths are taken soon after accession, the change would need to be made in the previous reign, or very swiftly in the new reign: the law was changed for George V within three months of his accession.

Regency Acts and counsellors of state

The Regency Act 1937 provides for a limited list of people to act as counsellors of state in the temporary absence or incapacity of the monarch. These are the monarch's spouse, and the next four adults in line of succession: Queen Camilla, Prince William,

* The precedents were Sir Patrick Duncan's refusal of a dissolution to General Hertzog in South Africa in 1939, and Lord Byng's refusal to Mackenzie King in Canada in 1926; both referred to in Sir Alan Lascelles' letter.

Prince Harry, Prince Andrew and Princess Beatrice. If, as can be expected, King Charles and Camilla go abroad together on state visits, Prince William cannot act alone as a counsellor of state, because the Regency Acts require two or more counsellors to be appointed to act jointly. But there are difficulties about Prince Harry because of his absence abroad; about Prince Andrew, who has been forced to retire from public life; and about Princess Beatrice, who is not a working royal.

In November, King Charles sent a message to parliament asking for legislation to add Princess Anne and Prince Edward to the list of potential counsellors of state.¹⁶ When the Regency Acts were last amended, in 1953, it was to restore Queen Elizabeth the Queen Mother to be a counsellor of state; and to provide that in the event of a regency (while the Queen's children were under age), Prince Philip would be regent rather than Princess Margaret. There had been some speculation that Kate, Princess of Wales, would also be made a counsellor of state.¹⁷ But the King has chosen just two additional counsellors, and Princess Anne and Prince Edward are those named in the Counsellors of State Act 2022, fast-tracked and passed by parliament in December.

Abdication

In his address to the nation, Charles appeared to rule out any question of abdication when he said:

As the Queen herself did with such unswerving devotion, I too now solemnly pledge myself, throughout the remaining time God grants me, to uphold the constitutional principles at the heart of our nation.¹⁸

He repeated the commitment to lifelong service at his inaugural meeting of the Privy Council. But the public take a different view: one in three think that at some point he should retire and hand over to Prince William.¹⁹ If at any time Charles decided that he had done his duty, and wished to pass on the baton, it is inconceivable that the government would stand in his way. No monarch can be forced to reign against his will, as Japan reluctantly acknowledged in allowing Emperor Akihito to abdicate in 2019. Should Charles decide to abdicate, the government would have to pass amending legislation (as in 1936) to recognise this and proclaim William as the new monarch.

Size of the royal family

Charles was reported as wanting to slim down the working members of the royal family long before he became King.²⁰ There could be two reasons for this: a smaller royal family reduces the reputational risk to the monarchy when individuals like Prince Andrew get into trouble, and it could help to reduce costs. But a smaller royal team will mean that we see less of the royal family, when demand for royal visits already exceeds supply, and any savings will be very small when set against the total costs of the monarchy.

It is for the monarch to decide who are the working members of the royal family, as Prince Harry and Meghan Markle found when the Queen ruled that they could not be half in and half out.²¹ Before their departure in 2020, and Prince Andrew's stepping aside in 2019, there were 15 working royals. There are now 11 recorded in the Court

Circular as carrying out royal duties. Seven are full-time working royals: Charles (aged 74) and Camilla (75); William (40) and Kate (40); Edward, Earl of Wessex (58) and his wife Sophie (57); and Princess Anne (72). And there are four older royals who contribute part-time: Prince Edward, Duke of Kent (87); Princess Alexandra (85); Prince Richard, Duke of Gloucester (78) and Birgitte, Duchess of Gloucester (76).

The reason for recording their ages is to note how elderly they are: two are in their 80s, five in their 70s, with only four under the age of 60. So Charles's wish for a slimmed down royal family is going to happen naturally: quite soon there will be only seven working royals. In 2019–20 the royal family carried out some 3,200 official engagements.²² That number was down to 2,300 in 2021–22, partly because of Covid – but it will be hard to reach the previous level with a smaller team. This matters because there is strong demand for royal visits throughout the UK, as any of the monarch's representatives across the country (the lord-lieutenants) will testify. Countries like Norway (population 5 million) and Denmark (6 million) can manage with a small royal family because they have much smaller populations to serve. The UK, with a population of 67 million, is over 10 times the size – and there are also the realms, the nations over which the British monarch reigns. So mindful of the Queen's maxim that "to be seen is to be believed", there will need to be careful management of expectations if a smaller royal family means that we see less of them.

Expectations will also need to be managed about the likely savings from slimming down the royal family. We do not know the cost of individual members, since they no longer receive parliamentary annuities. In 2002 eight royals received annuities totalling £1.5m, which the Queen voluntarily refunded to the Treasury.²³ Since the Sovereign Grant Act, the living expenses of working royals have largely been met from the monarch's income from the Duchy of Lancaster. Assuming that four were to retire, saving £750,000 a year, that would reduce the overall costs of the monarchy (£86m Sovereign Grant, plus £20m from the Duchy of Lancaster) by less than 1%. But even that is likely to be an overestimate: elderly royals will continue to have living expenses, whether working or not.

State visits

The Queen's state visit to Ireland in 2011, the first by a British monarch since her grandfather George V's visit in 1911, played an important part in normalising British–Irish relations. But not all state visits are so successful. In March 2022 Prince William and Kate went on a controversial tour to three of the realms: Belize, Jamaica and the Bahamas. It attracted a lot of criticism, in the host countries and back in the UK, with local protests and calls for slavery reparations, and it was depicted as a colonial hangover, strengthening Jamaica's wish to become a republic.²⁴ But whose idea was their tour of the Caribbean, and how much choice do the royals have over such visits?

It seems likely that the tour was proposed by the Palace, as part of the Queen's Platinum Jubilee celebrations, which also included a visit in April by Prince Edward and Sophie to the other realms in the Caribbean, where they also met with a hostile reception.²⁵

But most state visits are planned not by the Palace but by the Foreign Office:

The programme of overseas visits (other than Realm visits) which is funded by the Sovereign Grant is determined by the Foreign, Commonwealth and Development Office (FCDO) and undertaken on behalf of Government, and is approved by the Royal Visits Committee according to agreed priorities.²⁶

The committee is chaired by the FCDO permanent secretary, with the private secretaries to the royal households and No.10, and the chief executive of UK Trade and Investment. State visits are closely linked to the promotion of UK interests, including trade.

During the Queen's long reign she went on official visits to more than 100 countries, and received more than 100 visits from incoming heads of state. The monarch has no choice over the heads of state who are invited. Guests hosted by the Queen included President Putin (twice), Bishop Muzorewa from Zimbabwe, Nicolae Ceauşescu from Romania, President Xi Jinping of China, and her last state visitor in 2019 was President Donald Trump.

We know from Liz Truss's decision that King Charles should not attend COP27 how much control the government has over state visits.²⁷ The royals may be able to express reservations, but ultimately they must act on advice and go where they are sent and not travel when they are told not to. Trade opportunities are an important factor, with the Duke of Kent undertaking more than 60 overseas trips to promote UK trade and exports between 1975 and 2001. Prince Andrew, in his 10 years as trade envoy, was sent on trade missions to many countries with doubtful human rights records. Trade missions are a danger zone, which have also landed other royal families in trouble. The most notable casualties are in Spain, where King Juan Carlos and his son King Felipe have both been criticised after being sent to conclude big contracts with Saudi Arabia;²⁸ and in Sweden, where King Carl XVI Gustaf was heavily criticised for remarks (scripted by the Swedish foreign ministry) praising his host, the Sultan of Brunei.²⁹

Ceremonial role as head of the nation

By contrast in his ceremonial role as head of the nation, Charles has a lot more latitude to develop his own style and determine his own programme. This was particularly in evidence during the first week of his reign, when he embarked on his whistle-stop tour of the nations, visiting Scotland, Wales and Northern Ireland within days of accession. Operation Spring Tide will have been his own plan, to recognise the importance of all the nations within the UK, but was not without its risks, as depicted in the front-page headline of a leading Scottish newspaper, "Charles III, Union's Saviour or last King of Scotland?"³⁰

Charles's tour of the nations was part of a wider plan to make the new King as visible and accessible as possible, and a huge contrast to the Queen's accession in 1952. On the day after the Queen died, he gave a televised address to the nation; the Queen's

* The suggestion by Thérèse Coffey that it was up to the King to decide is disingenuous: Abdul G, 'Up to King Charles whether he wishes to attend COP27, says Thérèse Coffey', *The Guardian*, 28 October 2022, www.theguardian.com/environment/2022/oct/28/king-charles-free-to-attend-cop27-climate-summit-says-therese-coffey-rishi-sunak

first broadcast in 1952 was her Christmas message, 10 months after accession.³¹ On the next day, at the Accession Council in St James's Palace that proclaimed Charles King, the proceedings were televised; in 1952 it had met behind closed doors. Two days later, the new King came to Westminster Hall to receive messages of condolence from both Houses; in 1952, those messages were delivered to the Palace, rather than the Palace coming to parliament. And repeatedly, in London, Edinburgh, Cardiff and Belfast, Charles got out of his car to greet the crowds, to the evident dismay of his protection officers.

Royal patronage and causes

One further respect in which the new King can develop his own style is in the causes he chooses to support. As Prince of Wales he was famous for his interest in a wide range of causes: the environment, farming, architecture, homeopathy, and more. In his first address to the nation he recognised: "It will no longer be possible for me to give so much of my time and energies to the charities and issues for which I care so deeply."³² But he need not abandon them altogether. Without being outspoken about it, he can continue to be patron of charities and causes close to his heart; he can include them in his programme of royal visits; he can invite them to receptions at Buckingham Palace. Charles has long been aware of his convening power, as was evidenced in the reception for religious leaders (also held in the hectic first week) to hear Charles proclaim his support for other faiths and communities, not just the Church of England.

Royal patronages present a potential problem. The Queen was patron of some 600 charities; Charles will be expected to take on some, but cannot take on all of them, without diluting his own range of interests. With a smaller royal family, there are fewer patrons to go round; some organisations may inevitably be disappointed. But despite a widespread belief about the value of royal patrons, a recent study found no evidence that a royal patron is helpful for fundraising, and three quarters of charities with royal patrons had not enjoyed a single public engagement with them in the previous year.³³

Future challenges for the monarchy – and for the government

Maintaining popular support

This final section mentions some of the main challenges facing the monarchy during Charles's reign; and the legislative changes we would like to see from the government. The first and most obvious challenge is to maintain popular support. Modern monarchy no longer depends on divine grace, but the consent of the people. During the Queen's reign the monarchy consistently obtained support ratings between 60 and 80%; over the last 30 years support for a republic has not risen above 15 to 20%, even in the Queen's *annus horribilis* of 1992.³⁴ Early polls in the new reign suggest a small bounce for the monarchy, with 60% saying they think Charles will make a good king.³⁵

More worrying, however, for the monarchy is the much lower levels of support among the young; but the polling expert John Curtice suggests this age gap has been there for at least 30 years, with support for the monarchy growing as people get older.³⁶ If public support does start to dwindle, pressure may grow on the government to reduce funding

for the monarchy, as has happened in Spain, where the monarchy enjoys lower levels of public support, and much lower levels of funding.³⁷

Scottish independence

The next big challenge is the threat of an increasingly disunited kingdom. Charles's tour of the nations was seen by some as a bid to save the union. If the Scottish government succeeds in a future attempt to hold a second independence referendum, can the monarchy remain neutral? The 2014 referendum was famously an occasion when the Queen's usually impeccable neutrality seemed to slip for a moment. As someone who has been proclaimed King of the United Kingdom of Great Britain and Northern Ireland, can Charles pretend to be unconcerned if he becomes King of a 'Lesser Britain'? The standing of the monarchy will inevitably be damaged, even if responsibility for the break-up lies with the politicians and not the monarch. So it will be hard to stand idly by, but a greater risk to the monarchy would be to allow itself to be co-opted by unionist politicians, as Liz Truss attempted to do when she sought to join Charles's inaugural tour of the nations.³⁸

It will be small consolation that the SNP wishes to retain the monarchy, so that an independent Scotland would become one of the realms, with Charles as its head of state. That would be a hard role to fulfil if the break-up leads to a difficult divorce, as with Brexit, with Charles trying to remain above the divisions of his fractious kingdoms. In addition the SNP has long had a fundamentalist wing who have no time for the monarchy; if the Scottish people sense that Charles's primary loyalty is to his larger kingdom, they may press for an early referendum on becoming a republic.³⁹

Realms becoming republics

It may be a different story with the other realms, the 14 countries around the world where Charles is now head of state. Here too it may be seen as a blow to the monarchy's prestige if some of the realms choose to reject Charles as King; but talk of the realms rushing to become republics is overblown, and for the monarchy their departure may even come as a relief. Barbados became a republic in November 2021, and Charles attended the celebrations to wish them well. The next countries seen as likely to become republics are Australia, Antigua and Jamaica. The new Australian prime minister, Anthony Albanese, has appointed Matt Thistlethwaite to a newly created post: assistant minister for the republic; but a referendum on becoming a republic is not a priority for his first three-year term.⁴⁰

In Antigua and Barbuda the prime minister, Gaston Browne, has said that he will call for a referendum in the next three years.⁴¹ In Jamaica successive prime ministers have promised to lead their country to becoming a republic, but the process of constitutional amendment has prevented them from doing so: it requires a two-thirds vote in both houses of parliament, followed by a referendum.⁴²

Australia has a similarly high threshold, but its 1999 referendum disclosed a further layer of difficulty: how to select the new head of state. The proposition that a future president should be chosen by the parliament was defeated by 55:45, because most voters wanted the president to be directly elected, and chosen by the people.

Republican referendums in St Vincent and the Grenadines in 2009, and in Tuvalu in 2008 were also defeated, but on other grounds.

The main reason why the monarchy might privately be relieved if the realms become republics is the reduction in workload. It is a lot of additional work being head of state of 14 other countries, and keeping up to speed with their politics and societies. And it is an additional burden making regular visits. Queen Elizabeth made 22 official visits to Canada, 16 to Australia, 10 to New Zealand, six to Jamaica. Each will have involved long absences, and required careful preparation and briefing.

A secondary reason for relief is shedding the reputational risk involved with some of the more unstable realms. Take just two examples: Fiji and Grenada. Fiji has seen four coups d'état in the last 40 years; it must have been a relief to the monarchy when the second coup in 1987 resulted in removing the Queen as head of state. Grenada was subject to a military coup in 1979, followed by invasion by the United States in 1983; more recently, the royal tour of Grenada by the Wessexes had to be cancelled at the last moment in April 2022.

The Regency Acts

The final items are challenges for the government as much as for the monarchy. As noted, the government has brought forward legislation to add Princess Anne and Prince Edward to the list of counsellors of state. Prince Harry, Prince Andrew and Princess Beatrice, who are all higher in the line of succession, have been left in place, while recognising that they are unlikely ever to be appointed counsellors.

This does highlight the difficulties involved in relying on the line of succession (and the hereditary principle) as the principal means of selecting the monarch's deputies. Prince Edward and Princess Anne (currently 13th and 16th in line of succession) have been selected because they are working royals.⁴³ But what if, in time, they become elderly and unable to act? With King Charles's wish to slim down the royal family, there may be no other working royals available. Fresh legislation may be required, and if there are not enough working royals to provide sufficient counsellors of state, it may be necessary to appoint non-royals. Before the Regency Act 1937, counsellors of state appointed under the royal prerogative included non-royals. In 1911 the counsellors of state included the archbishop of Canterbury, lord chancellor and lord president of the council. Another approach would be to allow Prince William to act alone, as part of his apprenticeship for the day when he will become King.⁴⁴

The religious oaths

There was no adverse comment when Charles on accession took the oath to uphold the Presbyterian church in Scotland. It may similarly pass without remark when he takes an oath before parliament to be a true and faithful Protestant, and when he swears at his coronation to uphold the rights and privileges of the Church of England. But these oaths are hangovers from a bygone age, when Catholicism was seen as an existential threat to the security of the state. The UK faces many serious threats in the modern age, but

Catholicism is not one of them. In our more secular and pluralist society, the oaths need to be revised and updated; or dropped altogether.

Because the oaths are statutory this is primarily a matter for government and parliament, but the monarch as oath-taker could prod them into action. Five years ago the Constitution Unit at University College London undertook an 18-month study, consulting all interested parties, to see how the oaths might be revised and updated, if they are not repealed altogether. We suggested that new legislation could adapt each oath to its context.⁴⁵ The Scottish oath, taken before the inaugural Privy Council, could become a wider oath about the union. The accession declaration, traditionally taken before parliament, could become an oath to uphold the constitution and our laws. And the coronation oath, in a ceremony watched by millions, could become an oath to the people.

Dissolution and prorogation

This last item will not be on the agenda of the current government, having only just passed the Dissolution and Calling of Parliament Act 2022. The monarchy might be expected to welcome restoration of the prerogative power of dissolution, but experience elsewhere (such as the King–Byng affair in Canada) shows the risks involved. What follows is a very truncated discussion, to keep things short; for detailed analysis see the chapter on dissolution and prorogation in the author’s recent book on the prerogative.⁴⁶

The risks to the monarchy were emphasised by expert witnesses to the Joint Committee on the Fixed-term Parliaments Act.* The central issue before the committee was whether dissolution should be decided by the executive or by parliament. As the committee acknowledged: “Retaining a role for the House of Commons commanded a great deal of support in evidence to this Committee as well as PACAC and the Constitution Committee.”⁴⁷ It would shield the monarch from controversy and ensure that the decision to dissolve was non-justiciable (as a proceeding in parliament protected by Article 9 of the Bill of Rights). But the government has stuck to its policy of excluding the courts through an ouster clause, leaving the monarch as the only check on a doubtful request for dissolution.

Since the Supreme Court decision, the courts now offer a check on prorogation, but the same central issue arises: whether the executive should have the power to control the sittings of parliament. The UK is almost alone among European parliamentary democracies in allowing the executive to suspend parliament through prorogation.⁴⁸ If in future a government is minded to reform prorogation, parliament itself could be given power to decide when it was suspended. Or if the power remains with the executive, parliament could have the power to veto prorogation or to ‘un-prorogue’ itself.⁴⁹ As with dissolution, giving parliament control over prorogation would remove the risk of the monarch being drawn into political controversy, as in 2019.

* See the written evidence of Andrew Blick, Robert Hazell, Thomas Fleming and Petra Schleiter; and oral evidence of Robert Hazell and Peter Hennessy, Philippe Lagassé and Anne Twomey, and Gavin Phillipson in House of Commons, House of Lords, Joint Committee on the Fixed-Term Parliaments Act, *Report: Session 2019–21*, HC 1046, HL 253, ‘Witnesses’ and ‘Published written evidence’, pp. 112–113, <https://committees.parliament.uk/publications/5190/documents/52402/default>

Conclusion

The Queen's death was a turning point which has naturally prompted reflection on the role of the monarchy in our political system. As a constitutional monarch King Charles has no political power; he reigns but does not rule. The monarchy is tightly regulated by law and by convention. Some autonomy is left to the individual monarch, more in his ceremonial role as head of the nation than in his constitutional role as head of state.

The monarchy is regulated by laws passed by parliament. Parliament has changed the rules of succession four times, most recently in 2013 to end the rule of male primogeniture. It has prescribed the religious tests required of a new monarch, in three statutory oaths to ensure the continuation of Protestantism. In the Regency Acts, parliament has provided for a regent in the event of the monarch's serious incapacity, and counsellors of state for temporary incapacity or absence abroad. In the Sovereign Grant Act 2011 parliament changed the funding basis for the monarchy. In the same year parliament abolished the prerogative power of dissolution, but restored it in 2022.

King Charles has very little autonomy in his constitutional role as head of state. In appointing and dismissing ministers, the monarch acts solely on the advice of the prime minister of the day. He has no discretion to refuse royal assent to bills passed by parliament; but he could refuse an opportunistic request for dissolution or prorogation. As the oath-taker, Charles (or in time, Prince William) could object to the religious oaths (as King George V did), and ask for them to be updated. In November he asked parliament to amend the Regency Acts, to make Princess Anne and Prince Edward counsellors of state. He has no choice about incoming state visits, decided by the Foreign Office, but may have rather more over outgoing ones. He could reduce the size of the royal family, but that is likely to happen anyway given its age structure.

In his ceremonial role as head of the nation, Charles introduced some important innovations upon accession: in his televised address to the nation, his tour of the home nations, and early meeting with parliament. He can also develop his own style through his patronage of organisations, the causes he supports, and the institutions he chooses to visit, while being less outspoken than when he was Prince of Wales.

The main challenge to the monarchy lies in the threat to the union. If Scotland votes to become independent, that will damage the monarchy's standing, even though responsibility will lie with the politicians. If some of the 14 other realms where Charles is now head of state decide to become republics the monarchy may privately be relieved. It would reduce the workload, and the risk of reputational damage.

Robert Hazell was the founder and first director of the Constitution Unit at University College London, where he is Professor of Government and the Constitution in the Department of Political Science. His last two books were on the monarchy, and the royal prerogative.

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December 2022

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Our main funder is the Gatsby Charitable Foundation, one of the Sainsbury Family Charitable Trusts.