

## A NEW ZEALAND HERALDIC AUTHORITY?

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For some years there have been occasional calls for a New Zealand Heraldic authority to be established. It is submitted that such an authority already exists.

The heraldic prerogative of the Crown is exercised through the Queen's Officers of Arms. These are the kings of arms, heralds, and pursuivants, in descending order of seniority. They include members of the College of Arms<sup>1</sup> and other Officers of Arms for England, Wales and Northern Ireland; the heralds and pursuivants attached to the Court of the Lord Lyon King of Arms (for Scotland); and the Chief Herald of Canada. The New Zealand Herald Extraordinary, appointed by the Earl Marshal, is responsible for New Zealand<sup>2</sup>.

The extension of the executive authority of the Earl Marshal over the various colonies in the New World in the seventeenth and early eighteenth centuries was the logical consequence of the colonists' continuance in law as English subjects<sup>3</sup>. This authority now encompasses all of the Queen's subjects throughout the world, except Canada and Scotland<sup>4</sup>.

The kings of arms, heralds and pursuivants of the College of Arms work under the authority of the Garter Principal King of Arms, and the oversight of the Earl Marshal<sup>5</sup>. The Earl Marshal, who was described in 1672 as being "next and immediate Officer under Us for Determining and Ordering all matters touching Armes, Ensigns of Nobility, Honour, and Chivalry..."<sup>6</sup> possesses both executive and judicial authority over English arms<sup>7</sup>.

In the past some heralds were appointed who exercised jurisdiction overseas, not all of whom were responsible to the College of Arms<sup>8</sup>. These have included Guinenne King of Arms, for Guinenne or Aquitaine c.1413<sup>9</sup>, Ireland King of Arms c.1415, and Anjou King of Arms, all of whom pre-dated the College.

The first herald appointed in the New World was Carolina Herald, in 1705<sup>10</sup>. Brunswick Herald was an additional office held from 1726 to 1847 by the Gentleman Usher of the Most Honourable Order of the Bath, and entitled him to all the rights and immunities of a herald in England<sup>11</sup>. Two heralds, with ceremonial rather than heraldic responsibilities, were appointed for the Delhi Durbar in 1911<sup>12</sup>.

The two extant Officers of Arms whose jurisdictions are specifically outside the United Kingdom are the Chief Herald of Canada, and the New Zealand Herald Extraordinary. The Chief Herald of Canada works under the authority of the Herald Chancellor of Canada, who is responsible to the Governor-General. The New Zealand Herald Extraordinary is responsible to the Garter King of Arms, and indirectly, to the Earl Marshal.

Officers of Arms in Ordinary, nominated since 1708 by warrant of the Earl Marshal, are appointed by Her Majesty the Queen by letters patent under the Great Seal, without any formal investiture<sup>13</sup>. Officers of Arms Extraordinary, who are not members of the College of

Arms, are nominated by warrant of the Earl Marshal, and advanced to their title by warrant of the Queen. They do not receive letters patent.

Heralds and pursuivants, but not kings of arms, are appointed to extraordinary, or part-time office. Even Officers in Ordinary are not engaged in heraldic duties full-time, and none receive more than a nominal honorarium, relying on private genealogical and heraldic work for their living. In Scotland the Officers in Ordinary are employed even less regularly upon official work, the population of Scotland being little more than a tenth that of England and Wales, though the number of Officers are similar. The New Zealand Herald Extraordinary is not a member of the College of Arms, and was nominated by warrant of the Earl Marshal, and advanced to his title by warrant of the Queen<sup>14</sup>.

The styles and titles of the kings of arms are names of dignity, and form part of their names, and an Officer of Arms must be sued by it<sup>15</sup>. Thus it is not correct to speak of Peter Gwynn-Jones, but Peter Gwynn-Jones, Garter Principal King of Arms, or simply "Garter". Similarly, Phillip O'Shea should be known as Phillip O'Shea, New Zealand, or "New Zealand", though that style may sound a little pretentious! However, since the basis of the rule is that heralds are created by letters patent, rather than appointed by warrant, it is probable that it does not apply to Officers of Arms Extraordinary<sup>16</sup>.

All heralds are also free from arrest, though not because of any special privilege due to them as Officers of Arms<sup>17</sup>. The privilege is because they are of the Queen's servants in ordinary with fee, and bound to attend her whenever required, as well as for ceremonial state ceremonies<sup>18</sup>.

It follows that Officers of Arms Extraordinary are not so privileged. It is unlikely that an Officer of Arms Extraordinary would be arrested while on duty, and even an Officer of Arms in Ordinary would be unlikely in modern times to claim immunity from arrest in ordinary proceeding not directly relating to their occupation.

Officers of Arms, whether in ordinary or extraordinary, are exempt from election or appointment as mayor, sheriff, or churchwarden or to any other public office in a city, town or village and from tolls in markets and other places. These privileges had been enjoyed "from time out of memory"<sup>19</sup>. Their justification lay in the restrictions which such offices and tolls placed on freedom of movement. Servants of the Sovereign had to be able to go about the Queen's business without let or hindrance. As a consequence of their calling Officers of Arms were frequently employed on diplomatic missions, until as late as the first half of the sixteenth century.

Officers of Arms were also exempt from all taxes, though this has not been claimed for many years. Being however a common law exemption, it appears not to have been excluded, in England, by the Income Tax Act 1842<sup>20</sup>, which is in similar terms to the present Income and Corporation Taxes Act 1988<sup>21</sup>. Although the Officers do not now claim exemption from indirect taxation, nor attempt to recover any paid at source (such as Value Added Tax), they still claim their legal right to exemption from income tax. However, they make voluntary payments to Inland Revenue in lieu of income tax. Such payments are made without prejudice to their legal right of exemption, but are in recognition that insistence on exemption would otherwise result in their privilege being lost. There has never been any similar exemption claimed in New Zealand by the New Zealand Herald of Arms Extraordinary to Her Majesty

The Queen. Given the lack of recognition of any common law exemptions from taxation in New Zealand, such an exemption would appear to not exist in this country.

The 1988 letters patent which led to the establishment of the Canadian Heraldic Authority<sup>22</sup> did not identify the nature of the Law of Arms, but merely delegated the executive power of the Queen to grant arms. The substance of the Law of Arms is to be found in the customs and usages of the High Court of Chivalry<sup>23</sup>. However, it is now generally assumed that the practices of the College of Arms comprise the modern substance of the law, and that the English heralds are free to develop the Law of Arms as they see fit<sup>24</sup>.

It is believed that as a corollary the Canadian Heraldic Authority is also free to develop the Law of Arms in Canada, as the Canadian common law courts have been free to develop the common law of Canada. However, it would appear that both the College of Arms and the Canadian Heraldic Authority may be acting ultra vires if they alter a long-standing heraldic practice approved by the Court of Chivalry in a judgement of long ago. Were the common law courts to cease to sit the civil service would not be free to rewrite the law- that would be a job for Parliament. Accordingly, the heralds in both England and Canada are bound by the principles of the Law of Arms as established by the Court of Chivalry.

The authority of both the Canadian and English heralds derives essentially from their status of Officers of Arms of the Crown<sup>25</sup>. In Canada, under the 1988 letters patent delegating the Crown's prerogative in relation to heraldry<sup>26</sup>, the delegation is apparently, like that of Lord Lyon, territorially limited. The wording of the letters patent, which provide for the exercise of all powers and authorities lawfully belonging to the Queen of Canada, states that the delegation is "in respect of the granting of armorial bearings in Canada". Had a general delegation been intended, the words "of Canada" could have been omitted, thereby empowering the Governor-General to grant of armorial bearings without limitation as to place.

The wording of the delegation does not necessarily mean that the Canadian Heraldic Authority does not have the power to grant arms to persons domiciled elsewhere than in Canada. However, it would appear that such grants would have to be limited to those who were either of Canadian ancestry or who could establish a need to use armorial bearings in Canada. Presumably this was to preserve the remaining imperial jurisdiction of Garter Principal King of Arms.

The new Canadian Heraldic Authority has been established in the Chancellery of the Canadian Orders and Decorations, which is responsible to the Secretary to the Governor-General, who is now ex-officio Herald Chancellor of Canada. The Deputy Herald Chancellor is also Deputy Secretary to the Governor-General responsible for the Chancellery. There is a Chief Herald of Canada to administer the heraldic work of the Chancellery. He is also known as the Director, Heraldry.

The first person to be appointed by commission from the Governor-General to this important office was Robert Watt. Three Officers of Arms have been appointed- the St. Laurent, Fraser, and Athabasca Heralds. These Officers were also appointed as registrar, as principal artist and to be responsible for policy and program respectively.

By April 1990 the Public Register of Arms, Flags and Badges of Canada included 43 grants, all of which are published in the *Canada Gazette*.

Consideration was given in 1975 to establishing an independent heraldic authority in New Zealand. In particular there were proposals for a New Zealand King of Arms, to be under the Earl Marshal and Garter Principal King of Arms, and within the College of Arms<sup>27</sup>. It was decided however to continue to use the College of Arms<sup>28</sup>. This decision was, according to Macaulay, constitutionally inappropriate<sup>29</sup>, but it was certainly efficient<sup>30</sup>.

However, in New Zealand, on 6 February 1978 Phillip O'Shea was appointed as the New Zealand Herald of Arms Extraordinary to Her Majesty The Queen<sup>31</sup>. The essential validity of the appointment by royal warrant of the Queen of New Zealand addressed to the Earl Marshal of England, without the Sovereign of the United Kingdom interposing authority to the warrant has been questioned<sup>32</sup>. It is clear however that the Sovereign may exercise her prerogative through whatever servants she may wish to use.

Since the appointment of New Zealand Herald, letters patent issued by the College of Arms to New Zealanders have de-emphasised their English character<sup>33</sup>. The letters patent granted by Garter since have borne the New Zealand royal style, rather than that of the United Kingdom<sup>34</sup>.

New Zealand Herald has no autonomous power to grant armorial ensigns, so the authority by which he alone approves certain badges was not clear to Macaulay<sup>35</sup>. However, it can be explained quite satisfactorily by observing that a herald's role in regulating badges and flags is distinct from his function of granting armorial bearings.

This was a simpler arrangement than appointing a New Zealand King of Arms, whether under the Earl Marshal and Garter Principal King of Arms, and within the College of Arms, or independent as in Canada. It better reflects the lower profile of heraldry in this country.

New Zealand Herald Extraordinary is the representative in New Zealand of the College of Arms. As a herald extraordinary, he is not a member of the College, and has the same (limited) authority as any herald extraordinary. However, in practice much of the work in New Zealand of the College of Arms is delegated to him<sup>36</sup>.

Canada created an heraldic authority in 1988 because the last of the royal prerogatives was transferred to the Governor-General. It might be appropriate to remove the authority of the College of Arms, and have a New Zealand Herald appointed by letters patent of the Sovereign, rather than nominated by warrant of the Earl Marshal, and advanced to his title by royal letters patent (or warrant for an Extraordinary Officer of Arms) of the Queen.

Alternatively, an equivalent of the Earl Marshal or Herald Chancellor of Canada might be created, to whom the New Zealand Herald would be responsible. However, there is insufficient heraldic work in New Zealand to justify any increase in the existing provision of one part-time Officer. There is also the significant risk that any attempt to change the present system may simply result in the whole system being abolished.

This is no imaginary risk. The draft bill of the Flags, Emblems, and Names Protection Act 1981 included a clause protecting armorial bearings. The display, exhibition, selling or

otherwise dealing in, or otherwise using in a manner likely to cause any person to believe that the use is authorised, of any coat of arms or other heraldic emblem granted by the Sovereign, would have been illegal.

Clause 16 was unfortunately dropped at the select committee stage. The committee considered that there was already adequate protection under misrepresentation or passing off, should a person use the coat of arms granted to another without his authority. They did not accept that there was any justification for protecting private interests with criminal sanctions. The committee were also opposed to what they saw as a monopoly being established for the benefit of New Zealand Herald. Comments made by politicians at the time indicated the attitude towards heraldry in general<sup>37</sup>.

There are inherent dangers in advocating the introduction of an heraldic authority for New Zealand which bypasses the Earl Marshal and his servants. Any attempt to make significant changes is liable to result in the entire system which we have at present being lost. It would be much preferable to strengthen what we have now. In particular, the appointment of an additional Officer of Arms Extraordinary, in the grade of pursuivant, would strengthen New Zealand Herald's position. Such an Officer could assist Mr O'Shea with his heraldic responsibilities. They might also be chosen from someone versed in the legal or other technical aspects of ceremonial, who would give New Zealand Herald the benefit of his or her knowledge and experience.

Since such an Officer would be unpaid, some provision would have to be made for an expense allowance. But there is no reason why such an appointment would, or even should be, confined to a Wellington-based civil servant. There is much to be said for appointing as pursuivant someone resident in Auckland, or Christchurch, who would then be the local representative of New Zealand Herald. If it proved appropriate and necessary, further pursuivants could perhaps be appointed later.

By such a process, a truly national heraldic authority could be developed, at minimal cost, and without significantly changing the present arrangements.

The new Officers of Arms could be appointed by the same procedure as used for New Zealand Herald, namely a royal warrant of the Queen of New Zealand addressed to the Earl Marshal, and a warrant of the Earl Marshal. Alternatively, a royal warrant could be directed to New Zealand Herald himself, to appoint a new Officer of Arms by his own warrant. Such a step would make the New Zealand nature of the appointment even clearer, and should present no serious technical difficulties. However, such an Officer might not be accorded the same facilities by the College of Arms as New Zealand Herald. If he or she were expected to undertake heraldic work, this could present difficulties.

The choice of titles for the new Officer of Arms ought to offer an opportunity for an imaginative use of royal symbolism. With the exceptions of New Zealand, Wales, and Delhi, heralds are named for the families they served. Pursuivants however are named after royal badges. The selection of royal badges from New Zealand is limited. Territorial titles could be adopted instead, though Auckland Pursuivant, or Christchurch Pursuivant, does not have quite the same effect as Rouge Croix Pursuivant.

The subject of the royal arms for use in New Zealand is controversial. However, in 1962 in preparation for her visit to New Zealand the next year, the Queen approved the design of a personal flag for use in New Zealand. The flag has been used on all subsequent visits by the Queen. The design bears the shield of the coat of arms with the addition in the centre of a golden crowned Roman "E" on a blue circle within a wealth of golden roses. The shield is comprised of the old arms of the New Zealand Provinces.

Since no distinctive royal badges have actually been adopted, any one of the charges of the Coat of Arms could lend its name to the title of a new Officer of Arms. However, they are inappropriate as being insufficient dignified for the title of an Officer of Arms<sup>38</sup>. However, regional, provincial and civic emblems are another potential source of titles.

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<sup>1</sup>In 1417 the Lord High Constable was given authority over all the royal heralds. The heralds themselves were incorporated by royal charter of King Richard III in March 1483/84, when it was provided that no new arms were to be allowed unless the user could show lawful authority for assuming them. The Officers of Arms were also authorised to grant arms to gentlemen of proven descent, and to others of sufficient substance. The College was again incorporated by Queen Mary I and King Philip II, 18 July 1555.

<sup>2</sup>Other kings of arms exist whose principal function is ceremonial. These are Bath King of Arms, and the Kings of Arms of the Order of St Michael and St George, and the Order of the British Empire.

<sup>3</sup>Although Crawford argues that it is not entirely clear whether the Law of Arms was really applicable to the settled colonies, an argument which undermines the authority of Lord Lyon as much as that of Garter.

<sup>4</sup>See Noel Cox, "The Law of Arms in New Zealand" (1998) 18 (2) New Zealand Universities Law Review 1.

<sup>5</sup>Orders promulgated by the Earl Marshal 18 July 1568 confirms that no Chapters of the College might be held without the Earl Marshal's presence, and that any orders be confirmed by him. Under the Letters patent of Charles II creating the office of Earl Marshal in the family of the Duke of Norfolk, dated 19 October 1672, grants were in future to be made by the kings of arms only with the prior warrant of the Earl Marshal. After 1560 grants were to be made by the three kings of arms jointly. This arrangement lapsed in the Civil War, and revived in 1673. In 1680 it was decided that grants south of the River Trent were to be by Garter and Clarenceaux, those north, by Garter and Norroy.

<sup>6</sup>Letters patent of Charles II creating the office of Earl Marshal in the family of the Duke of Norfolk, dated 19 October 1672; George Squibb, "Heraldic Authority in the British Commonwealth" (1968) Coat of Arms vol 10 no 76 p 125, 128.

<sup>7</sup>The exact date by which the Earl Marshal had acquired authority over the heralds is unclear. However, it was well established by the middle of the sixteenth century, and was confirmed in 1673. In 1708 it was declared that the Earl Marshal was entitled to nominate Officers of Arms. These are now appointed by the Sovereign by letters patent under the Great Seal, after nomination by the Earl Marshal by warrant. Extraordinary Officers of Arms are appointed by Earl Marshal's warrant, and confirmed by warrant of the Sovereign, which advances them to their title.

<sup>8</sup>The New Zealand Order of Merit, established 1996, has a herald, who is equivalent to the heralds of some of the British Orders. His responsibilities include preparing genealogical proofs for the College of Arms.

<sup>9</sup>The title, though not the jurisdiction, was revived in the late nineteenth century.

<sup>10</sup>AC Fox-Davies, *A Complete Guide to Heraldry* ed JP Brooke-Little (1985) 28.

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<sup>11</sup>By a special addition to the Statutes of the Order, the Bath King of Arms was also concurrently appointed Gloucester King of arms and Principal Herald of the Parts of Wales, with seniority of all provincial heralds, and the Genealogist of the Order was appointed Blanc Coursier Herald and Herald of Arms attached to the Principal Knight Companion. These Officers were granted under the Great Seal, and they enjoyed life tenure- letter from Sir Nicholas Harris Nicolas to RW Hay, Permanent Under Secretary of State for War and the Colonies, dated 16 December 1832, *War Office Bath Record Book*; 25, 29 May, 5, 10 June 1847, *War Office Bath Record Book (miscellaneous)* quoted in James Risk, *The History of The Order of the Bath and its insignia* (1972) 14 and n, 131 and n.

<sup>12</sup>Delhi Herald (Brigadier-General William Eliot Peyton) and Assistant Delhi Herald (Captain the Honourable Malik Mohammed Umar Haiyat Khan).

<sup>13</sup>*Pinson v Redhead* (c.1600) Noy 150; 74 ER 1112.

<sup>14</sup>The actual wording of the warrant is as follows:

Elizabeth R

Elizabeth the Second by the Grace of God Queen of New Zealand and Her other Realms and Territories, Head of the Commonwealth, Defender of the Faith, to Our Right Trusty and Right Entirely Beloved Cousin Miles Francis, Duke of Norfolk, Companion of Our Most Honourable Order of the Bath, Commander of Our Most Excellent Order of the British Empire, upon whom has been conferred the Decoration of the Military Cross, Earl Marshal and Our Hereditary Marshal, Greeting!

Whereas Our Governor General of New Zealand has conveyed to Us the request of Our Prime Minister and other Ministers of New Zealand that it is desirable that the Office of New Zealand Herald among Our Heralds Extraordinary be created and We have been graciously pleased to accede thereto

And whereas upon the recommendation of Our said Prime Minister and other Ministers of New Zealand you have by an Instrument under your hand and Seal bearing date the Thirtieth day of January 1978 expressed your entire satisfaction with the abilities of Phillippe Patrick O'Shea, Esquire, and with his desire to improve his skill and knowledge in the art and science of Heraldry and thus for his encouragement therein have nominated and appointed him a Herald Extraordinary by the name of New Zealand Herald of Arms to the end that he may obtain Our Warrant to be fully invested with all the rights, privileges, pre-eminentces and advantages of such Herald Extraordinary

We approving the character you have given him are further graciously pleased to agree thereto; And it is Our Will and Pleasure and We do hereby authorise and require you in Our name to create him the said Phillippe Patrick O'Shea Herald Extraordinary by the name of New Zealand Herald of Arms to the end that he may be thereby qualified to have, exercise and enjoy all rights, privileges, pre-eminentces and advantages whatsoever belonging to such Herald of Arms Extraordinary in as ample and beneficial a manner as any other hath heretofore held, exercised and enjoyed, or of right ought to have held exercised and enjoyed the same;

And for so doing this shall be your Warrant

Given at Our Court at Sandringham the Sixth day of February 1978, being New Zealand Day, in the Twenty-seventh year of Our Reign.

By Her Majesty's Command

RD Muldoon

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<sup>15</sup>*Dethick's Case* (1591) Cro Eliz 224; 78 ER 480; *Clarenceaux v Dethick* (1597) Cro Eliz 542; 78 ER 788; *Holt v Ward* (1729) 1 Barn KB 208, 247; 94 ER 142, 169.

<sup>16</sup>Warrants, unless sealed with the Great Seal of the Realm, are regarded as a species of private instrument, unlike letters patent, which by their very nature confer public rights and privileges.

<sup>17</sup>*Leslie v Disney* (1834) 1 Cr M & R 578; 149 ER 1211; distinguished in *Byrn v Dibdin* (1835) 1 Cr M & R 821; 149 ER 1312.

<sup>18</sup>*Dyer v Disney* (1847) 16 M & W 312; 153 ER 1208.

<sup>19</sup>Charter of confirmation of June 1549, printed in John Anstis, *The Register of the Most Noble Order of the Garter... usually called the Black Book* (1724) Preface xxiv et seq.

<sup>20</sup>5 & 6 Vict c 35 s 187 (repealed).

<sup>21</sup>s 829 (4).

<sup>22</sup>*Letters Patent authorising the granting of armorial bearings in Canada*, dated 4 June 1988. This was sealed with the Great Seal of Canada, on the advice of the Privy Council of Canada.

<sup>23</sup>*Puryman v Cavendish* (1397) Close Rolls 21 Ric II p 1 on 5.

<sup>24</sup>It is said that Lord Lyon has authority to prescribe new heraldic rules if the Laws of Arms are deficient- *Act in favour of the Lyon King of Arms against painters, goldsmiths and others who issue coats of Arms to persons not privileged to wear them* Registers of the Privy Council of Scotland, 2nd Series, vol III p 594. It is, however, not clear that this was intended to cover the Laws of Arms or merely the rules of heraldry. The latter is more likely.

<sup>25</sup>The Crown's prerogative as fount of honour remains exercisable personally by the Sovereign, although in Canada it has been fully delegated to the Governor-General since 1947. The Earl Marshal, who, as the deputy of the Lord High Constable has had authority over the heralds of the Crown since the fifteenth century if not earlier, has additional authority from his own letters patent of 19 October 1672.

<sup>26</sup>*Letters Patent authorising the granting of armorial bearings in Canada*, dated 4 June 1988.

<sup>27</sup>Phillip O'Shea, Cabinet Office Adviser on Honours.

<sup>28</sup>PP O'Shea, "The Office of the New Zealand Herald of Arms" (1982) 20 New Zealand Armorist 7.

<sup>29</sup>Macaulay has said that "if there is no supranational Crown there can be no supranational Royal symbols or servants"; GA Macaulay, "Honours and Arms: Legal and Constitutional Aspects of Practice concerning Heraldry and Royal Honours in New Zealand" (1994) 5 Cantaur LR 381, 386.

<sup>30</sup>GA Macaulay, "Honours and Arms: Legal and Constitutional Aspects of Practice concerning Heraldry and Royal Honours in New Zealand" (1994) 5 Cantaur LR 381, 387.

<sup>31</sup>Neither the warrant of appointment, nor any other mention of the existence of the position was ever been published in the *New Zealand Gazette*; GA Macaulay, "Honours and Arms: Legal and Constitutional Aspects of Practice concerning Heraldry and Royal Honours in New Zealand" (1994) 5 Cantaur LR 381, 385n.; Sir Malcolm Innes of Edington, "New Zealand Herald of Arms Extraordinary" (1979) 3 Commonwealth Heraldry Bulletin.

<sup>32</sup>GA Macaulay, "Honours and Arms: Legal and Constitutional Aspects of Practice concerning Heraldry and Royal Honours in New Zealand" (1994) 5 Cantaur LR 381, 385-6; Sir Malcolm Innes of Edington, "New Zealand Herald of Arms Extraordinary" (1979) 13 Heraldry in Canada 34-36. O'Shea has since also been appointed Herald to the New Zealand Order of Merit, an appointment made in accordance with the Statutes of that Order.

<sup>33</sup>The Earl Marshal is simply "Earl Marshal" rather than "Earl Marshal and Hereditary Marshal of England", and the Sovereign's titles for New Zealand are used.

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<sup>34</sup>O'Shea has said that the letters patent recite the style conferred upon Her Majesty by proclamation under the Royal Titles Act 1953. If this is so, it is incorrect, as this style was replaced by that given in the Royal Titles Act 1974. Even if the style is incorrect, this does not mean, as Agnew of Lochnaw believed, that the grants are of doubtful essential validity as made "in the name of a legally non-existent Sovereign"; A message from New Zealand Herald of Arms to 1979 Heraldry Seminar, University of Auckland, 26 August 1979; Sir Crispin Agnew of Lochnaw, "The Conflict of heraldic laws" (1988) *Juridical Review* 61, 66. The actual title used by the Sovereign is immaterial to the validity of an instrument. It has long been established that the royal style as such does not affect the legal status of anything done using it. The words "*Supremum caput ecclesiae anglicanæ*" were omitted from a writ. However, it was held that the writ was good nevertheless, for this style and title was not part of the Royal name, but only an addition. The word "*rex*" comprehends all the Royal dignities and attributes. *Anon* (1555) *Jenk* 209; 1 *Dyer* 98a; 145 *ER* 142.

<sup>35</sup>GA Macaulay, "Honours and Arms: Legal and Constitutional Aspects of Practice concerning Heraldry and Royal Honours in New Zealand" (1994) 5 *Cantaur LR* 381, 386.

<sup>36</sup>O'Shea was appointed by letters patent, rather than by the warrant normally used for extraordinary heralds. In this respect he has more in common with the heralds and kings of arms. Grants of arms continue to be made by the kings of arms (Garter alone for personal grants, all three for corporate arms), under the authority of a warrant of the Earl Marshal. The Queen's royal style in New Zealand is now used in grants to New Zealanders obtained through the agency of New Zealand Herald Extraordinary.

<sup>37</sup>See *New Zealand Parliamentary Debates* (1980) vol 440 p 2741, vol 441 p 3858.

<sup>38</sup>Four mullets in cross Argent each surmounted by a mullet of Gules (red stars with white edges, representative of the Southern cross); a garb (golden wheat sheaf, representing the agricultural sector); three Lymphads Sable (black sailing ships, symbolising the importance of New Zealand's sea trade); a fleece (golden fleece, representing the farming sector); two mining hammers in saltire all Or (crossed golden hammers, representing the mining industry).