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WHAT IT IS AND WHAT IT IS NOT.

FRIDAY, 2 NOVEMBER 2012

The Hon. Michael Kirby AC CMG
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AYERS HOUSE, ADELAIDE, SOUTH AUSTRALIA
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THE HON MICHAEL KIRBY AC CMG*

A TIME FOR CELEBRATION

The Diamond Jubilee of Queen Elizabeth II is a moment for celebration. Even those who would change the Australian Constitution to a republican form must acknowledge the faithful service of the Queen.

Her life has been one of six decades of obedience to duty. Six decades, not out.

In an age when such a life is comparatively rare, it acts as a symbol, and a valuable one. It demands a combination of good genes, good living and good luck. Only two other monarchs have reached such an anniversary, King George III and Queen Victoria. King George III lost the American colonies. Queen Victoria presided over the massive expansion of the British Empire, much of it won by force of arms. On the other hand, Queen Elizabeth II has been a monarch of national independence. In her reign millions of British subjects became free citizens of their own countries. Mostly they did so peacefully and in accordance with law. Throughout it all, the Queen has remained, as The Economist recently put it, the “still centre” of the constitutional order over which she presides.

I doubt that there is another head of state in the world who would have participated, as she did, in the events that marked the opening of the recent Olympic Games in London. I could not imagine for example, the Chinese President taking part in an apparent helicopter leap, in pink dress, in a single take pretend to collaboration with a movie character like the fictional James Bond. Only the self confidence of a millennium would agree to do that. And in the process, to take the mickey gently out of the Games and out of the Diamond Jubilee itself.

I must concede that because Queen Elizabeth has accompanied my life’s journey, over so many years, she constitutes a personal reason for

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respect and affection towards the system of constitutional monarchy that we have in Australia. I remember the day on 6 February 1952 when she became Queen. It was announced at our school assembly that the King had died. We were all sent home. Burned into my consciousness is the image of her returning, to London from Kenya, wearing pre-packed black mourning robes, to be greeted at the foot of the plane's steps by Winston Churchill, the aged Prime Minister, and Clement Attlee, the leader of the Opposition in Britain. That symbolism has always remained potent for me. At certain moments a people can be one. The Crown is a symbol that can help to bring them together.

Over the years, I have seen, and participated in, events of such symbolism. When my long relationship with my partner, Johan van Vloten, became public, politicians mostly ran a mile. But it was a soldier, Michael Jeffrey, then Governor of Western Australia and temporarily Administrator of the Commonwealth, who invited Johan and me to Government House in Canberra, as was appropriate to the partner of a Justice of the High Court of Australia. He and Marlena Jeffrey did so for a dinner on the eve of ANZAC day, when all his other guests were his colleagues, the senior service personnel of the nation. It happened also to be Johan's sixtieth birthday. So we celebrated in style. What politicians would not do, the Crown's representative undertook effortlessly, with understatement and with grace. Instinctively, vice regal representatives have generally known the duties of non-discrimination and inclusiveness. Although the first Prime Minister during my public service was Mr Whitlam, and there have been seven of them in all, I have never been invited as a guest at the Lodge. Still less, has Johan.

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am not complaining. It is just a contrasting fact about the way our system of government operates.

In the States of Australia, the vice regal representatives are ordinarily foremost in reaching out to minorities, welcoming them, encouraging them, and participating appropriately in their activities. I know this because I have frequently been their guest and sometimes their host and so has Johan. This is a central idea of a constitutional monarchy. The politicians have their contests. That is right and proper and is as envisaged in our Constitution. However, there are other elements in our government in Australia that are permanent, unelected, unwavering and that serve all the people: the Crown, the judiciary, the public service and the military. The bargain that is struck permits these officials to share the power of government on the footing that they partisan political entanglements.

WHAT AUSTRALIA’S CONSTITUTIONAL MONARCHY IS NOT

My association with Australians for a Constitutional Monarchy (ACM) was terminated on my appointment to the High Court of Australia in 1996. Since the political campaign around the referendum of 1999, I have often heard expressions of popular expectations of the Crown, sometimes voiced by members of ACM, with which I do not agree. Even on this occasion I have heard some with which I disagree. I will collect these assertions, in order to delineate the way in which I approach the issue of constitutional monarchy as it exists in Australia today and as I support it:
* Diamonds and jewels: I am not a monarchist of the Women's Weekly type who loves the diamonds, jewels and mediaeval fantasies of monarchy. That is not at all how constitutional monarchy normally operates in Australia. A pageant or two in England is fine. But it is not part of Australia's governance. Ours is a modern and very modest system of constitutional monarchy. And that is the only way that I like it;

* Distance and proximity: I have sometimes heard it said that we should have a member of the Royal Family living in Australia, perhaps serving as our Governor-General. A few, who are very anxious on this score, express the hope that the Queen "will give" one of her children, so that we could establish our own monarchy, linked by family but living locally, amongst us. I disagree. For me, the very fact that the Queen lives on the opposite side of the world is a positive advantage. She comes when invited; and never when not invited. The same with members of her family. It is not too often. And it is not too rarely. Just right. Absence, as with some of one's own family members, tends to make the heart grow fonder;

* Dukes and lords: Some Australians would love to see a bunyip aristocracy. Back to colonial times, there have always been such people. They would like to have a lord or two as part of our own constitutional monarchy. A few were appointed in earlier decades: Lord Casey of Berwick may have been the last resident lord appointed from Australia. I do not favour this. Australians are by nature egalitarian. This is a natural strength. I do not favour the restoration of knighthoods, which we have lived without since

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1983. Rightly, John Howard, on his election in 1996, did not restore them. We have our own honours system. Its symbolic decorations include the symbol of the Crown. But it does not, by titles, distinguish our citizens' one from the other. I do not now pine for a knighthood, though I confess my mother in her lifetime lamented my loss of it;

* Actual and virtual head of state: I do not consider for a moment that the Governor-General is the Head of State of Australia. I understand, of course, the strategic reasons why some members of ACM have declared that she is. The Governor-General is the "representative" of our Head of State, who is the Queen. That representative function is stated in the Australian Constitution\(^4\). The notion that the Governor-General is the Head of State derives from those who believe that non-residence is fatal to that function. I have never accepted this view. Non-residence is part of the package of securing an international head of state. For me, that too is an advantage. It is not a flaw;

* Nationalism versus internationalism: I am not a flag waving nationalist. Nationalism is so 19th century. It occasioned so much war and bloodshed in the 20th century that it is time that humanity got over it. We now live in an international age. Nationalism can now be safely banished, as far as possible, to the sporting field. A narrow view of nationalism, is, in my opinion, a curse. "Oi Oi Oi" does nothing for me. Having a head of state whom Australians share with other countries is a positive advantage. Especially when it manifests itself in the person of Queen Elizabeth who is a total professional in discharging her duties;

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\(^4\) *Australian Constitution*, s61 ("The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative...").
* The role of God: Nor do I believe that the constitutional monarchy is necessarily bound up in a belief in God. There are plenty of good Australian citizens who do not believe in God. The fastest growing cohort in religious affiliation in the Australian census is "no religion". Whilst I adhere to my Anglican upbringing, my partner Johan has no religion. Yet he has volunteered to perform more good works than most religionists we know. The Queen herself is quietly religious. But she does not force her beliefs on others. Nowadays, there is too much of this forcing. The secular state which we inherited from Britain is actually in danger in Australia. We have never had an established church. We cannot do so under our Constitution. It is a mistake to confuse the monarchy with religion. Even to have the prayer of grace at this dinner, invoking Jesus Christ, is in my view wrong. It necessarily excludes Jews, Muslims, Hindus, Confucianists and humanists who make up an ever-increasing proportion of the Australian population. The Crown is there for all of them. For all of us. It does not belong to the Church of England or to the Christian belief. I support the reported wish of the Prince of Wales to change the royal style and title to "Defender of the Faiths". If that were done, the title could perhaps be restored to the Australian royal title;

* Commonwealth of Nations: There were some suggestions during the republic referendum that a change in the Australian Constitution would sever our links with the Commonwealth of Nations, of which the Queen is the titular head. Whilst this might have been technically correct, in the sense that realms that change to a republic must apply to rejoin the Commonwealth, there was

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never the slightest doubt that Australia would continue as an active member of the Commonwealth of Nations. It will do so whatever happens to the Headship of the Commonwealth. Monarchists who suggested the contrary were first plain wrong. The argument was an irrelevant distraction:

* Reserve powers: So was the suggestion that the reserved powers of the Crown, implied in the Australian Constitution, were inherent only in a constitutional monarchy. Several realms of the Queen have expressed, and codified, the reserve powers of the Governor-General. Several republics, that once were realms, have spelt out the reserve powers of their president.\(^7\) Whether Australia remains a dominion of the Crown or becomes a republic is completely immaterial to the continuance of reserve powers. Even if they were not codified, they would be transferred by constitutional inference, or express provision, to a president who had like powers as are presently enjoyed by the Queen and her Australian representatives.\(^8\).

* The Australian flag: I have also heard it said that ACM stands for the present Australian flag. I don’t know where that came from. I do not agree. It was never part of the ACM charter nor an objective when I was around. The current flag is not essential to the constitutional monarchy, still less the presence of the Union Jack in our flag. Canada has adopted a distinctive and recognisable flag which I regard as much preferable to the old one. It is by sticking to a minimalist strategy that the targets for disagreement with constitutional monarchy are reduced in number.

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\(^7\) Bermuda and the Republic of Ireland are instances.

and amongst those who want their immaterial changes to be accommodated;

- The 1999 victory: Nor should the numbers in the 1999 victory in the republic referendum be exaggerated. Whilst it is true that republicans failed to carry a single State of Australia, this outcome was related to the particular model into which their camp was locked. Even then, some States, especially Victoria, were close to a republican majority. And the Australian Capital Territory was lost. It would be self deception to believe that the constitutional monarchy won the referendum in a landslide. Australia is divided on this issue⁹. There is no point in disguising that fact. Recognising it encourages respect for fellow citizens of opposing views;

- Royal improvements: We should not suggest that nothing needs to be done to improve our constitutional monarchy. For example, when I was recently in Ireland, I saw video films of excellent addresses by the former Presidents of the Irish Republic, Mary Robinson and Mary McAleese, speaking up for the rights of people living with HIV and AIDS and also for sexual minorities in Ireland. Although, in Australia, several State Governors have done this, and associated themselves with charities and causes comfortable to such minorities, in the United Kingdom, the Royal Family has, by and large, not done so. The exceptions are the Queen herself in a number of addresses; the late Princess Diana; and HRH Prince Harry. Even today, the Royal Family needs to evolve and, with unerring judgement, to embrace new and modern themes.

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⁹ The vote in the Republic referendum held on 6 November 1999 was total: Yes: 44.74%; No: 54.40%; informal: 0.86%. The No votes ranged from 62.12% in Queensland to 36.70% in the Northern Territory of Australia. Only in the ACT was the referendum carried, with 62.78% in favour.
Support for causes such as fox hunting and homeopathy need to be broadened. New causes, important to citizens throughout the Commonwealth and especially the young, need to be embraced more actively. The royal charities need to be updated and modernised. Every human institution can be improved:

- **Social and political inclusiveness**: When ACM was established, we insisted, from the start, that it should be inclusive and contain prominent members associated with all the major political parties. I acknowledge that it is sometimes difficult now to secure participants from a background in the Australian Labor Party (ALP). This is so, although Prime Minister J.B. Chifley and ALP leader Dr H.V. Evatt both considered the Crown a “useful fiction” for government in Australia. At the moment, with respect, ACM looks far too much like the Liberal Party Old Boys. This is a serious mistake. It risks damaging its cause. The Crown would never allow that to happen to itself or to its own institutions. Its greatest strength is its manifest political neutrality. I do not agree with any partisan appearance. On the contrary, I think it must be quickly corrected. The fact is that many Coalition city electorates voted in favour of the republic. Many outlying ALP electorates voted against the republic. Whatever the party platform or leaders of the ALP might say, a significant cohort of Labor voters and supporters certainly favour the modest features of Australia’s constitutional monarchy. They do not favour the potentially immodest features of a republic. They must be brought into the fold if ACM is to maintain its legitimacy. If necessary, this might demand a self-denying ordinance on former politicians having

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leading roles in ACM, so that it can shake off any image as politically associated with the right of politics or as inherently conservative. I could never be associated with such a body and I am not alone;

- *Old and young:* A happy feature of this Jubilee Dinner is the large component of young people who have joined ACM, together with older and middle-aged citizens like me. Young people, looking around the world, are aware of the countries that look congenial to our way of thinking in Australia. Most of them (the old dominions, Scandinavia, the Netherlands etc.) are constitutional monarchies. There seems to be something in this system for denying the highest symbolic office to politicians and those who have not been prepared for the post or who prove unsuitable to it. Moreover, in Australia, adherence to the system has meant securing as vice regal representatives office-holders who would never offer themselves for election: soldiers, judges and leading scholars for starters;

- *The Queen’s personality:* All of us can agree that the personality and engagement of the Queen is a significant element in the arguments for retaining our present system. The Queen is mortal and, necessarily, it is the system, not the person that is ultimately in question. Republicans are naturally distressed by the strong and growing affection for the Queen and the younger members of the Royal Family. Especially so since the paring down of the players in the Royal Firm, a move which I also support¹¹. In the end, for us, I believe that it is the Australian constitutional

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¹¹ Ken Tweddle, "The Vanishing", Sydney Morning Herald 6 June 2012 ("Palace kremilologists were impressed immediately by the rationalized structure of Windsor PLC"). The slimming down of the royal family actors and the economies and greater modesty of conduct have been well received. See N.财力, "Royal prerogative to mess with their heads", book review of Ben Pimlott, *The Queen*, *The Australian*, October 13, 2012, 13.
Arguments that unduly emphasise the great merits of the present Queen will disappear on the demise of the Crown, and

- Leadership beyond politics: In the earliest days of ACM a proposal was made that the organisation should be called “Leadership Beyond Politics”. The phrase sometimes appears as a subtitle. I agreed with the point of “beyond politics”. But I had serious difficulties with the concept of “leadership”. In a broad sense, I suppose, a constitutional monarch gives a kind of symbolic leadership. But I would not want it to be a leadership that challenged the elected political leaders who contest with their competing ideas before the electors who choose amongst them. It is only by quiet, non-political, neutral and modest activities of a civic kind that a constitutional monarchy leads. We like it that way precisely because it does not compete with political leadership; and it never should. It must always act with honesty, candour and integrity. It was the lack of candour with his Prime Minister that led many Australian citizens, although by no means all, including some who support our system of government, to disapprove of Sir John Kerr’s secretive approach in dismissing Mr Whitlam as Prime Minister in 1975. Much of the disquiet in the community at that time was precisely because a vice regal representative had not acted in the manifestly candid and forthright way expected of the conventions of constitutional monarchy.

Some who hear, and who later read, these opinions, will disagree with some of them. Others will disagree with most; perhaps even all of them. In that sense, constitutional monarchy is like a diamond. All of us can
see differing facets and attractions. It is the overall impression that remains congenial. It is basically modest, historically familiar and seemingly as good as imperfect human governance can attain. In fact, in Australia, our constitutional monarchy seems to many of us to be even better than it is in Britain because, in the end, our constitutional monarchy comes down to only one person: the Queen. She is mentioned so many times in the Australian Constitution that our forbears gave us and that we have accepted. Contingently, there is also her heir, mentioned in the constitutional oath. This ensures that the position of our monarch is never empty; not even for a second. But that is all. And that, I feel sure, is enough. It is way alone that Australians accept the constitutional system of a hereditary monarch.

It might be a course of prudence and wisdom for ACM to ensure that these views of mine are taken into account and reflected in the composition, outlook, activities and advocacy of the organisation. I am sure that my approach to the issue is probably shared by many others in Australia. It is not a romantic, gossamer-like approach. Nor is it a specially conservative one. Nor is it paradoxical for a person of my temperament, values, beliefs and life experiences. Neither is it so crass as to adhere to our constitutional system on the crude basis that “it ain’t broke; so don’t fix it”. Such a criterion puts the bar of constitutional reform far too high, when it demands that the system be broke in order to justify any improvement. That is not my viewpoint.

Australia’s constitutional monarchy contains a mixture of considerations that lead me to the view that it works well enough, and probably better

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12 A. J. Brown, Michael Kirby: Paradoxes/Principles (Federation, Sydney, 2011) 144, 149, 347.
than any alternative currently on offer. The countries of the world that are best and most inclusively governed tend to share this system. We must be careful before we abandon it: especially in the name of outmoded notions of narrow local patriotism and permanent residence. That is so pre-cyber.

REPUBLICANS’ BASIC PROBLEM

In addition to all of the foregoing, those who would change the Australian Constitution, to make Australia a republic, face a particular problem and challenge which they have not yet resolved. It concerns the model of the republic that would be substituted for the modest kind of constitutional monarchy that we have at present, which (as many have said) is a kind of “crowned republic”.

Under s128 of the Australian Constitution (assuming that it is the provision that would govern so fundamental a change to the constitutional provisions14), it is not possible to alter our Constitution by a simple statutory enactment of the Federal Parliament. Still less would a plebiscite asking Australians in misleading terms whether they would support becoming a “republic”. The word “republic” is inescapably ambiguous. Before any sensible plebiscite or vote could be had on such a subject, it would be essential to decide, and define, what the word meant.

14 This issue is suggested by decisions of the Supreme Court of India on the “basic structure/features” of the Indian Constitution, which were held not to be amenable to art. 368 providing the ordinary requirements for constitutional amendment. See Golak Nath v State of Punjab A 1967 SC1643; Kesavananda v State of Kerola A 1973 SC1461. In 100 years of the Australian Constitution, there have been 44 proposals for formal amendment. Only eight have succeeded. See A. Blackshield and G. Williams, Australian Constitutional Law & Theory (Federation, Sydney, 3rd ed., 2002), 1301.
There lies at the heart of the Australian constitutional debate an issue concerning the mode of selecting a head of state to substitute for the Queen. Should that person be elected or appointed? If elected, should the person enjoy executive or only ceremonial functions? If appointed or elected, should the process of selection be performed by the electors or by the Parliament, by the executive government or by a college? Election or appointment would seem to be the central question.

Many opinion polls have shown that Australians remain seriously divided on this issue. Large numbers of experienced politicians, who otherwise support the notion of a republic, are opposed to any constitutional change that would result in an elected president. The politicians of this persuasion have included Mr Malcolm Fraser, Mr Peter Costello, Ms Amanda Vanstone, Mr John Fahey, Ms Marise Payne, Ms Julia Gillard, Ms Julie Bishop, Ms Nicola Roxon, Mr Malcolm Turnbull, Mr Bob Carr, Mr Nick Greiner, Sir Gerard Brennan, Mr Richard McGarvie, Sir Zelman Cowen, Justice Elizabeth Evatt and even Cardinal Pell. All of these republicans oppose a presidential election. All of them have expressed concerns that, with election, would come a heightened sense of presidential power and legitimacy. All are anxious lest such a change would fundamentally alter the character and role of Australia’s head of state. It would enlarge the possibility of a recurrence of the divisive events of 1975. Appointed officials do not normally feel entitled to prevail over elected officials. It is election that tends to give the office-holder a feeling of special legitimacy.

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This is the crucial challenge that republicans face in Australia. Polls have frequently indicated that the majority of Australian electors prefer to elect a president, if they were to have one. To some extent this may be because they watch the presidential elections in the United States. They do not see why they should have a lesser entitlements than American citizens. Modest presidencies have been created in which the president in still elected. The most notable of these is probably the Republic of Ireland. However, even there, the tendency has been to elect politicians. The current President of Ireland is a former politician. The types of persons who have beneficially fulfilled the vice regal role in Australia might not offer for election. In Germany, the Federal President is elected, but by the Federal Legislature. Necessarily, this tends to result in the dominance of the elected government of the day.

In Australia, assuming s128 of the Constitution to be engaged, any measure to begin the process to change the Constitution would have to be approved by both Houses of the Federal Parliament. Necessarily, this means that it would have to be approved by a majority of presently elected politicians. Asking elected politicians to change the Constitution to introduce a high elected official with significant powers over elected politicians and governments would be something of a challenge. Whether a model could be designed that would offer an alternative acceptable to elected politicians is a very large question. So far, that model has not emerged. Easier by far to continue with our modest constitutional monarchy with which we have had two centuries of experience.

It is because this question lies at the heart of the republican debate that the advocates of a republic in Australia have not yet been able to
determine a form that is acceptable to all of them. In that division lies a likelihood of the continuance of the current system. Referendums in Australia are difficult enough to carry at the best of times. Unless there is a high degree of political unanimity and of popular support, they are almost always doomed to fail. And experience has shown that, when a similar proposal is repeatedly presented, the affirmative vote amongst the electors tends to drop with every failed attempt.

Meantime, many other urgent challenges face Australia. One day a formalisation of the republican form of government may be achieved. But it will not be soon.

THE HEAD OF THE COMMONWEALTH

Recently, I had the privilege to meet the Queen again. It was not in her capacity as Queen of Australia. It was in another capacity: as Head of the Commonwealth.

In 2010, I was appointed by the Secretary-General of the Commonwealth of Nations to the Eminent Persons Group (EPG), tasked with investigating the future of this organisation of free nations. On the commencement of our duties, during the first meeting at Marlborough House in London, we were invited to an audience with the Queen at Buckingham Palace nearby. It was my first visit to that place.

As I entered through the large gates and moved into the inner courtyard, it reminded me of many visits that I have made during my professional

\(^{14}\) Only if have succeeded. See A.J. Blackshield and G. Williams, Australian Constitutional Law and Theory, (Federation, Sydney, 3rd Ed. 2002), 1291.

\(^{15}\) See M.D. Kirby, above n9.
life to prisons. In a sense, the Queen has lived her life in a kind of prison. A prison of duty. Of course, it is an ornate and highly decorated prison, with many privileges. But I could not help but feel a measure of human sympathy for her, just as I do for prisoners everywhere.

The report of the EPG was duly completed. It was delivered to the Queen and to the Commonwealth Heads of Government Meeting (CHOGM) that took place in Perth, Western Australia, in October 2011. Amongst the recommendations was one close to my heart. It was that the Commonwealth leaders should take initiatives to remove the discriminatory laws that impede the struggle against HIV/AIDS. Those laws include part of the otherwise beneficial heritage of British rule, namely the criminal laws against homosexuals. Upon this recommendation, as upon all others, the EPG was unanimous. It was led by the former Prime Minister of Malaysia, Tun Abdullah Badawi.

One issue that was raised by submissions received by the EPG during the course of its deliberations was the question of who should be Head of the Commonwealth when the Queen dies. The answer to that question begins with a realisation that the present arrangements came about in a peculiar way.

Before 1949, the glue that bound the British Commonwealth together was allegiance to the British monarch. In the British Empire, the Crown was, in the theory of the law, everywhere. However, in late 1948, Ireland took steps to adopt a republican form of government. This, it was assumed, would remove Ireland, by its own choice, from the Commonwealth. Ireland did not therefore attend the meeting of

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18. Alexander E. Hall & Co. v MacKenna [1933] IR 403 at 403-4, per Lord Haldane.
Commonwealth Prime Ministers held in London in April 1949. India attended, in the person of Jawaharial Nehru, first Prime Minister of that then recently independent country. In intense discussions, he and Clement Attlee, the British Prime Minister, hammered out an agreement so that India, when it became a republic, could still remain a member of the Commonwealth. It would accept ‘the King’ as the symbol of the free association of nations. But its people would owe him no allegiance. This is what occurred in 1950 when India adopted its republican constitution. The other members agreed. The King concurred. The body became ‘the Commonwealth of Nations’.

A question is thus presented, did ‘the King’ in this agreement mean the monarch from time to time of the United Kingdom? Or did it mean King George VI personally? When that much loved King died in February 1952, Nehru wrote to the Queen expressing this hope that she would assume the office of the Head of the Commonwealth, as her father had done. So she did. But these steps left uncertain the long term position of the office of Head of the Commonwealth.

The EPG declined to enter into this issue. It regarded it as entirely political; not organisational; and not immediately necessary. It was an issue to be decided, and decided only by the heads of government when the circumstances arose or necessitated a decision.

Recently, a published paper has suggested that Headship of the Commonwealth should not automatically devolve upon the British monarch\(^\text{[19]}\). Rotation amongst the heads of Commonwealth countries,

\(^{[19]}\) P. Murphy and D. Cooper, "Queen Elizabeth II should be the final Head of the Commonwealth," Commonwealth Advisory Bureau, Opinions, July 2012, 3.
54 in all, would observe the norms of other less historical organisations. It would terminate the link that has so far brought an historical and royal connection. Alternatively, there could be no Head, as such. Executive leadership could rotate.

I only mention this subject to emphasise, once again, the distinctiveness and still evolving arrangements that former British colonies, and all of them, have with the Crown. One can say without doubt that the Queen has been a most beneficial Head, advantageous to the Commonwealth of Nations. Apart from everything else, she has provided its Secretariat with the donation of a royal palace in London, Marlborough House, as the seat of the organisation.

Whatever happens on the issue of the republic in Australia, my personal hope is that the symbolic role of Headship of the Commonwealth of Nations will continue to devolve on the monarch of the United Kingdom for the time being. It was the history of those islands that brought the Commonwealth into existence in the first place. Their language, parliamentary, judicial and administrative traditions, cultural, educational and sporting links continue to afford a glue for the association now that allegiance cannot serve that purpose. As with Australia’s constitutional monarchy such features may offend some purists. But, in the best inherited tradition, it does seem to work. And it is seemingly, unpretentious and inexpensive.

'MERRY MONARCHISTS'

One final matter. Lloyd Waddy, who was a co-founder of ACM, insisted from the start that ACM should be an organisation of 'merry monarchists'
as he put it. At first, I thought that this was an odd demand. I considered that the issues to be decided were far too serious to be merry. However, looking back, I now accept that his notion represented another important principle of ACM. Constitutional monarchists tend, on the whole, to be rather happy folk. Not all, but a majority. With a monarch who pretends to jump out of helicopters and whose anthem denounces the ‘knawish tricks’ of opponents when we ask to be “confounded”, how could we be otherwise?

I have never felt it necessary to hate Australian republicans. I understand where they are coming from. I certainly respect their point of view. I disagree with those republican politicians and others who want to jump the gun on the decision, which belongs to the people of Australia and to one else. The people’s entitlement to make the decision is a point that the Queen herself has repeatedly emphasised.

Each side in the referendum campaign probably used ‘knawish tricks’ on the other in 1999. But each has to learn that the other side comprises good Australians and not stupid adversaries who deserve to be insulted, or possibly tried for treason. Republicans believe that, on their side, is the distaste that most Australians feel for hereditary office-holders and especially for an overseas hereditary monarch. The monarchists are content with this one exception to the Australian and democratic elements of their constitution because they believe them to work well; promote a temperate society of inclusiveness; and avoid some rather horrible alternatives. 21

21 Peter Boyes, The Queen’s Other Realms: the Crown and its Legacy in Australia, Canada and New Zealand (Federation, Sydney, 2008), 243-4.
One of the happiest evenings in our republican debates took place in Adelaide during the heat of an early phase of the campaign in 1995. Tony Abbott, who had just concluded his service as executive director of ACM came with me to a crowded and merry event at the Adelaide Town Hall. It had been organised by Kym Bonython AC. The most beautiful of Australia’s anthems, the South Australian Song of Australia, was sung, with a brand new stanza, written especially by me to celebrate Australia’s “century of liberty” following Federation.

We all sang with gusto. The speeches were made. Then, when it was done, we repaired to the Bonython home in North Adelaide. There Tony Abbott and I donned our pyjamas to sleep well after our labours. This is the first time that my pyjama evening with Tony Abbott has been revealed. I am not sure whose reputation suffers the greater damage!

If the issue of the republic is presented again to the Australian electors, ACM should remember the lessons of the successful campaign in 1999. These are lessons that ACM will forget to the peril of its cause. It should remain merry and respectful towards those of a different view. It should ever remain inclusive, like the Crown itself. It should serve all Australians. It should be - and be seen to be - for everyone: Caucasian, Aboriginal, Asian and African Australians. Men and women. Young and old. Abled and disabled. Straight and gay.22