

Commonwealth Parliament "includes a clever selection of words most likely to provoke a negative reaction from people at the very moment they go to vote." He has also noted that the question on the preamble contains no reference to the Queen's current role as Australia's head of state.

The incongruity of the residence and citizenship of Australia's head of state is evident in the debate. The standard line of many constitutional monarchists is to assert that the Governor-General (former High Court of Australia judge Sir William Deane) is Australia's head of state, not the Queen. This is readily refuted by reference to Vernon Bogdanor's *The Monarchy and the Constitution* (Clarendon Press, 1995). Mr. Bogdanor (an Oxford University constitutional expert whose chapter on the Commonwealth has been checked by former Governor-General Sir Zelman Cowen) makes it clear beyond doubt that Australia's governor-general "does not have the status of a head of state." He also acknowledges that "the sovereign is bound to remain primarily the King or Queen of the United Kingdom."

So what *is* the status of the Queen of Australia? According to Bogdanor, the *Royal Titles Act* of 1953 "presupposed, not that the Queen would become an Australian queen, but that Australia would, despite being independent and sovereign, remain 'British' in feeling." The former conservative prime minister, Robert Menzies, said as much when introducing the bill into the Australian Parliament. He declared that "we are one people," by which, as Bogdanor points out, he meant "the British people."

There is no significant anti-British feeling in Australia. Quite the contrary, Britain is a valued ally and long-term friend. What's more, most Australians have been influenced by British culture. It's just that times have changed. Virtually no Australians now regard themselves as British. But we continue to have a British head of state.

It is difficult to explain this to most nations — particularly in the Asia Pacific, Middle East, continental Europe and the Americas (Canada, of course, excluded). The forthcoming Sydney Olympics in 2000 demonstrates the predicament. The International Olympic Committee rules require that the Games be opened by the host nation's head of state. President Bill Clinton did the job in Atlanta in 1996. Had Manchester defeated Sydney for the right to host the 2000 Olympics, Queen Elizabeth would have opened the Games, and properly so.

In 1956 Prince Phillip opened the Melbourne Olympics and there was little comment. But Australia has changed enormously in the last half century. So much so that for a British Queen to open the

Australian Games, after some 210 years of non-indigenous settlement, would have been embarrassing. John Howard understands this. And the IOC has agreed that an Australian should open the Sydney Olympics. There are two realistic alternatives. The Governor-General or the prime minister.

Mr. Howard believes that the prime minister should do the job, a view he has held for a number of years, dating back to the early 1990s, when it appeared unlikely that he would obtain Australia's top political job. But it is a defensive position. If there is no problem with Elizabeth's role as Australia's head of state, why can't she open the Games? Or her representative in Australia on her behalf? This point has been made by Kerry Jones who heads "Australians for a Constitutional Monarchy." She believes that the Governor-General should open the Sydney Games and she has strict logic on her side. But probably not the numbers.

It's too early to predict the outcome of this November's constitution referendum Down Under. The republican cause is not lost but it will be difficult to achieve this time around. If there is a "no" result, the move to an Australian head of state will continue. Peter Costello (Australia's Treasurer) and Peter Reith (federal Industrial Relations Minister) comprise the next generation of likely conservative leaders. Both are republicans.

Mr. Costello supports a president chosen by Parliament. Mr. Reith advocates direct election. But both, along with Labor's Kim Beazley, believe that Australia should have one of its citizens as our head of state. Just like Britain and the United States.

Eventually we are bound to get that.

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ANY LESSONS FOR US IN AUSTRALIA'S DEBATE?

Australia's decision to hold a referendum on replacing the Monarch with a president reflects local concerns and timing, in particular its approaching centenary. A country which does not face a fundamental crisis of unity may well be able to afford a divisive debate on an essentially symbolic issue, but Canada cannot. If we do wish to take on the difficult task of constitutional reform, there are better things to fight for, such as proportional representation. But, on the whole, we would be well-advised to address real social problems with existing structures.

À la veille de célébrer son centenaire, la décision de l'Australie de tenir un référendum sur le remplacement du souverain par un président traduit des préoccupations proprement australiennes. Un pays qui ne vit pas de crise fondamentale peut fort bien se payer le luxe d'un débat diviseur sur une question essentiellement symbolique : le Canada n'a pas cette chance. Si nous voulons nous attaquer à la tâche ardue d'une réforme constitutionnelle, il y a des sujets beaucoup plus importants à aborder, comme la question de la représentation proportionnelle. Dans l'ensemble toutefois, nous serions bien avisés de régler d'abord, avec les structures actuelles, les problèmes sociaux bien réels.

David J. Elkins

Will Australia become a republic? It is already a republic in all but name. Will it sever its link with the monarchy? Not likely. Will it matter? Not at all. Are there lessons for Canada in the debate currently underway in Australia? Yes, but not the ones often drawn.

In order to appreciate the similarities and differences in the evolution of Canadian and Australian views about the monarchy, one must be clear about the terms of debate in Australia in the last few years. After briefly summarizing the course of that debate, I will present several lessons Canadians should learn before raising the issue here.

Although the question of the monarchy's place in Australian life has been raised occasionally in the past, the current debate is the most protracted and serious public discussion of the issue in the country's history. It began in 1993, when then Prime Minister

Paul Keating put it on the agenda, mainly for partisan purposes, and worked hard to keep it alive. His efforts stimulated a popular movement and several organizations dedicated to changing how Australia's head of state, the Governor-General, is chosen.

Although Mr. Keating and his Labor Party were defeated in the 1996 election, the issue had by then taken on a life of its own. As a result, the new prime minister, John Howard, felt compelled to hold a constitutional convention to test public views about several alternative republican scenarios. As a result, a referendum will be held in November 1999, at which time the public will almost certainly reject the proposal for a new head of state.

Quite deliberately, the Australian debate has been conducted in terms that limit its significance to changing the head of state. No changes have been proposed in the basic organization of government or in

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the scope and powers of the states or Commonwealth. One figurehead will replace another. Thus, the issue seems about as salient as whose picture will appear on paper money, yet enormous resources have been mobilized, both by governments and by private organizations, and the issue has dominated Australian news reports for an extended period.

At a cost of over \$A25 million, 162 elected and appointed delegates met for two weeks in Canberra in February 1998 to debate whether to turn Australia into a republic and remove the monarchy from its government. The constitutional convention captured headlines and the public's attention. Passions ran high, opinions swung back and forth, and delegates who were otherwise ordinary citizens achieved Andy Warhol's 15 minutes of fame, becoming well-known media figures.

More surprising than the debate itself was the way in which the players lined up. Although Australia's major parties occasionally suffer internal divisions, they generally present united fronts against one another on most issues. In this instance, however, internal divisions won out over party unity. Though Prime Minister John Howard — whose leadership skills have been in question for some time — supports the monarchy, many of his ministers have spoken out in favour of a republic. To appreciate his position, think of Joe Clark — but without the brains.

Opinion among the delegates and the public at large clearly favoured the republican alternative. The monarchists — whether despite or because of the prime minister's backing — were on the defensive. Yet because republicans found themselves deeply divided over what form of republic would best serve the country's needs (or, in some cases, their political advantage) no effective republican majority emerged.

Three views contended in the republican camp. One favoured direct election of a president; a second favoured a president elected by sitting MPs; and the third favoured a president chosen by a small panel of "eminent Australians." In all three cases, the new head of state would be a largely powerless figurehead.

Although direct election was the most popular alternative among republican delegates — and probably among the public, as well, though this depended on which poll one consulted — in the end, in order to kill the compromise plan of a president chosen by the prime minister and dismissible by Parliament, many of these delegates voted for the status quo. As a result, the final vote at the convention had slightly less than a majority supporting the compromise — not enough to guarantee that the plan would be put to a referendum. In the ensuing general election campaign, however, Mr. Howard promised a referendum if re-elected, which he was last October, though with his majority reduced from 24 to only six. He has recently confirmed that a referendum will be held this November.

If history is any guide, it will fail. In this century, only eight of 42 proposed constitutional amendments have passed, the last in 1977. The pattern is clear: If any major political group opposes an amendment, it fails. Successful amendments occur only where consensus prevails, and not always even in the case of consensus. The constitutional convention and the polls demonstrate that consensus on the issue of a republic is still a fond hope. Indeed, a poll taken a year after the constitutional convention reveals only 33 per cent of respondents in favour of the proposal — fewer than in early 1998.

So why all the fuss? The single most important reason concerns the impending constitutional centenary. The Commonwealth of Australia officially came into existence on January 1, 1901, the first day of the 20th century. Many Australians therefore feel that the first day of the next century (and next millennium) would be the perfect moment for an updated constitution. Some even feel the date should be put forward a year, so that the Sydney Olympics in September 2000 could be officially opened by an Australian president rather than by the Queen.

As far as I can tell, over the several years of this debate no Australian has documented any concrete evil or neglect by the Monarch or Governor-General that would have been avoided had Australia been a republic. This is hardly surprising: The Queen (or her representative) exercises even less power in Australia than she does in Canada.

Two clarifications seem critical at this point. First, a former Governor-General did in fact dismiss the Labor government led by Gough Whitlam in 1975, and some Australians still feel resentment about that. For most, however, the resentment centred on the Governor-General himself and not the Queen or the monarchy generally. This may have played some role

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in keeping republicanism alive, but I doubt if it was the primary cause.

The second clarification concerns what one means by a republic. If it is defined in terms of popular sovereignty — whereas a monarchy assumes Crown sovereignty — then Australia has been a republic since its official beginning in 1901. Its constitution was approved only after clear majorities in referendums in all states, and it provided that all constitutional changes must be approved by popular referendums. The current debate, then, is not about whether Australia should be a country with a radically different political or governmental system. Instead, it concerns the method of selection of a figurehead as head of state.

Although most Australians would resent the following interpretation, their almost obsessive focus on the monarchy reveals something else about them: Either they believe no other serious problems exist in their country, or they prefer to deal with the issue of the monarchy rather than with real problems — of which, of course, they have many, including unemployment, a weak dollar, a financial crisis in Asia that has led to a decline in tourism, and continuing disagreement over the status of aboriginals and their demands for native title and reconciliation with white society.

One can certainly understand the desire of many political leaders to divert attention from other problems, but why would the public play along? The most credible answer may involve the efforts Australia has made to become an "Asian country," so as to enhance trade with and understanding among its nearest neighbours and to escape the charge of being an outpost of Empire.

These efforts have borne some fruit, and they are certainly laudable, even if the result has been to involve Australia more deeply in the Asian financial crisis than would otherwise have occurred. For example, the Australian dollar declined even more than the Canadian dollar in the last year and a half.

A second and less savoury possibility concerns the debate over "multiculturalism" and the key role that racial issues (involving Asian immigrants and aborig-

inals) play in Australian elections and public discussions. As in Canada, multiculturalism has a checkered history in Australia, and it would be a shame if it became a divisive issue instead of the sign of openness, tolerance, and human rights that most Australians intend it to be.

Even more divisive, following several controversial decisions by the Australian High Court, is the issue of aboriginal land claims. The most recent (called it, for short) has aroused extraordinary fears among many white Australians — especially in rural areas — about land tenure for pastoralists and graziers. Mr. Howard's Liberal government depends for its majority on the support of the largely rural National Party, and his Liberal-National coalition has proposed legislation that would extinguish native title in a majority of areas. The opposition parties do not support the legislation, and an officially Independent member of the Senate holds the balance of power.

Aboriginals are the only social group in Australia solidly opposed to the continuation of the monarchy. By contrast, Canadian aboriginals have been strongly supportive of the monarchy, which is one of several puzzles about the republican debate in Australia.

Judging by public comments made in the debate over patriating the Canadian constitution in the early 1980s, aboriginal attachment to the Crown in Canada derives from the importance of the *Royal Proclamation of 1763*. For over two centuries, that pronouncement by King George III has underlain the status of native nations in the United States, their treaty rights in Canada, and their inclusion in the *Canadian Constitution Act of 1982*.

No comparable text exists for Australia, nor does the 1763 proclamation have any effect in Australia. Since aboriginal leaders in Australia seem almost uniformly in favour of the country becoming a republic, one must speculate that this derives in part from the different role the Crown has played as "protector" of aboriginals in Canada and as a threat to native title in Australia.

Although it is certainly true that Canadian officials and governments have failed to live up to the terms of the *Royal Proclamation* and treaties pursuant to it, these documents have nevertheless assumed an importance and stature unparalleled in Australia. Hence, changing the head of state in Canada might have much deeper constitutional ramifications than in Australia.

However passionate the defenders of the monarchy and the proponents of a popularly chosen head of state have been — and will be in the months leading

up to the referendum — the monarchy debate need leave few permanent scars in Australia. On its own, it simply is not that important an issue. On the other hand, if it becomes ensnared in debates about native title, immigration, and racism, there is the chance of bitterness that will endure well into the next century.

Over the last 50 years, polls have show that Canadians are divided over the monarchy, but not deeply or passionately so, compared to their divisions over the status of Quebec, other constitutional issues, health care, tax reduction, or even the dollar. Though Canadians probably can learn from Australia's experience, its debate on the monarchy has reflected local concerns and rivalries, as well as the absence of nation-threatening issues such as separatism or American dominance, and so the lessons Canadians draw from it must be carefully considered. I offer a few final observations in light of these circumstances.

The foremost lesson we can learn from the Australian debate involves the scope of the changes envisaged. If the only change concerns a non-hereditary head of state (who has no power anyway), why submit to the divisiveness of another political controversy? — especially since the strongest opposition to the monarchy is found in Quebec, so that any debate about it will inevitably be conflated with others involving Quebec and the Rest of Canada (ROC).

If, on the other hand, switching from a monarchy to a republic *would* necessitate a debate about more fundamental issues than the head of state, does Canada really need another nation-threatening issue? For example, a desire to make “the people” sovereign by entrenching referendums as the sole avenue of constitutional amendment faces the discouraging precedent that the Charlottetown Accord failed disastrously. It also raises the question of whether Canadians can ever become a single sovereign people or will remain two peoples.

Equally troubling would be a protracted debate about whether abolishing the monarchy should lead to our abandoning the British form of parliamentary government. Would anyone in Canada welcome a debate about switching to an American form of presidential-congressional government, or a presidential system along the lines of France, Italy or Israel?

Rather than manufacture an issue that might or might not involve these larger questions, if we do wish to address constitutional change we should focus on change that would solve real, not symbolic problems. For example, if one wants to debate new approaches to national unity or the dominance of Ontario MPs in the Liberal caucus, let us seriously consider some form of proportional representation to replace the sin-

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gle-member, first-past-the-post electoral system which allows a party with 40 per cent of the popular vote to garner 60 per cent of the seats in the House of Commons, a frequent occurrence in our history.

Another lesson from Australia, but one Australians might not appreciate, concerns timing. The approach of their centenary makes sense as a period of reflection about where they have come from and where they want to go as a country. No such landmark date looms over Canada. Canadians have questioned their identity and the country's viability for so long that few of us wish to intensify the process. But as 2067 approaches, assuming we have survived the threats and stresses of the late 20th century, a fundamental reconsideration may be more attractive.

A third lesson might be that only a prime minister who makes abolition of the monarchy a high priority could get it on the agenda. But why would a Canadian prime minister want to spend political capital to generate concern about an issue which has split the population into almost exactly equal halves ever since scientifically respectable public opinion polling began? Canadian prime ministers have made many errors over the years, but needless dalliance with divisive issues has not been a common one.

Besides all this, Canada and Australia share a growing sense of cynicism and disrespect for political elites which goes beyond mere partisanship. Increasingly, people in both countries seem suspicious of political motives, the more so where political elites offer solutions to problems that aren't problems. The monarchy causes no obvious pain or suffering, in the way that a low dollar or lack of hospital beds or child pornography does. Canada needs more solutions, not more problems.

If public views on the monarchy evolve to a stage where people do perceive real harm, then let the debate begin. Indeed, if that happens, the debate will begin whether politicians lead or follow opinion. Until then, Canada has enough problems without borrowing one from Australia.

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DON'T MESS WITH SUCCESS — AND GOOD LUCK TRYING

It is simply silly to think that that doing away with the monarchy and replacing it with — what, exactly? — would get over the constitutional hurdle of unanimity among Ottawa, provinces, and, post-Charlottetown, the Canadian people. And a good thing, too. Constitutional monarchy is the most brilliant form of government yet invented and Her Majesty is just the kind of Sovereign a country would like to have in a political pinch, should one ever arise.

Il est tout simplement ridicule de croire que l'abolition de la monarchie et son remplacement par on ne sait trop quoi pourrait passer le test de l'unanimité et obtenir l'appui des provinces, d'Ottawa et — depuis Charlottetown — du peuple canadien. Et c'est heureux. La monarchie constitutionnelle est la forme de gouvernement la plus achevée qui soit et sa Majesté est exactement le genre de souverain qu'un pays aimerait avoir advenant une situation politique difficile.

Michael Valpy

I always enjoy the republicans' Utopia scenario. An amendment to Section 41 (a) of the Constitution Act, 1982, is popularly approved by resolutions of Parliament and the legislatures of the 10 provinces. Five hundred years of monarchy is dust, replaced with remarkable ease by an outstanding and universally beloved head of state elected, uh [this part lacks consensus from the anti-monarchists], every 10 years by, uh [ditto, but it will all be worked out], the companions of the Order of Canada and ratified, uh [ditto, again] by the First Ministers. The Crown vanishes smooth as a cat's wrist from judicial and statutory language. In the swellings of national pride and national identity which follow upon the unveiling of the last truss of maîtres chez nous [to borrow a phrase], Quebec pure laine nation-



alism and, elsewhere, regional and ethnic rumpism melt like snow in a sunny springtime and Canada is freshly minted, muscled, trumpeted by all its peoples, united, for the new millennium.

What is wrong with this picture? Or to put the question more simply: What is right about it? Answer: Nothing. There are two narratives to the issue of the Canadian monarchy: What happens when we move to get rid of it, and what positive value there is to holding onto it. Never do the anti-monarchists dwell on the first narrative. So let's do that; let's, to begin with, deconstruct the Utopia scenario, and then address why constitutional monarchy is good.

We have the worst habit in constitutional debate, we Canadians, of thinking that everything, like Topsy, just grewed. And has no history. Section 41 (a) — the office of the Queen, the