



RESEARCH NOTE

Number 44, 7 May 1996
ISSN 1323-5664

Who Must Open the Sydney Olympic Games?



Following the Second World War and the re-commencement of the Olympic Games in London in 1948 there has only been one instance where the Head of State of the host nation has not, in person, opened the Olympic Games. The Queen did not open the 1956 Melbourne Olympic Games. The Duke of Edinburgh, representing the Queen, opened the 1956 Olympic Games. In a recent newspaper article it was suggested that the Queen may decide not to open the 2000 Sydney Olympic Games. This *Research Note* examines the questions of:

- who must open the Sydney Olympic Games
- who is Australia's Head of State and
- what would happen if the Queen decided not to open the Sydney Olympic Games.

Who Must Open the Year 2000 Olympic Games?

On 23 September 1993 the City of Sydney was elected by the International Olympic Committee (IOC) to be the host city to stage the Year 2000 Olympic Games.

Rule 69 and the by-law to rule 69 of the Olympic Charter of the International Olympic Committee (IOC), which the City of Sydney and the Australian Olympic

Committee (AOC) are bound by, specify the roles and functions of the Head of State of the Host country in relation to the opening ceremony of the Olympic Games.

The prescribed role of the Head of State is very limited. He or she opens the Olympic games, is received officially by the President of the IOC and the President of the Organising Committee of the Olympic Games and is presented with a salute from participating countries.

Rule 69 does not provide for any person other than the Head of State of the host country to open the Olympic Games. To have a person other than the Head of State of the host country open the Olympic Games would place the host city in breach of the Olympic Charter.

Who is Australia's Head of State?

The expression 'Head of State' is not found in the Constitution. It is a term generally used as a convenient description of the person who is accorded the highest rank among the officers of government.

There is a view that the Australian Head of State is the Governor-General. Arguments supporting this view include:

- For practical purposes the Head of State of Australia is the Governor-General. Sec-

tion 2 of the Constitution describes the Governor-General as the Queen's representative in Australia.

- Section 2 of the Constitution also provides that the Governor-General is appointed by the Queen, retains office during her pleasure and exercises such powers and functions of the Queen as Her Majesty may be pleased to assign to him.
- In relation to the prerogative powers [ie. powers over foreign affairs, such as making treaties, appointing diplomats and declaring war], while the Governor-General may act in the name of the Queen, the powers and functions are exercised by him/her as part of his/her duties as Governor-General. While the Governor-General may report to the Queen, the Queen is not involved, and has not interfered, in decisions that the Governor-General makes.
- Under section 61 of the Constitution, the executive power of the Commonwealth is exercisable by the Governor-General not the Queen.
- Neither the Constitution nor the Commonwealth of Australia Constitution Act actually refer to the Queen as the Head of State.

- The Governor-General is usually regarded when travelling overseas as Australia's Head of State.

There is a contrary view that the Australian Head of State is the Queen. Arguments supporting this view include:

- The Preamble to the Constitution states that the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland.
- Section 1 of the Constitution provides that the legislative power of the Commonwealth is vested in a Federal Parliament comprising the Queen, a Senate and a House of Representatives.
- Section 2 of the Constitution provides that the Governor-General is appointed by the Queen. The power to appoint the Governor-General has never been questioned.
- Under section 2 of the Constitution, the Governor-General is appointed by the Queen as 'Her Majesty's representative in the Commonwealth', and is authorised to 'exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the

Queen as Her Majesty may be pleased to assign to him.'

- Under section 64 of the Constitution, Ministers of State are the Queen's Ministers of State and not the Governor-General's Ministers of State.

Neither the Constitution nor the Commonwealth of Australia Constitution Act actually refers to the Governor-General as the Head of State.

What if the Queen Decides not to Open the Sydney Olympic Games?

If one accepts that the Queen is the Australian Head of State and must open the Sydney Olympic Games as prescribed by the Olympic Charter of the IOC, a question arises of what would happen if the Queen declined. Such an issue is most likely to arise were the Australian Government to advise the Queen that she should not open the Sydney Olympic Games.

If the Queen did not open the Sydney Olympic Games the Governor-General could because he holds such powers and functions of the Queen as she assigns to him (section 2 of the Constitution). In other words, the Queen could direct the Governor-General to represent her and open the Sydney Olympic Games.

Following the precedent set by the 1956 Melbourne Olympic Games, the Queen could send the Duke of Edinburgh to represent

her and open the Sydney Olympic Games.

If the Queen determined that she would not open the Sydney Olympic Games, did not send a representative, and would not direct the Governor-General to represent her, the City of Sydney might be in breach of the Olympic Charter of the IOC.

Rules 25 and 50 of the Olympic Charter of the IOC specify measures or sanctions which may be taken by the IOC in respect of breaches of the Charter, including withdrawal of the right to enter competitors and organise the Olympic Games.

If the Queen is not the Australian Head of State and the Governor-General is, he must open the Sydney Olympic Games as prescribed by the Olympic Charter of the IOC.

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