

The Commonwealth and the Republic: An Historical Perspective.

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It is with some trepidation that I venture to speak to you today on ‘the dark and bloody ground of the republic’—to adapt a figure of speech from American history—for I know that this is a subject about which feelings often run high and that a number of learned scholars and concerned citizens have already canvassed many of the most important issues.

Bearing this in mind I am in this paper not looking at whether Australia should become a republic or how a republic should be brought about but rather at the more abstract questions of political loyalty and collective identity in a post-monarchical Australia, and, in so doing, I will be considering, from an historical perspective, the implications of a republic for the Commonwealth and of a ‘commonwealth’ for the republic.

To this end it is my intention firstly to point out the role that British constitutional monarchy has played in Australia’s political culture and the possible costs of becoming a republic, secondly to assess briefly the ideas of political community which have been proposed as substitutes for constitutional monarchy, namely nation, democracy and republic, and finally to argue that both on intellectual and historical grounds the term ‘commonwealth’ has the best claims to be the core of a new legitimising myth; a new basis of political obligation.

The British Constitutional Monarchy in Australia’s Political Culture and the Possible Costs of Becoming a Republic.

A British heritage has been central in the shaping of modern Australia, especially Australia’s political culture. At this time when the process of disentangling the destinies of the two countries has reached a critical stage and new definitions of community are struggling to be

born, the British heritage still cannot be ignored, even by those most committed to the republic.

The Prime Minister's recent speech on 'An Australian Republic: The Way Forward' acknowledged, even if in a rather confusing manner, this British heritage. Australians, he said, do not lack 'respect for the British monarchy, or the British people, or our British heritage, or the British institutions we have made our own...On the contrary, Australians respect them, as they respect The Queen.' And then he added, 'But they are not Australian'. Surely there is a problem here. While this might be true of the British monarchy and the British people how, it must be asked, if the British heritage is 'ours', if we have made British institutions 'our own', are they not 'Australian'? This confusion does not arise so much from careless drafting as from the cultural tensions which Australians are experiencing in coming to terms with their new circumstances. In one sense it might be said that the hegemonic influence of nationalism's teleology has put the emotional needs or supposed emotional needs of the future in conflict with a rational understanding of the past.

This British heritage has been especially important in shaping Australia's political culture. The Australian system of government derives from British constitutional history and is justified in theory and practice on the basis of principles and conventions which have evolved out of this history. The federal features of the national government are, for the most part, merely a superstructure imposed on the Westminster system in order to deal with the division of powers between the states and the Commonwealth.

The Australian Constitution in its fundamentals follows the British Constitution.¹ As a constitutional monarchy it accepts that the Crown is the formal source of authority and the fount of honour, and that the prerogatives of the Crown, with the exception of the so-called reserve powers, have by convention become the privileges of the people acting through their representatives in parliament. The symbolic sovereignty of the Crown is everywhere present in the language and processes of the Constitution. The people are subjects not citizens. All acts of government are made in the name of the Crown. All members of the government are commissioned under the Crown as servants of the Crown. They are, as the Commonwealth Constitution puts it, 'the state ministers of the Crown'. The Governor-General acting as the representative of the Crown is the commander-in-chief of the Commonwealth's defence forces all of whose arms are 'royal'. Judges, who hold commissions under the Crown, administer the Queen's justice and those alleged to have broken the law are prosecuted in the name of the Crown. Royal commissions, which are normally presided over by a judge, are appointed by letters patent to inquire into serious matters of public probity or social concern. Insofar as the public life of the country has an official focus for loyalty, authority and dignity it is to be found in the Crown.

The question I then wish to ask is whether, since the monarchy has been so integral to our system of government, its abolition might have unexpected and adverse consequences.

¹ For the British Constitution, see especially Sir Ivor Jennings, *The British Constitution*, Cambridge, 1950, and *Cabinet Government*, Cambridge, 1951; and for the British constitutional monarchy, see especially Ernest Barker, *Essays on Government*, Oxford, 1951, chapter 1.

Will nothing of importance and value be lost? Can we, as the Report of the Republican Advisory Committee and the Proposals of the Prime Minister suggest, cast off the British-derived constitutional monarchy and assume that the practice of parliamentary democracy will continue untouched and untroubled by this change?

As a supporter of the republic I would like to think that this was so, but as a student of history and politics I have cause to consider further this question, especially for example as it might affect the protection of civil liberty, the facilitating of social reform and the observance of constitutional conventions.

Firstly, civil liberty. A constitutional monarchy where the Crown is the formal sovereign is less likely to restrict liberty and persecute the unpopular than an unqualified democracy. Under a constitutional monarchy though the people give their loyalty to the Crown, they know that they and the Crown are not one, that the Crown stands above them and is historically the institution against which they have struggled for their freedom. Consequently, even when animated by a common fear or passion, they hesitate to consent to the abridging of the rights of their unpopular fellow subjects for fear that the Crown might use such powers against themselves. Under a democracy, however, where the people are the formal sovereign there is no such restraint. There the people are the acknowledged source of authority, *vox populi, vox Dei*, and therefore they have less compunction in punishing or ostracising those fellow citizens who offend them. This difference is perhaps most clearly seen in the respective responses of the American democracy on the one hand and of the Australian and British constitutional monarchies on the other to what David Cauter has called 'The Great Fear' of communism at the onset of the Cold War.²

Secondly, social reform. Sir Keith Hancock in defending constitutional monarchy often invoked the dictum: conservative institutions, radical measures. Though his commitment to the monarchy was probably as much sentimental as instrumental, the point he was making should not be lightly dismissed. With the Attlee Labour government's reform program in mind, he maintained that by accepting traditional institutions social reformers could achieve more more quickly and with less resistance than would be the case in a republican democracy. In a constitutional monarchy conservatives could not refuse to accept as legitimate social change which was carried out in the name of the Crown; loyalty to the constitutional monarchy would tend to reconcile the minority to the will of the majority. In a republic, however, where the government belonged to the people, that is to everyone and no one, both the means and the measures would be more bitterly contested and political harmony would be less easily achieved. Litigiousness might well run rife.

Thirdly, constitutional conventions. The operation of our system of parliamentary government, which the republican movement wishes to retain, depends very much on the dutiful observance of constitutional conventions. These conventions derive from the history of the British constitutional monarchy, from a changing relationship between Crown and parliament which established procedures for the appointment of ministers of the Crown and for the exercise of the Crown's authority. These procedures gained their existence and legitimation from the Crown's acceptance of them, and the Crown accepted these procedures

² David Cauter, *The Great Fear: The Anti-Communist Purges under Truman and Eisenhower*, New York, 1978, especially the Introduction.

because to do otherwise would be to commit constitutional suicide. The Crown had no other source of authority to draw upon apart from its hereditary claim to the throne. How then can a president who is either elected directly or indirectly by the people and therefore draws authority from the people be similarly constrained?

And so the question must be asked, what new idea of political community is best able to provide vision for the future while preserving, to the degree that they can be preserved, the benefits of constitutional monarchy?

Alternative Ideas of Political Community—Nation, Democracy and Republic

Despite the view of the Commonwealth government, the Republican Advisory Committee and the republican movement that the change they envisage will make little difference to the political life of the country it would seem clear that the coming of a republic must entail a revision of the idea of political community which will in turn have consequences for political culture. It might be plausibly argued that the cake of custom would in ordinary times ensure that the political practices and precepts inherited from the constitutional monarchy would continue to hold sway. But if the nation should face a major crisis which challenged these established ways of protecting citizen's liberties and of settling disputes then upon what basis could they be defended? People require general ideas or myths to define their community and to legitimise authority, and, indeed, in this transitional period, a range of ideas or myths are being proposed, both directly and indirectly, both generally and specifically, to take the place of constitutional monarchy. The process of name-changing has already begun, and the names most often invoked are 'nation', 'democracy' and 'republic'.

The 'hard-case' Australian at the end of the day sets no great store by names. You will remember how C. J. Dennis' *Sentimental Bloke* approved Juliet's discounting of names in *Romeo and Juliet*.

'Wot's in a name?' she sez. 'Struth, I dunno.
Billo is just as good as Romeo.
She may be Juli-er or Juli-et—
'E loves 'er yet.

But names for political communities do matter. For this purpose 'Billo' is not just as good as 'Romeo'. Grand abstractions such as 'nation', 'democracy' and 'republic' carry with them historical and intellectual connotations and these connotations need to be carefully weighed before any one of the general concepts becomes the foundation principle for a new constitutional order. Though these concepts have no essential meaning and have been defined at different times in different, even sometimes contrary, ways, it is important to understand that they each represent distinct, if overlapping, traditions of political thought, and thereby to appreciate what is involved in opting for one or more of these ideas as a substitute for constitutional monarchy.

To assist in this process I will briefly review these terms.

Nation and its modern familiar, nationalism, were early in the field. In this tradition the monarchy is seen as the supreme symbol of colonial dependence and the chief obstacle to

national independence. Since the Whitlam years when the position of the Crown first came under challenge, there has been something of a revival of the ‘Eureka’ and Bush Legend myths. The Australian film industry, especially in its films about the Boer War and the First World War, has depicted Australian colonials being used and abused by the British and learning from the experience that they were a different people. The present Prime Minister’s references to what he called Britain’s betrayal of Australia at Singapore in the Second World War draws upon the same assumptions. A new history of Australia bearing this message is being written. It tells the tale of a struggle which is now bearing fruit and allowing Australia to be, in the words of the title of a recent text, ‘A Nation at Last’.

Yet nation and nationalism have their problems. Even the Prime Minister in arguing that Australia’s ‘Head of State’ should ‘embody and represent Australia’s values and traditions, Australia’s experience and aspirations’ showed a certain unease with the national idea. While claiming that ‘we need not apologise for the nationalism in these sentiments’, he added—and in the process detracted from the nationalism of the sentiments—‘but in truth they contain as much commonsense as patriotism’.

And well might there be unease. Nationalism has not had a good history. In the nineteenth and twentieth centuries nationalism has imagined and mythologised modern communities in terms which were racial or quasi-racial and which tended to give nations both an oppressive conformity at home and an aggressive arrogance abroad.³ By defining nations as ethnically and culturally unique, nationalism erected barriers between peoples and set one people against another. All the great wars of the twentieth century, and most of the little wars as well, have been wars of nationalism.

Moreover, Australia’s experience of nationalism does not lend itself easily to accepting ‘nation’ as a suitable central idea for a post-monarchical community. During the heyday of western nationalism, that is from the latter part of the nineteenth century until the middle of the twentieth century, Australians predominantly expressed their need for such an identity through what was called ‘British race patriotism’. As Keith Hancock put it in *Australia* in 1930 ‘Among the Australians pride of race counted for more than love of country...Defining themselves as “independent Australian Britons” they believed each word essential and exact, but laid most stress on the last.’⁴ And there was a substantial consensus in the community on this question. In the past Labor leaders spoke almost as frequently as their conservative opponents of Australia as the guardian of British civilisation in the Pacific. Even in the late 1950s, Dr Evatt was assuring parliament that ‘Australia will be and must be purely a British community.’⁵

The so-called radical national myth of the ‘Bush Legend’ never gained the support of a significant number of Australians and was a movement which defined itself against Britain by

³ For the imagining and mythologising of nationalism see Hans Kohn, *The Idea of Nationalism: A Study in its Origin and Background*, New York; Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, London, 1983; and Ernest Gellner, *Nations and Nationalism*, Ithaca, 1983.

⁴ W.K. Hancock, *Australia*, London, 1930, pp.56–57.

⁵ *CPD*, House of Representatives, 27 February 1958, p.115.

calling for Australia to be a racially purer and better Britain. Nearly all of its heroes, such as William Lane, 'Banjo' Patterson, Henry Lawson or the Jindyworobaks, when Britain was in danger or British loyalty at stake, joined with their fellow Australians in identifying with the British monarchy and the British race.⁶

Even if a usable national tradition were available I would suggest that Australia, like the Western European countries, has outlived the need; that accepting the permanence of change it no longer requires the kind of irrational and intense national mythology which helped mediate the earlier traumatic transition of traditional societies into modern ones. There should be a place for nation as the shared experience of a common homeland within a unifying concept of political community, but it should be a subsidiary one.

Democracy is in every sense a more popular candidate. It has powerful and persuasive advocates and has already achieved an important status in the new naming process. The new oath of allegiance obliges migrants seeking naturalisation to pledge loyalty to the Australian people and the 'democratic beliefs' which they share. Since the Second World War, Western countries have treated 'democracy' or 'liberal democracy', as it is often termed, as an unqualified good.⁷ It has, in this sense, come to mean not only the rule of the majority but also respect for the rights of individuals and minorities, and indeed it is the stress on the latter which has given it its distinctive contemporary character.

This relatively recent rendering of the term is, however, not altogether consistent with the classical understanding of 'democracy' which literally from Greek *demos* 'the people' and *kratos* 'rule' was the rule of the people. Likewise it is at odds with an influential tradition which since the eighteenth century allowed that the people were in addition to being the source of authority also the source of wisdom and virtue, a principle which was summed up in the maxim, *vox populi, vox Dei*. This principle made possible what from De Tocqueville's study of *Democracy in America* became known as the tyranny of the majority. It took a less oppressive form when populism and demagoguery brought social pressure to bear to compel conformity and to ostracise the outsider. And it took its most oppressive form when leaders or leading parties claimed to embody the idealised general will of the people as in the cases of the French Revolution's Reign of Terror or the Communist bloc's People's Democracies. No doubt Vladimir Zhirinovsky's so-called Liberal Democratic party in post-Communist Russia draws sustenance from these precedents. Democracy has a compromised history.

It might also be noted that democracy, because of the universality of its appeal and the vagueness of its content, lacks the distinctive quality which a particular political community needs in order to define itself. Democracy as self-government and equal citizenship should have a place in a unifying myth but it would seem inappropriate that it should take pride of place.

⁶ Neville Meaney, *Under New Heavens*, Heinemann, 1989, pp.379–427.

⁷ Indeed Professor G. Maddox in his *Australian Democracy in Theory and Practice*, Melbourne, 1985, pp.432–447 has argued that democracy is not so much a method of government or a constitutional structure as an ideal derived from the Greek polis' notions of citizenship and informed by the French Revolution's principles of liberty, equality and fraternity, an ideal whose concept of justice is relevant not only to Australia but to the whole world.

Republic is the word of the hour. Since republic, in common usage, has come to be equated with non-monarchical forms of government—and for convenience I have myself been employing it in that sense—the proposal to remove the monarchy from the Australian Constitution has pushed the term to the forefront of the debate. Nevertheless as a number of senior academics and constitutional experts have been quick to point out the concept of the republic has much more profound resonance in the history of Western political thought. And taking up this point some scholars have indeed endorsed republicanism as the most ‘fruitful concept’ around which to create a ‘reformulation of notions of citizenship, statehood and nationhood’.⁸

Republic which, like democracy, comes to us from the Classical era has an etymological advantage over democracy in that its Latin roots give purpose to political community, and that purpose is the public matter or the public good. In *De Re Publica* Cicero wrote that the republic was united by an agreement about law and rights and by a desire to participate in mutual benefits. Nevertheless, as the concept has evolved through modern political philosophy and historical experience, it has taken two very different, even contradictory, directions; one sees the republic leading to a perfect state and condones the bypassing of consensual processes and the use of coercive power to force citizens to be free⁹, while the other, more sceptical of the possibility of human perfection, lacks a positive idea of the public good and seeks to preserve liberty and justice by placing checks and balances on the exercise of power in order to constrain and control would-be oppressors, including the majority.¹⁰ Neither provides a credible tradition for the remaking of Australia’s political community.

From this reading ‘republic’ in Western intellectual and historical experience is a confused and contrary notion, and more than ‘nation’ or ‘democracy’ is limited in its use by its pre-modern origins. I do not think that with this heritage it can be reconstructed to serve

⁸ Wayne Hudson and David Carter (eds), *The Republicanism Debate*, Sydney, 1993, especially pp.2–3 and chapter XI, ‘Republicanism and Utopianism’; see also Philip Pettit, ‘Our Republican Heritage’, ABC Lecture, 1 March 1995 and Andrew W. Fraser, *The Spirit of the Laws: Republicanism and the Unfinished Project of Modernity*, Toronto, 1990, especially the Preface and pp.369–375.

⁹ The classic exposition of this view is to be found in Jean Jacques Rousseau’s *Social Contract*, London, 1913, especially pp.30–31 in which Rousseau declared that by republic he understood ‘not merely an aristocracy or a democracy, but generally any government directed by the general will’. Only when this ‘ideal’ or ‘real’ ‘general will’ of the people, which was something above and apart from the empirically expressed will of the people, even of all the people, governed society did ‘the public interest govern and the *res publica* rank as a reality’.

¹⁰ Since the 1970s the notion of republicanism, a civic humanism tradition derived from the Italian Renaissance city-states and mediated through the seventeenth and eighteenth century English ‘country’ political theorists, has become a powerful new paradigm for reinterpreting the political culture of the American revolutionary era. Though the debate over this paradigm has become entangled in a metonymic web of abstracted abstractions republicanism still offers an important insight into the mind of the political leaders who, in the aftermath of the War of Independence, made the American constitutions, especially that of the United States. For the state of the present debate, see Daniel T. Rodgers, ‘Republicanism: the Career of a Concept’, *Journal of American History*, 79, June, 1992, pp.11–38. For the republicanism of the constitution-makers see Alexander Hamilton, James Madison and John Jay, *The Federalist or, the New Constitution*, London, 1911, especially James Madison’s number X.

Australia. Extracting the lessons from both strands republicanism would remind citizens of the centrality of the common welfare, the hubris of idealism, the fragility of human polities and the need to protect human rights even against the people.

The ‘Commonwealth’ as Legitimising Myth

In this debate over the future, the concept of ‘commonwealth’ has been a footsoldier. It has been there all the time but relatively neglected. Perhaps it is so close to us and so closely associated with the tradition of constitutional monarchy that its possibilities have tended to be overlooked.

Yet when confronted it assumes a much greater importance. While lacking the philosophical and universal appeal of its rivals, it by comparison offers a more coherent and usable intellectual tradition, has a much less sullied historical record and makes peculiar claims on Australian allegiance.

Unlike nation, democracy and republic, commonwealth is a word of English origin, making its first appearance at the end of the fifteenth century. While the term was employed descriptively by some English political philosophers, such as Thomas Hobbes in his *Leviathan*, to mean merely the state or society, it has more often carried normative connotations of a community bound together by consent for the purpose of advancing the common welfare.¹¹ Though most theorists assumed that monarchy was compatible with a commonwealth and that most commonwealths would take that form they still regarded monarchy as an accidental not an essential element of their commonwealths. The monarchy enjoyed a delegated authority bestowed upon the monarch by the people for the good of the people, the implication being that when it failed to serve that end the monarch could be replaced, as in the Glorious Revolution, or the monarchy abolished, as in the American Revolution.

In its application ‘commonwealth’ likewise has a better, if less illustrious, history than any of the other general concepts. Apart from the modest blemish which Oliver Cromwell’s military dictatorship gave to the name, its general uses have been benign. In the seventeenth century the English chartered colonies of Virginia, Massachusetts, Rhode Island and Pennsylvania were styled commonwealths and in the twentieth century the self-governing communities of the British Empire chose ‘commonwealth’, first in the British Commonwealth of Nations and then the Commonwealth of Nations, to epitomise the free and equal character of their association.¹² From this the term has gained such respectability in the international arena that

¹¹ For example, Richard Hooker, *Of the Laws of Ecclesiastical Polity*, Cambridge, 1989, p.87 (chapter 10.1), ‘Two foundations there are which bear up public societies, the one, a natural inclination, whereby all men desire sociable life and fellowship, the other an order expressly or secretly agreed upon, touching the manner of their union together. The latter is that which we call the law of a Commonweal, the very soul of a political body, the parts whereof are by law animated, held together, and set on work in such actions as the common good requireth.’ See also Caroline Robbins, *The Eighteenth-Century Commonwealthman*, Cambridge, Massachusetts, 1959, pp.1–16.

¹² S.R. Mehrotra, ‘On the Use of the Term Commonwealth’, *Journal of Commonwealth Political Studies*, II (1963-1964), pp.1–16; Sir Keith Hancock, *Survey of British Commonwealth Affairs, 1918–1936*, ‘Problems of Nationality’, London, 1937, chapter 1.

when the reformed Soviet Union sought a new name for the federation of its republics it adopted the 'Commonwealth of Independent States', using of all the many Russian words for co-operation the same word, 'sodruzhestvo', which was found in the Russian translation of the 'Commonwealth of Nations'.

In Australia the term 'commonwealth' has special meaning. It was the distinctive appellation which the architects of federation selected for the national political community. Australians have not often appreciated the full significance of the making of the Commonwealth. Perhaps it has been obscured by the overshadowing effect of the imperial connection or by the British race sentiment of those times. Whatever the reason, it is clear that the Australian people by this act were redefining for themselves the meaning of political community. They were creating not a fraternal alliance but a federal union. The six colonies, despite their differences and jealousies, handed over to this untried entity the core powers of a state, namely, through the powers over defence and taxation, authority over the conscription of life and wealth. They made for themselves what Keith Hancock stated to be the essence of a commonwealth, namely a free community organised for the common good.¹³

The colonial politicians who drew up the constitution knew exactly what they were about, and the people overwhelmingly endorsed what they had done. This decision to create a political nation was a profound act of social will. The Australian leaders when requested by the British authorities to remove clauses from the constitution which were thought to impair imperial authority refused to do so, explaining that 'the Commonwealth belongs... in a very special sense to the people of Australia, whose only mandate to Governments and Parliaments is to seek its enactment by the Imperial Parliament in the form in which it was adopted by the people.' As John Quick and Robert Garran, who were present at the creation, commented in their *Annotated Constitution of the Australian Commonwealth*, 'Never before have a group of self-governing practically independent communities, without external pressure or foreign complications of any kind, deliberately chosen of their own free will to put aside their provincial jealousies and come together as one people, from a simple intellectual and sentimental conviction of the folly of disunion and the advantage of nationhood.'¹⁴

The first federal convention which met in 1891 deliberately opted for 'Commonwealth' as the name for the new nation, and the constitution-makers never subsequently wavered from that decision. They saw in this word more than a euphonious label under which they could sell their product to the people. Rather it held for them a host of allusions and connotations about liberty and community, most of which were connected to English constitutional history.

Sir Henry Parkes, who presided at the first convention and proposed this title, was deeply affected by such a mentality. He was widely read in the literature of the English Civil War

¹³ W.K. Hancock, *Politics in Pitcairn and Other Essays*, London, 1947, 'A Veray and True Comyn Wele', p.95, M.J. Detmold in *The Australian Commonwealth: A Fundamental Analysis of its Constitution*, Sydney, 1985, pp.10–31 ignores the wider ideological meanings of the term and, following Hobbes, defines a commonwealth as 'a community under law.'

¹⁴ John Quick and Robert Randolph Garran, *The Annotated Constitution of the Australian Commonwealth*, Sydney, 1901, pp.237 and 257.

and from the beginning of his political career in the colony of New South Wales had cited the examples of the parliamentarians of the 1640s to give authority to his causes. This was as true of his protests against convict transportation in the 1840s and his demands for colonial self-government in the 1850s as it was of his commitment to making parliamentary government the key principle of the federal union.

Certainly when Parkes suggested the name 'Commonwealth' he had no thought that Australia should become a republic.¹⁵ In his memoirs, which were written at the end of his life 'to explain my views on some possibilities of the future, and what I conceived to be the destiny of the new Commonwealth' he rejected the idea of separation from either crown or empire. But after paying his formal respects to constitutional monarchy, he delivered himself of a heartfelt paean of praise for the tradition of parliamentary government which Britain had bequeathed to Australia. The colonists had inherited a form of government which 'has been fought for, laboured for, died for, by our ancestors; and the best men of later times have devoted their genius to its purified development in the light of human progress'. And he continued: 'The Australian Constitutions have been modelled on this august pattern, leaving us free to amend their provisions and give still further effect to the essential principles on which they rest'. Australians in building this future were admonished to honour 'the heroic figures of the first half of the seventeenth century' who

must ever command the homage of the students of our constitutional history. Their place cannot be supplied by any of the great teachers of later times. They wrote the lessons which they set before us in their blood. The magnificent fabric of freedom...which the Stuart kings had laboured so strenuously to destroy, rose from their ashes with renewed splendour; and every age since has produced wise and enlightened men to enlarge its foundations.¹⁶

While Parkes never included Cromwell or the Protectorate in his Whig history it was apparent that he gave first place in his ideal commonwealth to popular freedom under parliamentary government and treated monarchy as a desirable but still conditional part of the constitution. Parkes had spoken more openly on this question in the middle of the nineteenth century before the age of mass nationalism had made the monarch not only the head of the constitution but also the symbol of the race. In 1854 at the time of the crisis over colonial self-government Parkes had written that the British monarch was 'an officer of the state and that is all' and that the people had the right to decide 'whether a certain person or a certain family shall occupy a royal position or not.'¹⁷

In the light of progress—of the changes Australia has undergone—is it not imaginable that, if the Australian people, exercising their right to decide whether a monarch should rule them, abolished the monarchy, Parkes would accept that they were merely expanding further the

¹⁵ J.A. La Nauze, 'The Name of the Commonwealth', *Historical Studies*, 15, October, 1971, p.63. La Nauze is formally correct when he asserts that Parkes 'was not against monarchy; he was against tyranny.'

¹⁶ Sir Henry Parkes, *Fifty Years in the Making of Australian History*, 2 vols, London, 1892, II, pp.400–404.

¹⁷ *Empire*, 13 May 1854.

essential principles upon which the Commonwealth was based? Is there not here the seeds of a history of the Commonwealth which might serve a republic?

Conclusion

The Prime Minister, speaking to the government's republic proposal, stated that 'Commonwealth is a word of ancient lineage which reflects both our popular tradition and our Federal system', and he indicated that the government wished the republic to retain the name 'Commonwealth of Australia'. But this distinctive Australian title deserves a better fate than to be left as an inscription on a brass plate affixed to the gates of Yarralumla. Indeed it is for the very reason that 'commonwealth' is a word of ancient English lineage symbolising, as embodied in the federal union, the Australian notions of self-government and common welfare, that I am suggesting it should be taken seriously as the core concept for a republic.

The issue is not an idle one. To repeat, communities need such myths, and as I have demonstrated rival concepts are already in the field, assuming strategic positions as they wait for the day.

'Commonwealth' has many advantages:

- Commonwealth incorporates under its umbrella the best elements from the alternatives, nation, democracy and republic.
- Commonwealth is the symbol of Australian nationhood. Since the nation was formed around political community rather than cultural identity it lacks the exclusiveness and intolerance of nationalism. It is able to embrace the shared affective experience of the community without stifling or suppressing the diversity of cultural traditions.
- Commonwealth also accepts democracy's ideals of popular self-government and equal citizenship. But it insists that these ideals should be expressed through parliamentary forms and constitutional conventions shaped by its heritage.
- Commonwealth is at one with the republican notion that governments exist to serve the common welfare. But from its accumulated practical wisdom it rejects those impatient with human frailty who would impose virtue and believes that human rights ought to be defended even against the will of transitory majorities.
- Commonwealth connects Australia's monarchical past to its republican future. By adopting this British-derived tradition¹⁸ which 'we have made our own' as the central

¹⁸ In recognising the role of the British tradition in the making of Australia's Commonwealth I have no desire as such to privilege Australians of British extraction—Australians of other cultural backgrounds may very well contribute to other core elements of national life, such as the flag, the icons of architecture and the literary heritage. Rather it is that the Commonwealth and the parliamentary system of government for which it stands derives much of its legitimacy and meaning from British constitutional history, and that all Australians, regardless of their cultural origins, have made this parliamentary tradition their own.

focus of loyalty, we would have the best chance of retaining the benefits of constitutional monarchy while adhering to an ideal of tried worth and good prospect.

I commend commonwealth to you in the words of Edmund Barton, the leader of the federal movement and Australia's first prime minister, who declared that 'Commonwealth is the grandest name and most stately name by which a great association of self-governing peoples can be characterised'.

Questioner — What do you say in response to those who say that the constitution-making process in 1901 incorporated federalism: a profoundly un-British concept which British people have never been happy with and have difficulty understanding; and a profoundly republican concept in so far as it involves dividing sovereignty and is difficult to reconcile with the idea of sovereignty vested in a crown? The constitution makers repeatedly reminded themselves that this was a foreign concept. What do you say to those who think that in 1901 we set off down a different path from the one that you are suggesting?

Prof. Meaney — It seems to me that the federal characteristics of the system—the checks and balances, those which you call republican, and I can see that is one aspect of the republican tradition, but only one—are, in a sense, accidental. They were chosen not because they wanted checks and balances but because they wanted federation; that is, they wanted to bring all the states together inside this union. Therefore the essence of the decision in erecting the checks and balances on a federal basis derives from that.

The form of government that is retained is the Westminster one in regard to the way in which governments are formed and as to how a government actually exercises its powers. I concede that the establishment of federation does make a difference to the traditions of constitutional monarchy as inherited, but I would not agree that it fundamentally makes a difference.

Questioner — Do you have a view on what the head of state in a Commonwealth might be called?

Prof. Meaney — My brief answer would be that I am quite happy to accept 'President'. I see no problem with the name 'President'. I have not heard any other name being offered which might be preferable to 'President'—but it should be 'President of the Commonwealth', not 'President of the people'. That follows from my argument.

Questioner — Do you see 'Governor-General' as an alternative?

Prof. Meaney — For the purposes of the republic, that is removing the monarch from the constitution, 'Governor-General' in all of its associations relates to a vice-regal status. That would not be compatible, it seems to me.

Questioner — I have noticed that nearly every one of the independent nations since 1939–45 have been helped to choose a federal government with the help of British influence. So I do

not think it is fair to say that the British do not like federation. Indeed, many of us wish that Cromwell had been there a little longer and was able, perhaps, to make our set-up in the United Kingdom a little more federal so that Scotland would have been less at our mercy economically.

Your talk seemed to miss out the separation of powers, the legal separation, which is so enormously important in many of our minds. Now that we do not have the Privy Council to appeal to as individuals, all that part is equally important.

Prof. Meaney — As I said in answer to the first question, I concede that federation does make a difference, especially in terms of the Senate and the division of powers. But under both the federal and state constitutions it still is the Westminster system of government which determines the way in which government actually operates and works: that is the central tradition. It is the one I think which also inspires our idea and ideology about liberty and self-government. This does not come from federation. Federation is about checks and balances on government. When the checks and balances are put on government for the Australian purposes, they are not done to protect liberty as they were in the American one, but to solve the problems of the relationship between the colonies making the federation. There is no bill of rights attached to the Australian Constitution, which makes this point perfectly clear.

Questioner — Did South Africa and America benefit from their bill of rights?

Prof. Meaney — No, for the very reasons that I gave in comparing the way in which liberty works in a constitutional monarchy as opposed to an unqualified democracy.

Questioner — Right until the end of your speech I thought you were going to say that we should have an Australian monarchy, a home-grown one, and that we should promote the vice-regal post to a regal one. You might explain to me why it is so difficult and unthinkable to set up a royal house in Australia as a constitutional monarchy.

Prof. Meaney — I tend to fear that a bunyip monarchy would go the same way as Wentworth's bunyip aristocracy and be laughed out of court.

Questioner — It is not generally realised amongst the populace that half of our legislative power is based not on the Westminster system but on the American Senate. The republican, non-British Westminster system already has a leg in the Australian legislative process.

Ever since the great break in 1975, there have been attacks on so-called conventions. Even as we speak, there is great controversy over conventions and parliamentary privileges in Western Australia. It worries me a great deal that we are relying on these conventions. I think we should perhaps look abroad to non-Westminster, non-monarchical countries for best practices to codify these things. While we rely on conventions, I think we are getting ourselves into a great heap of trouble for the future.

Prof. Meaney — Yes, I think what you say is one alternative for dealing with the problem of the constitutional conventions in a post-monarchical form of government. Some people have

suggested that these should be spelled out. I feel it would be better if we could keep the legacy of the constitutional monarchy, the constraints which are there, and transform them into the Commonwealth by connecting the republican Commonwealth to the constitutional monarchy; connecting these two traditions so that those things which are of value, which we wish to continue even though they were integrated into the constitutional monarchy, will in fact still continue.

Some precise suggestions have been made and the Parliament is very concerned. This whole question of how the president is to be elected I think is related to the question of how the president would exercise reserve powers, how he would see his authority and so on. It is one of the real problems that the republican movement has to face in dealing with this. Generally speaking, the republican movement wants to continue the parliamentary government system, and it wants to continue it with the old constitutional conventions. But it is a problem that it has to face. I do not think there is an easy solution. At this time, I still tend to believe that the suggestion of taking the Commonwealth as the focus for loyalty for the new Australia is the best way of doing this.

The president would become the 'President of the Commonwealth', not the 'President of the people'. He would stand for the ideals of the Commonwealth as they had been inherited. Therefore, he would be more responsible for observing those conventions dutifully than if he were the 'President of the people' which would give him an independent source of authority directly and, perhaps, a greater freedom in the exercise of such conventions. This is the great fear of both the government and, I believe, the opposition as well: how the president should be elected and how he will see his authority.

Questioner — Don't you think that the monarchists have a responsibility to prove that these conventions are serving Australia well when there is evidence that they are breaking down?

Prof. Meaney — In regard to whether they are breaking down, I am not convinced that there is such a crisis as you have said. There have been occasions when there have been difficulties and disputed issues about whether they are breaking down or not. I do not think those occasions have in any serious way threatened the institutions of parliamentary government in the country.

Questioner — As a member of the Australian republican movement, and despite your reference to yourself being a republican, I am a little concerned at your very strong emphasis on the word 'Commonwealth' in so far as it seems to imply dropping the word 'republic' specifically, perhaps, in any new wording of the Constitution. I would like you to clarify your position on that because the word 'republic' implies two important aspects of the reform that we hope to see. One is the abolition of the monarchy and the second is the separation of powers.

Although this may sound far-fetched, it is just feasible that a president of a commonwealth could still exist under a constitutional monarchy unless the constitutional reform is quite specific and clear-cut. Sometimes constitutional and political reform can become very messy and muddy unless the intentions are made totally clear.

Prof. Meaney — Firstly, I was not intending today to talk about the details of how this change might come about. My main aim was to discuss these grand concepts of collective identity and political obligation and their history and meaning and so on to see what we would be doing in adopting one or the other. But clearly, I suppose you are right in the sense that they all have very practical implications for things such as how do you change the wording in the Constitution.

I would say, off the top of my head, the fact that the Constitution would be amended to remove all references to the monarchy would, in effect, achieve a republic. I can see no objection if this were not satisfactory for the word ‘republic’ in that sense to be included in the Constitution.

I was proposing that as a general concept to which post-monarchical Australia might give its loyalty would be the notion of commonwealth for within commonwealth there was an intellectual history and an experienced history which gave values which have been important to our past and which, it would seem to me, the republican movement in general wished to see continued into the future. In making such a change it is also quite important to try to connect the past to the future so that we can build on that which was best from our previous experience in the new kind of Australia into which we will enter with the abolition of the monarchy.

Questioner — My question relates to the nature of political community. In the Commonwealth of Virginia’s constitution I believe that there is a statement that people should act virtuously, that the leader should be virtuous. Is there room for virtue in a commonwealth without a monarch?

Prof. Meaney — This really refers to my discussion of the concept of a republic which is greatly disputed and for which there are quite contrary traditions. The tradition that you are referring to is the tradition of civic humanism, which has had a great popularity in historical circles interpreting the American revolutionary era in recent times. Certainly, it is true, just taking the American Revolution and the creating of the United States constitution, that under the influence of those ideas the constitution makers, believing that all political communities were fragile, believed that their republic could only survive if the people practised virtue. Indeed, in the Virginian constitution and in their bill of rights there is an exhortation to the citizens to be virtuous.

Virtue meant being public spirited; being willing to do your duty for the common good. Certainly I think that is an element which might well come out of that republican tradition which the Commonwealth could build on. I think all these ideas that have been proposed have their merits, as I have suggested. But I think the best one, the one that is least compromised from the past and the one best able to incorporate the best out of the other concepts, is ‘commonwealth’.

Questioner — It seems to me, taking what you have said, that it may have been unfortunate that we have restricted the use of the word, in the governmental sense when referring to governments, to referring to ‘the Commonwealth government’ in the singular, and that we might almost have been better judged if we had referred to the Australian Government, to the

New South Wales Government and the Victorian Government collectively as ‘the governments’ and the plural of the Commonwealth.

Prof. Meaney — I have no quarrel with that.