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ARTICLES

250 YEARS OF THE CROWN IN AUSTRALIA: FROM JAMES COOK TO THE PALACE PAPERS (1770–2020)

The Hon Michael Kirby AC CMG

The Crown in Australia dates back to the proclamations of James Cook in 1770 and Arthur Phillip in 1788. The lack of a treaty with the Indigenous People, has left Australia with unfinished constitutional business. However, the potentially valuable idea of the Crown injects into a competitive democracy a constitutional core that is apolitical and inclusive of all. By reference to the “Palace Papers”, comprising correspondence of Governor-General Sir John Kerr and the Queen’s Personal Secretary in 1975, the article shows that, in the dismissal of Prime Minister Whitlam, the Palace correctly understood, and complied strictly with, the reservation of all relevant steps to the Governor-General at Yarralumla. To the extent that conventions were breached and wrongs occurred, these were on the part of actors in Australia not London. The difficulties and debatability of changing Australia to a republic are explained and explored. 520

THE CROWN IN AUSTRALIA: FROM JAMES COOK TO CHARLES III, ANOTHER PERSPECTIVE

Geoffrey Robertson AO QC

Michael Kirby argues that the Crown serves as a “constitutional core that is apolitical and inclusive of all”. On the contrary, it embodies an outdated hereditary principle at odds with modern Australian values. It is of no real use, other than as a frippery, to the business of government and is only necessary to those who like to show off. The “Palace Papers” reveal that during Australia’s 1975 political crisis, it was the Crown that failed in its duty to direct its representative to confine himself to advising and warning the elected government, rather than dissolving it. The Queen herself is an international treasure, but her passing will permit Australians to decide whether for the next century they will be reigned over by white Anglo-German protestant males – Charles III, William V and George VII – or by an appointed or elected Australian president, or (preferably) by nobody. 539

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