

Chapter Nine: The Role of the Sovereign: The United Kingdom and Australia Distinguished

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The paper I delivered to this Society's inaugural conference was entitled *The Head of State in Australia*.¹ Therein I outlined how the authority and prerogatives of the Crown had been discharged by its representatives. One recurring theme in our constitutional history has been the interaction of political forces in such a way as to require the Crown's representatives to invoke prerogative powers, which are still extant in Britain but which for various reasons have not been invoked to anything like the same degree as in Australia.

In 1932 Air Vice-Marshal Sir Philip Game, as Governor of New South Wales, dismissed the Premier, J T Lang. An Australian Prime Minister, Edward Gough Whitlam, was dismissed from office as recently as 1975, and the prerogative, which in Australia's case was a statutory power, was exercised by, and indeed was exercisable only by, the Governor-General, in this case Sir John Kerr.

By contrast, the last time a British monarch invoked that prerogative was in 1783 – five years before the foundation of Australia – when King George III treated the House of Lords' rejection of the *East India Bill* as a pretext for dismissing the Fox-North coalition. The King then appointed William Pitt the Younger who, but for a break between 1801 and 1804, held office from 1783 until his death in 1806. Each case that I have given – 1932, 1975 and 1783 – was a dismissal in the full technical sense.

The last time a vice-regal office-holder in Australia requested a chief minister to resign – as distinct from dismissing him – was in 1952, when the Governor of Victoria, General Sir Dallas Brooks, required this of Tom Hollway. The last time a British monarch did this was in 1834, when King William IV made that request of Lord Melbourne.

Vice-regal office-holders in Australia have exercised the prerogative in refusing requests for a dissolution of Parliament too frequently for me to enumerate. Such a request has been refused by a Governor-General of Australia on three occasions: by Lord Northcote in 1904 and again in 1905, and by Lord Dudley in 1909. These incidents stand in stark contrast with the situation in Britain, where there is some uncertainty as to whether there is even a precedent for that prerogative being exercised. One authority, Professor Peter Hennessy, has claimed, “no dissolution request from a Prime Minister has been refused by a monarch since before the *Great Reform Act* of 1832”.²

The Australian electors rejected a particular model for a republic when put to referendum in 1999. This event had featured the use of the campaign catchcry, “An Australian for Australia's Head of State!”, or words to that effect. What this implied was that a republic was essential to there being an Australian Head of State.

To counter this it was pointed out that the expression “Head of State” was often employed loosely and had no precise constitutional connotation. This was attested by its absence from the texts of *The Commonwealth of Australia Constitution Act* and of the Constitutions of the Australian States. In fact the expression itself originated in the requirements of diplomatic protocol, such as orders of precedence and which luminary should be fêted with a twenty-one gun salute.

Such an office had to be identified, however, by its functions and by distinguishing it, where possible, from the effective head of government.³ Those distinguishing functions have been vested in the office of Governor-General of the Commonwealth of Australia – as distinct from the Prime Minister – and only Australians have been appointed to that office since 1965. Accordingly, Sir David Smith, Professor David Flint and others were able to demonstrate that we did not need to adopt a republican Constitution to have an Australian as Head of State.

It was noted further that while The Queen is Australia's Monarch or Sovereign, she is not Australia's Head of State, nor can she be for as long as our Constitutions vest the prerogatives of the Crown exclusively in her representatives. The Queen, however, does act as a Head of State in her role as Queen of Great Britain and Northern Ireland within the sovereignty of the United Kingdom. To illustrate this point, this paper will outline some historical incidents which derive from the requirement that the Sovereign alone can formally appoint a British Prime Minister.

It was well into the 20th Century that the selection of leaders of the principal British parties, when in office, seemed so inseparable from the exercise of this prerogative that it came to be reconciled with it. The Liberals, like their antecedents the Whigs, had no ordained method of electing their leader while they remained credible contenders for office. The Labour Party, on the other hand, had adopted some such method before its displacement of the Liberals as a contender for office in 1922. With the Conservatives, it was not until 1965 that a specific method of election was adopted for determining their leadership.

I have already mentioned the *contretemps* between King William IV and Lord Melbourne. I now wish to emphasize that these events of 1834-35 effected a significant and gradual change in the nature of British government. In 1835 the Prime Minister, Sir Robert Peel, fully supported by the King, faced the electors, and his government established itself as the first since 1715 not to be re-elected in spite of the King's support. This meant that the patronage of the Crown was no longer essential to the winning of elections. Of course, governments before 1835 had lost office, but this had occurred because an administration had lost its ability to control the Parliament. And parliamentary control still remained essential to the maintenance of a government in office. After 1835, however, an administration did not have to give any kind of priority to keeping the Monarch on side. This change, as Lord Blake put it, amounted to an almost imperceptible transition "from the concept of government as the King's government to that of government as party government".⁴

Before relating this disjunction to more recent events I should mention two notable British party splits in the course of the 19th Century. The Conservatives, led by Sir Robert Peel, were effectively split into two parties by the repeal of the Corn Laws in 1846. Although only one party survived in the long term, it comprised not the followers of Sir Robert Peel but the Protectionist followers of Lord Derby, Lord George Bentinck and Benjamin Disraeli. The Liberal Party was also split in 1886 over William Ewart Gladstone's first Bill for the Home Rule of Ireland, and this led to the creation of a separate party, the Liberal Unionists, whose prominent identities were the Marquess of Hartington, later the 8th Duke of Devonshire, and Joseph Chamberlain, father of Austen and Neville to whom I shall be referring later.

My next point is that, from 1832 until 1911 no party leader could be said to have been driven from that position by his followers. In 1894 Gladstone, aged 84, finally and reluctantly resigned the office of Prime Minister. While he found himself at odds with his Cabinet on two vital matters of policy, his unwillingness to do battle with them stemmed from one over-riding consideration – his age and health; and his parting from them was amicable enough. In 1911 Arthur Balfour, a former Prime Minister who had been Leader of the Opposition since 1905, resigned from the leadership of the Conservative Party, also pleading ill health – a condition which was not apparent to anyone else. Like Lord Rosebery, who as Opposition Leader had resigned from the Liberal leadership in October, 1896, Balfour was troubled by dissension within his own party. In Balfour's case also there was the sense that his continuance as leader for very much longer would encourage some sort of challenge. Andrew Bonar Law was then elected unopposed by the Conservative MPs to lead them in the Commons when the two front-running contenders, Austen Chamberlain and Walter Long, considered it politic to withdraw.

Party leaders as a rule either resigned of their own accord or died in harness. When it came to a party leader vacating the office of Prime Minister, the Monarch would choose a successor. Sometimes such a successor stood out so plainly as to predetermine the Monarch's choice; at other times the Monarch was left with a discretion.

When however a party was in Opposition and the party leader, a former Prime Minister, vacated the office either through death (as with Lord Beaconsfield in 1881) or voluntary resignation (as with Lord Rosebery in 1896 and Arthur Balfour in 1911), the party leadership went into commission and was in effect shared by the respective party leaders of the Lords and Commons. It would thus remain in commission until the party regained office, when the party leadership would be vested in whichever leader was appointed by the Monarch as Prime Minister.

In 1885, when Gladstone's Liberal administration was defeated in the House of Commons and he resigned on behalf of his government, Queen Victoria had to find a Conservative Prime Minister; but there was no leader of the whole party whom she could appoint. Exercising her own discretion, she appointed the Conservative leader in the House of Lords, the 3rd Marquess of Salisbury, rather than his counterpart in the Commons, Sir Stafford Northcote, and *ipso facto* Lord Salisbury was acclaimed by the party as its leader.

In 1894, when Gladstone resigned for the last time but only on his own behalf, the Queen again exercised her discretion in selecting his successor as Prime Minister. She appointed the Foreign Secretary and Leader of the Government in the House of Lords, the 5th Earl of Rosebery, rather than the ranking Cabinet Minister in the House of Commons, the Chancellor of the Exchequer, Sir William Harcourt. Lord Rosebery thereupon became the leader of the Liberal Party as a whole.

From 1830, almost without exception party leaders in the Commons were nominated by the peer who happened to be the party leader in the Lords. In 1846 Lord George Bentinck was elected unopposed to lead the Protectionists in the Commons – who, after Sir Robert Peel's death in 1850, effectively inherited the mantle of the Conservatives. Bentinck's successors until 1911 were all chosen by the Conservative peer leading the party as a whole – Lord Stanley (later the 14th Earl of Derby), the Earl of Beaconsfield (as Benjamin Disraeli had become in 1876), and Lord Salisbury.

This was also the case even with the Whigs. With the Liberals, who emerged in the 1860s from the Whig party of old, the same tended to apply, except in 1875 and 1899, when in each case the new leader of the Commons was elected unopposed by the Liberal MPs. When the party leadership as a whole was in commission, Leaders of the House of Lords were or had been elected by peers taking the party whip – unopposed in most cases I can think of – and this applied to Conservatives and Liberals alike.

All this might seem very élitist, but such leaders, whether nominated or elected unopposed, were expected to vindicate the confidence reposed in them. Even so, these arrangements stand markedly in contrast with the hard-fought contests which have come to characterize the scramble for party leadership in more recent times.⁵

In 1902 Lord Salisbury, a Prime Minister of three terms, finally resigned. He was succeeded by his nephew Arthur Balfour, the Conservative Leader of the House of Commons since 1891. For reasons which need not concern us here Balfour submitted his Government's resignation in 1905, and King Edward VII, finding that there was no Liberal peer whom he could consider eligible, commissioned as Prime Minister the Liberal Leader of the House of Commons since 1899, Sir Henry Campbell-Bannerman. The new Prime Minister, having been granted a dissolution, was confirmed in office in a landslide (the extent of the Conservative defeat being comparable with the elections of 1832, 1997 and 2001).

In April, 1908 Campbell-Bannerman, who was gravely ill, resigned. Fully expecting this, the King, whose own health was very precarious, had already been ordered by his own doctors to recuperate at Biarritz. On receiving Sir Henry's letter of resignation while there, the King wrote to the Chancellor of the Exchequer, Herbert Henry Asquith, inviting him to form a government and to present himself at Biarritz to be commissioned. Asquith was quite happy with this arrangement and the Opposition raised no objection.⁶

Benjamin Disraeli has often been quoted as saying, "England does not love coalitions". Like so many of his *aperçus* which have been treated as truths universally to be acknowledged, this one was founded in the political exigencies of the moment. Disraeli made that observation in the House of Commons on 16 December, 1852 as the Chancellor of the Exchequer in a minority Conservative government led by Lord Derby. As Lord Blake remarked: "What he meant was that he did not love the coalition which was about to turn out the Tory Cabinet of which he was a member".⁷

It has to be said, however, that coalitions were to be a common enough feature of British politics in the ensuing one hundred years. Indeed, one such was formed on a single issue. The Conservatives and the Liberal Unionists joined forces from 1895 to 1905 with the specific purpose of excluding from office the Liberals, who were committed to Home Rule for Ireland. And as Lord Blake again has observed, "There were the war and post-war coalitions of 1915 to 1922; and we were governed by a coalition from 1931 to 1945".⁸ The point here is that the formation of all these coalitions involved the Monarch to a greater or less degree.

Asquith's administration formed in 1908 had survived two elections in 1910 called, respectively, in connection with the House of Lords' rejection of his Government's Budget in 1909, and the *Parliament Bill* which, when ultimately enacted, significantly reduced the powers of the Upper House. In both those elections the Conservatives had so regained ground lost in 1906 as to draw almost level with the Liberals who, although denied an outright majority of their own, could still govern with the support of the Labour Party and the Irish Nationalists. Asquith's dependence on the Irish reopened the whole issue of Irish Home Rule, which brought the country close to civil war. This was the government which led Britain into war with Germany in August, 1914.

In May, 1915 Asquith formed an all-party coalition. Robert Blake outlined a number of factors which Professor Richard Shannon had listed as causes for Asquith's decision. Rather than determining which of these proved the most potent, Blake identified another which he regarded as more pressing:

"... Under the *Parliament Act* a general election was due to be held at latest in January, 1916. In the existing House Asquith was unlikely to be defeated even if deserted by Irish and Labour MPs, because more Conservative than Liberal members were on active service, but if he had to go to the polls the prospect was very different. His chances of victory were remote, and in the new circumstances only a coalition could avert a general election".⁹

The *Parliament Act* of 1911 limited a parliamentary term to five years. The Parliament itself could legislate to lengthen its term by suspending that particular provision, but that same *Parliament Act* also ruled that such specific legislation would provide one of the rare instances still permitted since 1911 where the House of Lords' veto remained absolute as distinct from being merely suspensory. As Conservative peers overwhelmingly outnumbered Liberal peers, only a coalition with the Conservatives would ensure the enactment of that legislation.

Sir Charles Hobhouse, one of the Liberal ministers whom Asquith replaced in forming his coalition, noted in his diary on 23 May, 1915, "Lloyd George and his Tory friends will soon get rid of Asquith".¹⁰ And they did get rid of him, but not until December, 1916.

The Cabinet had to be reconstructed in June, 1916 when the Secretary of State for War, Field Marshal Lord Kitchener, was lost at sea. David Lloyd George, who had been Chancellor of the Exchequer from 1908 until May, 1915 and then Minister of Munitions, was supported by the Conservative leader, Andrew Bonar Law, in pressing his own claim to be Kitchener's successor on a less than enthusiastic Asquith. Exactly five months later Lloyd George succeeded Asquith as Prime Minister.

Growing dissatisfaction with the quality of Asquith's leadership, especially among prominent Conservatives within the unwieldy coalition Cabinet of twenty, led to this *dénouement*. The key figures were Lloyd George, Bonar Law and Sir Edward Carson. Lord Blake has summarized the terms of their ultimatum:

"... The proposal they decided to put to Asquith was a change in the 'decision-making process' – the creation of a War Council, small in number (the final version was three), sitting from day to day with real powers to act and with Lloyd George as Chairman. The Prime Minister was not to be a member, the excuse being that he would be too busy with other things (no one said what), but he would be entitled to call in any decision to which he objected and refer it to the Cabinet as a whole ...

"... It was a transparent device to sidestep the Prime Minister and vest the only area of government business that mattered in a triumvirate consisting of Lloyd George, who was his chief Liberal rival, Bonar Law, for whom he had little respect, and Carson, who was one of his sharpest critics. Asquith saw what was intended quickly enough and, when Lloyd George put it to him on 1 December, he gave a polite but firm refusal. He had no objection to some measure of reorganization, but he insisted on the Prime Minister being chairman of the War Council. If personalities could be ignored, Asquith was right. The arrangement was a constitutional absurdity. Personalities, however, were what the crisis was all about. If Asquith insisted that the Prime Minister must be chairman of the War Council, Lloyd George and Bonar Law were going to insist that the Prime Minister must not be Asquith ..."¹¹

The King, having received Asquith's resignation on 6 December, followed constitutional custom by sending for the leader of the next largest party in the Commons, Andrew Bonar Law, and asking him to form a government. Of Bonar Law's approach to this request Kenneth Rose has given the following account:

“His [Bonar Law’s] hope of success hinged on whether he could persuade the fallen Prime Minister to join his administration in a subordinate office. But when he called at Downing Street after his audience with the King, he was rebuffed. Asquith did, however, agree to attend a conference at the Palace summoned by the King for the following day. It was attended by Asquith, Lloyd George, Law, Balfour and Arthur Henderson, who represented the Labour Party. Each participant in turn pleaded with Asquith to serve under Law on patriotic grounds and so maintain an appearance of national unity. Asquith refused. In a long apologia tinged with bitterness, he observed that throughout his alleged mismanagement of the war he could not recall any issue on which a decision had been reached without the concurrence of Lloyd George; that he had been subjected to vindictive and merciless attacks by the press; that he was grateful to His Majesty for the trust placed in him; but that he had awoken that morning thankful to feel he was now a free man. At this point the King, with his habitual common sense, reminded the politicians that they had discussed the matter fully but had not yet come to a decision. The meeting thereupon agreed that Asquith should further consider whether or not he was prepared to serve under Law; and that if he still felt unable to do so, Lloyd George rather than Bonar Law should try to form a Government.

“The conference broke up at 4.30. Asquith immediately consulted his Liberal colleagues. Then, fortified by their almost unanimous approval, he delivered his final answer to Law. Rather than join any administration of which he was not the head, he would lead ‘a sober and responsible Opposition, steadily supporting the Government in the conduct of the War’. Lloyd George now remained the sole contender for the premiership. At 7.30 he was entrusted by the King with the formation of a new Ministry. Twenty-four hours later, his Cabinet complete, he kissed hands as Prime Minister”.¹²

Leo Amery, a prominent Conservative politician in the first half of the 20th Century, made this observation on one of the essential differences between the two war coalitions:

“... Mr. Asquith’s Coalition Cabinet of 1915 resulted immediately from Lord Fisher’s resignation as First Sea Lord and from consequent negotiations with the Conservative leaders. It may, however, be said to have conformed to a general desire on the part of the House of Commons that he should strengthen his Government by including the leaders of the Opposition. But the Lloyd George War Coalition at the end of 1916 was not one that could have emerged from any method of ascertaining the wishes of Parliament beforehand. Few Liberals and still fewer Conservatives would have actually chosen Mr Lloyd George as Prime Minister. Nor was there any demand, outside a very small circle, for a drastic change in the structure and the working of the Cabinet as such. The whole affair was, in effect, a Palace Revolution brought about by a handful of men in the inner circle of the Asquith Government who were convinced that the war could not be won under the existing leadership and by the existing methods”.¹³

Lloyd George operated through a five-member War Cabinet which included only one departmental Minister, Bonar Law, the Chancellor of the Exchequer. He continued this system after the election in December, 1918 which was called after the Armistice was announced in November. Not until late October, 1919 did he revert to a more conventional type of Cabinet government; and this continued until 1922. By then Lloyd George’s anomalous position had become blindingly obvious. He was still in a formal sense a Liberal; but his 133 Liberal followers were outnumbered by 335 Conservatives on whom his position as Prime Minister depended. Yet Asquith, with 28 Liberal followers on the Opposition benches, was still the acknowledged leader of the Liberal Party.

Bonar Law, pleading ill health, withdrew from the Cabinet in March, 1921, but he remained a Member of Parliament. Austen Chamberlain, for long the *prince héritier*, was elected unopposed by the Conservative MPs to succeed him as their leader in the Commons. By September, 1922, however, Chamberlain and most prominent Conservatives in the Cabinet had drifted apart from most Conservative MPs, and also from the party organization, in wishing to fight the next election as a coalition.

A meeting of Conservative MPs which Chamberlain felt obliged to call at the Carlton Club on 16 October, 1922 attained some notoriety in voting overwhelmingly (187-87) to withdraw from Lloyd George's coalition. When this vote was announced, Lloyd George and Chamberlain resigned respectively as Prime Minister and as Conservative leader. Bonar Law, who had emerged from retirement to attend the Carlton Club meeting, succeeded Lloyd George as Prime Minister. Five of the senior Conservatives from Lloyd George's coalition, including Chamberlain and Lord Balfour, refused to accept office under him.¹⁴

Bonar Law's resignation in May, 1923 after being diagnosed with cancer, posed a number of problems for the King. It was recognized that the King had a discretion in the naming of the new Prime Minister, but Bonar Law himself had asked, in view of his enfeebled state, to be relieved of the responsibility of submitting his resignation in person and of giving any advice as to his successor. Because Chamberlain and his fellow loyalists to Lloyd George were still sulking in the Cave of Adullam,¹⁵ the field was reduced to the Secretary of State for Foreign Affairs, George Nathaniel, Marquess Curzon of Kedleston, and the Chancellor of the Exchequer, Stanley Baldwin.¹⁶

In terms of experience Lord Curzon's claim to the succession was unchallengeable. He had been Viceroy of India from 1898 until 1905 and a Cabinet Minister since 1915. From December, 1916 until October, 1919 he had been a member of Lloyd George's War Cabinet and had been Foreign Secretary since then. Baldwin, by contrast, had attained Cabinet rank as recently as March, 1921, when he was appointed President of the Board of Trade to fill the vacancy in the Conservative Party's Cabinet allotment caused by Bonar Law's retirement. Unlike Lord Curzon, however, Baldwin enjoyed the advantage at that stage in his country's fortunes of sitting in the House of Commons.

Much ink has been used up in assessing the attempts by various Conservative politicians to influence the King's decision. There was conflicting advice given by two prominent Conservatives whom the King had to locate during that long Whitsun weekend: Lord Salisbury, son of the legendary Prime Minister, advised the King to appoint Lord Curzon, while Lord Balfour, the only former Conservative Prime Minister apart from Bonar Law himself, phrased his advice in such a manner as to favour Baldwin. As Lord Blake observed:

"... It is now clear that there was a pro-Baldwin conspiracy, probably unknown to Baldwin himself, and that the plotters, who included both [John] Davidson [Law's Parliamentary Private Secretary] and Colonel Waterhouse, Law's private secretary, contrived to mislead the King about the opinion of the retiring Prime Minister. One cannot say that the deception was decisive though it was certainly discreditable ...".¹⁷ (parentheses added)

The King, it seems, decided to appoint Baldwin rather than Curzon before receiving that advice, which seemed so vital to that decision. The King's Private Secretary, Lord Stamfordham, who had advised the King to appoint Curzon, confided the following to Geoffrey Dawson, the Editor of *The Times*:

"I told Dawson frankly that the King was so far convinced that his responsibility to the country made it almost imperative that he should appoint a Prime Minister from the House of Commons. For were he not to do so, and the experiment failed, the country would blame the King for an act which was entirely his own and which proved that the King was ignorant of, and out of touch with the public".¹⁸

So in the final analysis the King's common sense triumphed over all other considerations, including the merits of the two contenders, and he settled on a course which he was satisfied would protect his own flanks.

After merely six months as Prime Minister, Baldwin called an election out of a misbegotten sense of obligation: he felt bound by a promise made by Bonar Law not to introduce protective tariffs without first going to the people. The Labour Party led by Ramsay MacDonald emerged from that election as the second largest party in the Commons, with 191 seats to the Conservatives' 258 seats: it assumed office for the first time as a minority government, relying for its working majority on 159 Liberals still led by Asquith. It lasted from January until October, 1924, when the Liberals withdrew their support and another election returned the Conservatives to office. Baldwin then began his second and longest term as Prime Minister.

Baldwin was able to act as that emollient which the rush of events had prevented Bonar Law from doing. Austen Chamberlain and almost all his fellow Adullamites were restored to office. Chamberlain was given the Foreign Office, displacing Curzon who went to the Privy Council Office as Lord President.¹⁹ The election in May, 1929 made Labour the largest party in the Commons with 288 members: still led by MacDonald, it returned to office, supported once again as a minority government by the Liberals. But the Conservatives with 260 members were not a negligible force.

Any government in office at the onset of the Great Depression found itself imperilled by its impotence in dealing with unemployment on such a prodigious scale. The second Labour government was doubly cursed in not only having to reconcile differences within its own ranks but also in having to retain the support of 59 Liberals. It was in May, 1931 that Austria's biggest bank, the Kreditanstalt, failed, "setting in motion a domino effect which first shattered Germany's tottering credit, then destroyed the Labour government and finally drove Britain off the gold standard".²⁰

Lord Blake has given us the following serviceable summary:

"The nature of the crisis is often misunderstood. It was not a matter of budget deficits or adverse trade balances, except in so far as the latter caused the Bank of England to seek short-term loans at high interest rates in order to prevent loss of gold. The basic trouble was that for many years London had been lending 'long' and borrowing 'short'. The lending had been largely for the laudable (and profitable) purpose of financing post-war reconstruction in central Europe. The collapse in Austria made these loans impossible to recover and obliged the German banks to declare a moratorium on their international debts. London bankers with their foreign loans frozen were at the mercy of 'hot' money depositors who had no reason to keep their money in Britain if they had any doubts about sterling. In theory Britain could have done what Germany did – block foreign funds and introduce exchange control. But this would have been financial heresy in the City and would have wrecked London as a world financial centre. The only remedy, though in reality it was irrelevant, seemed to be a balanced budget which, it was believed, would restore confidence in the pound".²¹

The necessity of obtaining large credits from New York and Paris to bolster and restore confidence in the pound was accepted on all sides, as was the necessity of balancing the budget; but it was the MacDonald Cabinet's haggling over the necessary cuts in expenditure to achieve this objective that ultimately broke up the second Labour government. The principal actors in this crisis were: King George V; MacDonald; Philip Snowden, the Chancellor of the Exchequer, a legendary pillar of fiscal orthodoxy; Arthur Henderson, the Foreign Secretary, who led the dissentients within the Cabinet; the Conservative leaders, Stanley Baldwin and Neville Chamberlain, Austen's younger half-brother; and Sir Herbert Samuel for the Liberals.²²

Without outlining all the developments leading to this melancholy outcome, I can make one thing clear: MacDonald did all that was humanly possible, in the midst of a sweltering heat wave, to keep his Government in office and to persuade his Cabinet to agree on the steps necessary to balancing the budget. It was also the case that “the King and the Opposition leaders regarded acceptance of the cuts by the existing Government as the most desirable solution – any other as second best”.²³

On 23 August, a Sunday, the Cabinet bowed to MacDonald’s persuasion to accept the necessary cuts; but did so by a very slender margin – eleven to nine. With some of the nine intending to resign, it was acknowledged that the Government had run its course. As Lord Blake has summarized:

“... MacDonald announced that he would at once see the King, and the ministers put their resignations in his hands. He would advise the King to consult next day with Baldwin, Samuel and himself. He left for Buckingham Palace at 10.10. The King strongly urged him not to resign and agreed to the conference next day. MacDonald returned at 10.40 to Downing Street, said that he had told the King they could not go on as a united Cabinet and that the conference would take place on Monday. After the ministers had gone he talked to Baldwin, Chamberlain and Samuel. The two latter urged him not to resign. Baldwin said nothing. The impression gained by the Opposition leaders was that MacDonald had finally decided to throw in his hand.

“MacDonald’s diary, however, suggests that he had not in fact closed the door. Just what went on in his mind that night no one can say, but he took, or half took, a far-reaching decision. When the King next morning pressed him to remain, and when Baldwin and Samuel offered to serve under him, he agreed to remain in office as head of a National Government to last for a few weeks and tide over the crisis. It would be a government of individuals and it would implement the cuts agreed upon by the majority of the Labour ministers. There would then be an election fought not by the government but by the parties which would revert to their ordinary roles. MacDonald returned to Downing Street and announced the decision to the Cabinet, who agreed that their resignations should now be submitted formally to the King. A few polite remarks were uttered and the Cabinet recorded its appreciation of MacDonald’s ‘great kindness, consideration and courtesy when presiding over its meetings’ ”.²⁴

The Opposition leaders’ willingness to serve under MacDonald was essential to the formation of the National Government. But Kenneth Rose made the following unarguable observation, at least as it applied to the King:

“Without the King’s initiative there would have been no National Government. Three times in twenty-four hours MacDonald tried to resign and three times the King dissuaded him. Then he gave way and agreed to remain Prime Minister ... The motives of public men are rarely as base or as quixotic as their enemies would have us believe; and no portrait of MacDonald is complete which depicts him as the ambitious, fawning courtier of Labour mythology or the martyred patriot of his own invention. He did not become less willing to relinquish office during those forty-eight hours of crisis; but he did become less willing to relinquish office at the behest of Arthur Henderson ...

“There is nothing like hatred and contempt of one man’s conduct for driving another along a contrary course; to that extent Henderson provoked MacDonald into forming the National Government. It was the King, however, who appealed to the Prime Minister’s patriotism and sense of duty, who flattered him on the influence of his statesmanship at home and abroad, who stiffened him to break with half a century of his radical past ... ”.²⁵

Leo Amery, a Conservative Cabinet Minister under Bonar Law and Baldwin in the 1920s, felt obliged to support the National Government throughout the 1930s in spite of his resentment at being denied office. In the Chichele Lectures he delivered at All Souls College, Oxford shortly after the war, he made it quite clear that this government was formed by a compact of party leaders. As far as the Conservatives were concerned, Baldwin had assured his followers that it was an emergency arrangement which would be terminated the moment the balanced budget had been passed.²⁶

On 29 September, 1931 MacDonal, along with the Labour members who still served under him, was expelled from the Labour Party against the advice of Henderson. In Labour Party folklore he was to be travestied as a betrayer of his party. The fact is that the Labour politicians who deserted him put party before country and paid dearly for their preference; MacDonal thereafter was to be pilloried for doing the opposite and being vindicated by the electorate.²⁷

The National Government survived until May, 1940. MacDonal remained Prime Minister and Stanley Baldwin Lord President of the Council until the completion of the celebration of King George V's Silver Jubilee in 1935, when they both changed places.²⁸ The election later that year still left the National Government in a commanding position, but with its majority over all other parties reduced from 425 to 243. MacDonal and Baldwin both retired in 1937 after King George VI's Coronation. Neville Chamberlain, the obvious successor to Baldwin as Conservative leader since 1930, then served as Prime Minister until Winston Churchill succeeded him in 1940 as Prime Minister in an all-party war coalition.

The parliamentary drama which precipitated the formation of Churchill's war coalition requires no elaboration here. The choice of a successor to Neville Chamberlain had reduced itself to one between Winston Churchill and Lord Halifax. Churchill had been Chancellor of the Exchequer in Baldwin's second administration, and after a long period in the political wilderness he had been appointed First Lord of the Admiralty by Chamberlain when war broke out in September, 1939. Lord Halifax, like Lord Curzon, had been Viceroy of India and had been Foreign Secretary in succession to Anthony Eden from February, 1938. The reason why the King was *not* required to exercise some sort of discretion in this matter should be obvious from Lord Blake's forceful dissent from an assessment by Lord Beaverbrook:

"Churchill's appointment was by no means popular. He would probably not have commanded a majority among any of the political parties. He rose by default. Halifax could have had the job for the asking. Beaverbrook summed up the events pithily but erroneously: 'Chamberlain wanted Halifax. Labour wanted Halifax. Sinclair wanted Halifax. The Lords wanted Halifax. The King wanted Halifax. And Halifax wanted Halifax'. But the last of these brief sentences is simply wrong. Had it been true, Churchill would not have become Prime Minister – anyway, not in May, 1940".²⁹

Whatever the King's misgivings about Churchill in May, 1940, they were dissipated as soon as the two settled in together into a trusting working relationship which persisted throughout the war.³⁰

When the war coalition ended in May, 1945 Churchill formed a caretaker administration comprising Conservatives and Liberal Nationals pending the election, which resulted on 26 July in a decisive victory for the Labour Party. Sir Robert Rhodes James observed:

"... The Register of Electors was both inaccurate and out of date. It was, democratically speaking, a shambles. This was reflected in the result. With just under 12 million votes Labour won 392 seats; the Conservatives, with nearly 10 million votes, 189, although their Commons strength was greater than this with the Liberal Nationals and the Ulster Unionists; the Liberals, with 2.5 million votes, only returned 12 Members of Parliament. The total votes cast put Labour into a significant minority; the distribution of seats gave them a huge majority. Attlee was as astonished as anyone in politics".³¹

Churchill's immediate reaction was to delay his resignation and face the newly elected Parliament. The King was alarmed at this as, indeed, were Anthony Eden and the former Chief Whip, David Margesson. Pressure from the three changed Churchill's mind and he resigned at 7.00 on the evening of 26 July.³²

The first initiative the King took in the formation of the new administration was to advise Clement Attlee, the incoming Prime Minister, to appoint Ernest Bevin as Foreign Secretary, when Attlee had indicated to him that he was intending to appoint Dr Hugh Dalton to that position. In the event Attlee did appoint Bevin to the Foreign Office and appointed Dalton to the position he had originally intended for Bevin, Chancellor of the Exchequer. Dalton's biographer, Professor Ben Pimlott, discussed this initiative at great length.³³ He concluded that "it is reasonable to suppose that the King's advice was an important factor".³⁴ But he was inclined to believe that it was inspired solely by a deep personal dislike of Dalton. Without denying the King's personal feelings, Rhodes James placed them in a wider context:

"... He was very well-informed about the horror of the Foreign Office at the prospect [of Dalton being Foreign Secretary] and Eden's dismay at the possibility; indeed Eden had made it plain that he favoured Bevin as his successor. And, as the King's diary makes clear, Attlee's suggestion of Dalton was only a tentative one. He had, after all, not expected to be appointed Prime Minister so soon, and he had little time either to consult many colleagues or to clarify his own thoughts after his unexpected victory and speedy summons to the Palace. (parentheses added)

"Attlee later denied that the King's influence had been crucial in his decision to switch Bevin and Dalton. 'I naturally took into account the King's view, which was very sound', he wrote in 1959, 'but it was not a decisive factor in my arrival at my decision', and this has been accepted by his biographer, Kenneth Harris. Attlee even told him that he could not recall the King's intervention, an amnesia almost certainly deliberately manufactured to protect the King's constitutional probity and reputation, and probably also to impart to his own actions on 26-27 July a decisiveness and confidence that were not apparent to others.

"By this point the King's political antennae were very acute, and his sources of information formidable. His respect and affection for Bevin had increased steadily during the war, but the key element was that, with his intense interest in foreign affairs, he had got used to working closely with two Foreign Secretaries, Halifax and Eden, whom he liked, trusted and respected. The prospect of working with Dalton was deeply unappealing, and this was made very clear to Attlee. If the King's views were not 'decisive' – although they probably were – they were highly important. When he met Dalton, now Chancellor of the Exchequer, and Bevin, now Foreign Secretary, on 27 July he expressed himself very pleased with these appointments. He was more pleased with the latter than the former...

"Dalton's biographer Ben Pimlott has expressed surprise that the King, the 'least political of British monarchs and seldom given to advising Prime Ministers on any matter, should have held such passionate views on this one', which is a serious underestimation of the King's political interests and the impact of his advice and influence. If he had attempted to veto Dalton's appointment to the Cabinet this would have been stretching matters rather too far for comfort; by urging Attlee to think again about the Foreign Secretaryship he was quite properly expressing an opinion that he was not only entirely entitled to have, but which was shared by many others. And it was, as Attlee conceded, 'very sound' advice. Indeed, given Dalton's temperament and booming impetuosity, it is difficult to envisage him lasting very long at the Foreign Office, with hostile officials and a King who struggled with much difficulty to remain civil with him. He did not last all that long at the Treasury, either.

"It was also a good example of the King's personal judgements on men. He was not, of course, infallible, but his assessments tended to be remarkably shrewd".³⁵

And so they proved to be in this case! Bevin established himself as the greatest Foreign Secretary since Lord Salisbury, and his claim to this status has not been challenged by any successor.

In his own discussion of the reserve powers of the Monarch, Professor Peter Hennessy has given the following summary:

“Since 1949 the use of those powers has arisen in at least six real or threatened contingencies:

1. in the spring of 1950, following the general election of February that year, when the majority of the Attlee government fell from 146 to six;
2. in July, 1953 when, with Churchill afflicted by a stroke and Eden under the surgeon’s knife in the United States, the Palace was worried that the newly crowned Queen might have to send for Lord Salisbury [grandson of the legendary Prime Minister and Foreign Secretary] as a caretaker Premier if Churchill perished;
3. in January, 1957 when, on Eden’s resignation after the Suez crisis, The Queen had to choose between the claims of Harold Macmillan and R. A. Butler for the succession;
4. in October, 1963 when, on Macmillan’s resignation, she had to do the same between the hapless Rab and the Earl of Home;
5. in October, 1964 when, as the election results came in overnight, No. 10 hastily prepared a ‘Deadlock’ file in case the result left neither main party with an overall majority;
6. in March, 1974 when Edward Heath, his majority gone after the first of that year’s two elections, hung on over a weekend while attempting to do a deal with the Liberals.

“In addition to those occasions, most of which are relatively well known, the Palace, the Cabinet Office and No. 10 engaged in intense contingency planning in case the reserve powers should come into play in the late winter and early spring of 1974 (lest Wilson lost an early vote and sought a dissolution); in the winter and spring of 1978-9, as the Callaghan government staggered to its close; and in the run-up to the ... three elections – 1983, 1987 and 1992 – either because Britain seemed about to revert to a 1920s-style three-party system or, in the spring of 1992, because the opinion polls suggested the strong possibility of a ‘hung’ Parliament”.³⁶

The two occasions when The Queen had to appoint a Conservative Prime Minister in succession to Sir Anthony Eden in 1957 and then to Harold Maemillan in 1963, have been discussed by me at greater length in a document on the Tory leadership.³⁷ On both occasions The Queen sought advice, and made the appointment after she had been satisfied that the state of opinion within the Conservative Party had been faithfully reported to her. Lord Blake observed:

“It is a matter of controversy how correct that advice was in each case. My own guess is that it was as sound as such advice ever can be ...”.³⁸

In spite of the controversy surrounding the appointment of Lord Home in 1963, I am confident that R A Butler then, as in 1957, had support everywhere but where it really mattered. However much he was esteemed by many of the Lobby correspondents and in the professional classes and the non-party establishment, this esteem was not reflected to anything like the same degree within the Conservative Party itself.

The adoption of a method of election for the Conservative leadership in 1965 has undergone more than one revision. Lord Blake claimed that the changes proposed in December, 1974 and subsequently adopted:

“... make the process potentially even slower and there could be a delay of nearly three weeks. It is clearly desirable that the implications should be considered by the Conservative leadership, and there is reason to believe that they soon will be”.³⁹

Not in the manner Lord Blake contemplated, however! Under the system adopted when William Hague became leader, which has thrown the final decision to the Conservative Party branch membership, we have witnessed a delay of months. William Hague resigned the Conservative Party leadership as soon as the results of the election of 7 June this year were in. The result of the final ballot is not expected to be announced until 12 September. This delay is surely serious enough for a party in opposition. But for a party in government!

While Lord Blake was prepared to concede in 1974 that the Conservative Party's adoption of a method of election "seems to rule out royal choice altogether ...", he added:

"Yet can one even now, despite these changes, argue that the role of the monarch is purely mechanical, and that no element of discretion survives at all? I am not quite convinced that this is the case even today ...

"... There have been three clear cases this [twentieth] century where Prime Ministers have been appointed, although they were not, and in two of the cases had no prospect of being, elected leaders of their respective parties; Lloyd George in 1916, Ramsay MacDonald in 1931, Winston Churchill in 1940. I do not think one can wholly exclude the possibility of a crisis in which royal discretion might have to be invoked in order that government can be carried on at all – a situation in which the mechanical application of automatic rules simply could not work".⁴⁰ (parentheses added)

Professor Peter Hennessy has also remarked that the adoption by the Conservatives of an election process in 1965 for determining its leadership "did not put paid to the personal prerogatives of the monarch. It is always a profound mistake to write off Britain's ancient Constitution because of some seemingly modern refinement".⁴¹

In relation to Australia, these personal prerogatives are vested not in The Queen's person but in her representatives, who are called upon to interact with our local politicians in a way The Queen simply cannot. As Queen she can inform herself from any number of sources, and not least from the regular reports to her by the Governor-General and by the State Governors, about the political state-of-play in this country; but her capacity to intervene in person is strictly limited. That she is more than a purely decorative presence in the United Kingdom itself should be obvious from the details given in this paper.

Endnotes:

1. John Paul, *The Head of State in Australia*, in *Upholding The Australian Constitution*, Proceedings of The Samuel Griffith Society, Volume 1 (1992), pp.177-207.
2. Peter Hennessy, *The Hidden Wiring: Unearthing the British Constitution*, Indigo (1996), p.53.
3. Such a distinction cannot be made in the United States of America and the French Fifth Republic, where the President in each case is both Head of State and head of government.
4. Lord Blake, *The Office of Prime Minister*, published for the British Academy by Oxford University Press (1975), pp.31-4 at 34.
5. A consequence of the gradual democratization of the party system has been its conversion from being the plaything of gentlemen amateurs, who in most cases were gifted to a remarkable degree, to a spoils system dominated by professionals of both sexes who, it might be said, have not been as consistently gifted.

6. Simon Heffer, *Power and Place: The Political Consequences of King Edward VII*, Phoenix Giant (1999), p.251. This was the only time a Prime Minister was to kiss hands on his appointment in *partibus infidelium*. Asquith was also the last Liberal leader to be Prime Minister of an all-Liberal government.
7. Lord Blake, *op. cit.*, p.65.
8. *Ibid.*
9. Robert (Lord) Blake, *Decline of Power 1915-1964*, Paladin (1986), pp.1-2. This is the succeeding volume to Professor Shannon's in the Paladin History of England series.
10. *Ibid.*, p.1. Blake cited David Edwards (ed.), *Inside Asquith's Cabinet, From the Diaries of Charles Hobhouse* (1977), p.247.
11. Blake, *op. cit.*, pp.42-3.
12. Kenneth Rose, *King George V*, Weidenfeld and Nicolson (1983), p.198.
13. L. S. Amery, *Thoughts on the Constitution*, Oxford University Press (1964), pp.25-6.
14. Bonar Law's expectation was that after a suitable interval he could restore the Conservative recusants to office so that Chamberlain could succeed him. Not even that inveterate pessimist could have foreseen how completely his hopes would be blighted. Seven months into his premiership he was forced to resign when diagnosed with cancer of the throat.
15. The biblical reference to the cave Adullam, a place of refuge for David, is to be found in 1 Samuel 22 i. During the heated debates in the British Parliament in 1866 over a proposed Reform Bill to extend the parliamentary franchise, a former politician from the Colony of New South Wales who was then a leader-writer for *The Times* and MP for Calne, Robert Lowe, later the 1st Viscount Sherbrooke, led a vigorous campaign against any advance towards democracy, and achieved lasting fame courtesy of the radical MP John Bright, who branded him the leader of the "Adullamites" or cave-men.
16. It was a situation broadly similar to the choice between Lord Rosebery and Sir William Harcourt in 1894, except that the latter had been the more experienced political gladiator.
17. Blake, *op. cit.*, p.108.
18. Rose, *op. cit.*, pp.268-9. Also quoted in Cameron Hazlehurst: *The Baldwinite Conspiracy*, in *Historical Studies* (University of Melbourne), vol. 16, no. 63, October 1974, pp.167-91 at 190. Hazlehurst's quotation is identical with Rose's except for the last expression, which is "public opinion" rather than "the public".
19. The last to be restored was Lord Balfour, one of the strongest opponents of the revolt in 1922. On Lord Curzon's death in March, 1925, he accepted Baldwin's offer to fill his vacancy as Lord President. As Balfour was wont to say, "I never forgive but I always forget".
20. Blake, *op. cit.*, p.149.
21. *Ibid.*, p.150.

22. Samuel was standing in for Lloyd George, who had led the Liberal Party since 1926 when Asquith had retired, and who at this time was recovering from a very grave operation.
23. Blake, *op. cit.*, p.158.
24. *Ibid.*, p.159.
25. Rose, *op. cit.*, p.377.
26. Amery, *op. cit.*, pp.26-7. The relevant quotation is as follows:

“... It is doubtful whether a Gallup poll taken in advance of that particular solution would have secured even 10 per cent support from either the Socialists or Conservatives in Parliament. The bulk of the Socialist party, indeed, broke away as soon as it was formed, and the Conservatives only acquiesced on the most explicit assurances given by Mr Baldwin to a party meeting that the emergency arrangement would be terminated the moment the balanced budget had been passed. By then, however, Ministers had begun to feel at home in their offices and to persuade themselves that the economic emergency still called for a ‘National Government’. Unable to agree upon any policy to meet the emergency, they appealed to the country for a ‘doctor’s mandate’. The public, impressed by the vigour of the effort to balance the budget, and persuaded by a vast consensus of political and non-political ‘expert’ authority of the imminent danger of inflation and soaring prices, gave, by its vote, a majority in Parliament of ten to one, not so much for the Coalition, as against the unhappy and bewildered rump of the Socialist party. The subsequent necessity of having some sort of positive economic policy was met, for several months, by the fantastic expedient of certain Ministers dissociating themselves from the collective responsibility of the Cabinet and voting against its measures, and by their resignation after the Ottawa agreements”.

The Ministers who resigned in 1932, including Sir Herbert Samuel, were numbered among 33 Liberals from whom the modern Liberal Party derived its descent. The 35 members of Sir John Simon’s Liberal National Party continued as supporters of the National Government and effectively merged with the Conservatives. Samuelites and Simonites were bitterly antagonistic, while the sour hostility both those groups directed towards Lloyd George’s family group of four was fully reciprocated. It was, as Lord Blake remarked, “a sad and petulant ending to a great tradition” (*op. cit.*, p.166). The only significant change in this cast occurred when Samuel lost his seat in the 1935 election and was succeeded as leader by Sir Archibald Sinclair.

27. Reginald Bassett published an authoritative account of this crisis in 1958. Professor W. N. Medlicott, writing in 1967, described this book, *Nineteen Thirty-One, Political Crisis*, as “the fullest account of the negotiations”, and observed that Bassett’s “extreme accuracy had baffled but apparently not convinced MacDonald’s surviving critics”. (W N Medlicott, *Contemporary England 1914-1964 with epilogue 1964-1974*, Longman (1976), p. 257, fn. 1). David Marquand’s biography of MacDonald published in 1977 authoritatively completed his vindication.

28. MacDonald's failing powers, both physical and political, had become obvious from early 1933 – tragically, he was conscious of his condition – and only a deputy as kind-hearted as Stanley Baldwin would have recoiled from displacing him a lot sooner. He lingered on in a state reminiscent of Lord Randolph Churchill in his prolonged decline – described by his contemporary and friend Lord Rosebery as the chief mourner at his own protracted obsequies.
29. Robert Blake, *How Churchill Became Prime Minister*, in Robert Blake and Wm. Roger Louis (eds): *Churchill: A Major New Assessment of his Life in Peace and War*, Oxford University Press (1993), p.270.
30. The best account of this relationship in my judgment was given in the late Sir Robert Rhodes James's book published in 1998, *A Spirit Undaunted: the Political Role of George VI*, Little Brown. This covers in detail the political role of George VI throughout his reign. Simon Heffer has performed a service for King Edward VII similar to Rhodes James's for King George VI.
31. *Ibid.*, p.271.
32. *Ibid.*, pp.271-5.
33. Ben Pimlott, *Hugh Dalton*, Papermac (1986), pp.410-22.
34. *Ibid.*, p.415.
35. Rhodes James, *op. cit.*, pp.276-7.
36. Hennessy, *op. cit.*, pp.51-2. This summary touched off a most stimulating discussion of the implications of all this but this is not the place to deal with it.
37. *Retrospect on the Tory Leadership*, August, 2001.
38. Blake, *The Office of Prime Minister*, *loc. cit.*, p.57.
39. *Ibid.*, fn. 1.
40. *Ibid.*, pp.57-8.
41. Hennessy, *op. cit.*, p.52.