

One Hundred Years of (Almost) Solitude: the Evolution of Australian Citizenship*

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On 1 January 1901, six of the Australasian colonies joined together in one 'indissoluble federal Commonwealth', as the words of the Preamble to the Australian Constitution put it.

Massive celebrations accompanied the inauguration of the Commonwealth. They were repeated for the opening of the First Federal Parliament four months later, and again, around the new nation, for the tour of the Duke and Duchess of York that followed. The celebrations stretched over the first six months of that year. There were parades, banquets, picnics, sporting competitions, exhibitions and historical re-enactments. Streets were decorated, poems were composed, songs were sung, medals were struck, prisoners were pardoned, and fireworks lit again and again.

What was being celebrated? Among the many other achievements of that day, Australians who read their newspapers learned on 1 January 1901, that they had become Australian *citizens*. It was a rather curious claim to make. There had been an attempt in 1898 to write a definition of citizenship into the Australian Constitution, but it had failed. Although the delegates to the Federal Convention laboured long and hard in their effort to say just what it was to be a citizen—traversing legal and political rights, as well as cultural attributes—the Constitution's framers could not settle on a definition.

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Legally, Australians were British subjects, not citizens. To use the term ‘citizen’ meant going beyond this simple fact. It involved moving into the issue of the common rights and privileges of *residents*, not just subjects, as well as the way in which legal subjects might be deprived of these rights, or might lack the full complement of rights to begin with. It also meant facing the difficulty inherent in all federal systems—‘dual citizenship’—being both members of a state and members of a nation. To say in what way the specifically Australian ‘citizenship’ transcended state citizenship is still hard and, in an era when legal Australian citizenship had not been defined, it was felt in the end to be an unprofitable exercise. The Constitution ended up with a provision that ruled out discrimination against a ‘subject of the Queen’ on the grounds of his or her residence of a state alone. We are still not certain of the import of this section.

For all of this, there *was* a notion of ‘citizenship’ one hundred years ago. It was a combination of legal entitlements, cultural attributes, moral standards, and social practices. The term ‘citizen’ was used widely to identify members of the community, measured against these criteria. A ‘citizen’ was an upstanding and respectable person, one who made a contribution to civil society, one who was more than merely a subject by birth. The failure to agree upon a definition for inclusion in the Constitution arose not because the term had no meaning. Indeed, it was charged with meaning. The problem lay in attempting to attach the civic sense of citizenship to what would have to stand as a legal definition. A normative definition was not too difficult, but a legal definition would require taking a step in a direction that the majority of the Constitution’s framers ultimately did not want—towards a category based on equality and ‘sameness’, rather than special attributes.

This tension between the normative and the legal is not a thing of the past. While there have been major shifts in the dominant way of talking about citizenship in Australia, and vast changes in our citizenship law, the core has remained essentially the same. Australians still think in cultural terms when we imagine what it means to be an Australian citizen. We still think of citizenship as a set of attributes and entitlements that cannot be shared by all who come here or live here. We are still a ‘protectionist’ nation in our concept of the Australian community and its members. Although there was a moment, immediately following the Second World War, when a new, expansive approach was promoted, it did not continue to evolve along the lines it promised. Our record has been, effectively, a century of thinking of ourselves as separate: one hundred years of (almost) solitude.

At the start of the Twenty-first Century—in this year of our nation’s centenary—we have an unparalleled opportunity to break out of this solitary way of looking at ourselves. To do so, however, will require a shift in thinking even more dramatic than that which followed the War.

In 1901, by common law—for there were no citizenship acts as yet—all Australians were British subjects. All those born within the King’s or Queen’s Allegiance—that is, in Britain or any of the Empire colonies, or on any British ship—whatever their parents’ nationality, whatever their colour, gender or religion, were British subjects. Subject status could also be acquired by naturalisation. Once acquired it could never be renounced. In theory, and much more often in practice than many might believe, all subjects were equal under the law and entitled to the full protection of British law.

The British Empire was a vast, global enterprise, an international network of legal, political, financial, cultural and technological institutions. It linked markets, transport and communications systems around the world. Its political, legal and financial centre in London had the capacity to overturn decisions and influence investments made in cities ten thousand miles away. When Britain's Barings Bank crashed in 1890, a global Depression followed. Anyone who thinks that globalisation is a phenomenon only of the late Twentieth Century has forgotten the British Empire.

Australians were members of this Empire. From 1901 on, they were also citizens of a federation; that is to say, they were members, or 'citizens' of Australia and simultaneously, members or citizens of a state. As subjects of the Empire, and 'citizens' of the federation, they had multiple citizenship. There was both a well-developed concept of Australian citizenship, and a complex, multi-dimensional way of being a citizen. Multiple cultural affinities, different levels of belonging, a nation that was 'one and many', was thought to be a very satisfactory solution to the simultaneous desire to become united but remain separate. A federal system was indeed *the* political solution of the time for uniting hitherto separate and sovereign regional units, in such a way as to leave as much as possible of their original autonomy intact while providing the advantages of unity.

The majority of Australians in 1901 found the federal solution and the multiple citizenship that went with it very satisfactory. They shared in the great community of Empire, and they were also distinctively Australian. But there was a serpent in this happy federal garden. For all their enthusiasm for being 'British', Australians found British subject status too generous, too broad and too inclusive. They wanted to remain subjects, but they wanted even more to have a distinctive Australian 'citizenship' as well. While anyone born in a British colony was a subject, Australian citizenship was, with some very few exceptions, open to only a limited group: whites.

The Australian Commonwealth in 1901 was fragile, exposed and untried. Its new institutions had constitutional status, and the political power that accompanied it, but they needed legitimacy immediately. They had never existed before and there was no federal model in the world quite like the Australian federation. People had to believe themselves citizens, they had to believe in the Australian federation as something transcendent the moment it emerged, or the whole thing might have collapsed through the inevitable political strains and realities to which it would be subjected right from the start.

The celebrations of the first six months of 1901 were in large part a series of legitimating rituals, anthropologically necessary to make that transition from one status to another. They reinforced people's belief in and commitment to their new status as Australians, and their recognition of the Commonwealth as something greater than themselves. The celebrations were built around the themes of unity, transcendence and protection.

One of the first steps taken by the new Commonwealth Parliament after all these rituals had been performed was the introduction of the Immigration Restriction Act. In combination with several others, this Act, it is well known, founded the White Australia policy. It did so (what is less well known) indirectly. The new Commonwealth had constitutional power over immigration, but the British authorities

had been deeply unhappy with the colonies' immigration policies in the pre-federation days, and they beseeched the Australians not to have a Commonwealth immigration policy built around race. Millions of non-whites were British subjects, all supposedly equal under the law, and entitled to its full protection: no stigma should be placed upon any of Her Majesty's subjects, the Australians were told, 'on the sole ground of race or colour'. Australia resolved the dilemma this created by imposing a European language dictation test in the place of a test of 'colour' for intending immigrants. It had—as was intended—the same effect.

One year later, in 1902, the first Commonwealth Franchise Act was passed. It extended the right to vote to adult women, and gave them the right to stand for Parliament. Plural voting and a property franchise were already ruled out by the Constitution. Australia now had the most democratic national franchise in the world. But the Franchise Act simultaneously prevented the aboriginal natives of Australia, Asia, Africa and the Pacific Islands (with the exception of the New Zealand Maori) from enrolling to vote unless they were already on the electoral roll.

Other steps quickly followed, in which the protectionist character of the new nation was carved out, including import tariffs to protect Australian industry and an arbitration system through which wages were protected. The White Australia policy and the white franchise were not simply a matter of racism, as the exception in the Franchise Act for the Maori people suggests. They were also a cultural strategy, built around the view that the new institutions of the Commonwealth were especially vulnerable and might be endangered by 'non-British' approaches to politics, or by culturally unfamiliar practices, especially in ways of working and standards of wage-earning.

Australian citizenship in the early decades of the century was based on limited membership, but it was a generous, democratic model for those who met the membership criteria. White, protectionist walls were built around the new nation, like a cocoon in which it would be allowed to grow and develop. Everyone assumed that within the cocoon, Australia would grow mightily, as the United States had done over the one hundred years between its federation and the late Nineteenth Century.

Everyone predicted a massive increase in population following Australia's federation. As a minimum, they thought, there would be an Australian population of 50 million by its Centenary. But they had not, in fact, followed the US model. They had not held out their arms to the tired, the poor, the huddled masses yearning to breathe free. They had built the walls too tight. The anticipated great influx of immigrants from Britain and the other white colonies did not occur. By the 1930s, it was clear that this strategy had failed. Against a backdrop of growing Australian independence, the membership category of citizens had to be expanded.

The hostile treatment of British subjects of German ancestry within their own country of birth during World War One began the fragmentation of the once-wide embrace of subject-status. British Nationality Acts from 1914 on began, little by little, to tie citizenship to criteria of eligibility, to particular entitlements, rather than to a broad, inclusive membership by simple birth. The self-governing British Dominions gradually began to see themselves as requiring special legal categories of citizenship of their own, to meet the needs of their particular populations. Australia had

approached this, indirectly, through immigration policy in 1901. In South Africa and Canada, ethnic population mixes created a momentum for special national citizenship laws.

By the end of World War Two, the old self-governing colonies, including Australia, were to all intents and purposes independent of Britain. The Empire, already beginning to unravel at the time of Australia's federation, had all but come apart under the impact of the War. In 1946, representatives of these former colonies met in London to discuss their status. The result was an agreement with the British government that independent national citizenship—this time in the formal, legal sense—would be accepted. Following Canada, New Zealand and the United Kingdom itself, the Chifley government introduced the first Australian Nationality and Citizenship Act into the Commonwealth Parliament in late 1948. It would come into force, with symbolic intention, on Australia Day, 26 January 1949.

Under attack from the Liberal Party Opposition and a good deal of the press, the Immigration Minister, Arthur Calwell, defended the Citizenship Act. It would, he said, 'prove a binding and unifying factor in the Empire.' The Act did not discard British subject-status. Indeed, Australians retained their British subject status simultaneously with being Australian citizens right up until 1984. The 1949 Act gave special rights of residence and virtually automatic naturalisation to British nationals in Australia. For naturalisation of non-British nationals, in addition to residency conditions (five years), it included requirements of a 'good knowledge of English' and good character, as well as 'an adequate knowledge of the responsibilities and privileges of Australian citizenship.' The Act was also—as Calwell also said—a 'charter of mateship'.

The responsibilities of the new Australian citizen were, however, simple and many were shared by resident non-citizens: effectively the duty to obey the law and to vote, in return for protection of the law, and assistance from Australian diplomatic and consular representatives abroad. It was far from a radical assertion of republican citizenship. But, albeit indirectly, it did express Australian nationalism. It gave Australia a direct control of its own membership rules. It prevented Australians taking out the citizenship of another country and still retaining their Australian citizenship. Among other things, it paved the way for the great expansion in non-British membership of the Australian national community.

As much as anything else, the Citizenship Act was prompted by the growing numbers of immigrants of non-British background who had begun coming into Australia with the Displaced Persons program in the aftermath of the War, and by plans for the great wave of European immigration into Australia which would continue over the next 25 years. It would make no sense to try to turn these people into 'British subjects'; the category was too broad to be adequate for turning people into Australians.

The post-War immigration program was one of the most adventurous and optimistic of any of Australia's official initiatives last century, except perhaps for federation itself. It captured a new nationalist way of thinking about members of the Australian community. But it retained—or at least attempted to retain—the former 'imperial' notion of membership.

The immigration program was linked to a complex cultural program which today we remember only under the simplified name of 'assimilation'. This term now has such pejorative overtones, that it is hard to see it in its original historical context. Assimilation for immigrants was a policy designed to make newcomers understand how to blend as quickly as possible into the national cultural and demographic landscape. It drew upon voluntary organisations, networks of Good Neighbour Councils and New Settlers Leagues, among others. It was linked to a series of annual 'Citizenship Conventions' which began in 1949 and ran for more than 15 years, bringing together members of government and representatives of Australian voluntary organisations, churches, and clubs, with representatives of ethnic communities. These Conventions discussed problems experienced by immigrants, and made recommendations for dealing with them as well as for generally improving the smooth integration of immigrants into the Australian population. The assimilation program also included publications for immigrants and advice on Australian ways of doing things.

Your Introduction to Australia: Hints and Help on Knowing Your New Homeland, for example, published in 1948, is a remarkable and charming cultural artefact of these times. It captures a dominant view of the Australian 'citizen' at the time. It is full of useful practical information about matters like postal rates, welfare benefits, and driving on the left-hand side of the road. It gives hints about dressing and avoiding using one's hands when speaking. Australian men, it reveals, 'never wear hairnets'. It defines Australians as advocates of freedom, fair play, and hard, manual work. It describes their tendency to use negative humour, their reluctance to praise or show enthusiasm. It advises the reader to avoid conspicuousness, to aim for a time in the future when he or she would no longer be noticed as strange.

It is a manual for assimilation. But assimilation did not, as is often thought, mean that 'old' Australians were themselves asked to take no part in the transformation. Breaking down of Australian prejudices against immigrants was a persistent and bipartisan theme in official publications and commentary. The fact that white Australians were themselves all descended from immigrants was not something that we discovered in the 1980s or 1990s; it was frequently raised at the time in an attempt to combat negative views of newcomers.

In 1951, the fiftieth anniversary—the Jubilee of federation—was celebrated. There was an expanded Jubilee Citizenship Convention in Canberra, folkloric festivals and performances from immigrant community groups and individuals, as well as an Exhibition of European Arts and Crafts. In the wider community the Jubilee was lavishly celebrated, with parades of floats, as well as numerous sporting, cultural and popular events. As in 1901, the celebrations were repeated in May 1951, for the Jubilee of the Commonwealth Parliament.

The symbols of that year were of youth and growth, of prosperity and natural abundance: sowing the seeds of the future, nurturing and flourishing. Its depiction of citizenship was both expansive and nationalist, building on the protectionism of the earlier decades, but confident that the protectionist strategy had worked.

One group of Australians within the white external walls still did not have citizenship. In law, the Aboriginal people were citizens from 1949, as they had been and as they

remained, British subjects by law. The fact that they did not share many of the social and political rights of other citizens did not make them any less *legal* citizens. What it did show is that citizenship is much more than a legal category.

Over the decades between 1949 and 1992, its complex character began to be more fully recognised. A Citizenship Act was important both to define and control the particular membership of a national community, and also in gaining international recognition for this community. But legal citizenship is far from the end of the story. Many people had and still have, legal citizenship, with only limited access to other entitlements: children can hold passports but cannot yet vote; prisoners serving long sentences are deprived of the vote; people with dual citizenship cannot become members of Parliament.

And many people with full citizenship entitlements find themselves unable to take full advantage of them because they are economically disadvantaged and disempowered. To be a member of the community—a ‘citizen’—entails equal access to political representation and a genuinely equal opportunity to participate, as well as equal treatment under the law and equal protection against injustice. But these needs, it is worth reminding ourselves, are not exclusive to legal citizens. Residents have just as much a need for such protections as those with the right to hold an Australian passport, the majority of whom rarely travel overseas, if at all, in any case. Yet, while Australia has a very generous policy with respect to acquiring legal citizenship for those who are allowed within its walls, it is increasingly ungenerous regarding the entitlements of resident non-citizens, and remains relatively exclusionist—indeed protectionist—in respect of the numbers and type of persons permitted to come to Australia in the first place.

Over the 40 year period from 1949, the Citizenship Act underwent several amendments including, among other things, twice reducing the residency qualification for naturalisation, so that it now is one of the shortest, if not *the* shortest, qualifying periods in the world. It also cut out the dual category of British subject status, and removed the right of unnaturalised British citizens to vote. The Constitution was amended four times, including in 1967, giving the Commonwealth the power to make special laws for the Aboriginal people. Australia’s formal constitutional and legal ties with Britain were severed. The White Australia policy was ended, and multiculturalism was introduced. Australia increasingly looked to, and invoked, its international obligations in passing and upholding Commonwealth laws. The notion of citizenship began to stretch beyond Australia’s nationalist concerns, to a wider, international set of values.

In 1992, several key decisions were taken in this direction. These included the High Court ruling in *Mabo* and the Keating government’s commitment to setting in train an Australian republic. Each entailed a dramatic challenge to Australia’s constitutional certainties, and captured a new notion of citizenship. While republicanism was far from a new idea in Australia, the promise of its realisation demanded a re-thinking of the terms and conditions under which Australians would govern themselves, finally and completely without any reference to Britain.

Profound and profoundly unsettling as they are for many, the initiatives of 1992 were, none the less, still little more than internal measures, dealing with the population of

Australia within its borders, re-working the established community and re-defining the character of its membership. Most recently we have begun to retreat even from the limited imagination of 1992, and have become again fearful and protectionist in the way we think about our citizenry, about those we regard as legitimate members of our community.

In some respects, the republican movement has contributed to this process. I have no doubts whatsoever that Australia will and should become a republic, but to attach the republican goal to a repudiation of our history and to build the campaign around an anti-British rhetoric is misplaced. Many Australians have a British background and relations between Australia and Britain remain close. More importantly, by refusing to recognise any value in the former imperial model and merely asserting an Australian nationalism in its place, we may be throwing out the baby with the bath water. The ideal of the British subject was an expansive, generous one, built around transnational notions of community, rejecting 'racial' or ethnic criteria for membership, and in which free movement, shared entitlements and a type of international 'fellowship' were key components. I am not suggesting that this ideal always operated in practice, but it did have some reality—certainly a legal reality—and it remains preferable to one in which narrow, exclusionist notions of membership of community prevail.

'Citizenship' entitlements within Australia are continuing to narrow. The right to vote is now confined to legal citizens only; the right to stand for Parliament has since 1992 been ruled out for those with dual nationality, equal access to welfare and student assistance is growing increasingly difficult for residents who are not legally citizens; there is a move to have those British residents who are not legal citizens but who remain on the electoral roll, struck off.

Why are we doing this? Is it because only legal citizens need representation or welfare benefits, or opportunities to participate in the political system? Surely not. Is it because we want to punish or shame those who live here but have not chosen to be naturalised? Perhaps. Is it for simple reasons of international *quid pro quo*, because other countries deny our citizens these entitlements when they live away from Australia? This reason, if it ever was sound, is growing increasingly doubtful in the face of international shifts in approach, with reciprocal rights opening up rather than narrowing. There is now every incentive to be generous towards other countries' nationals.

Australia's immigration intake has fluctuated over the last three decades, but has on annual average remained relatively low since the 1970s. As a subject of policy it has become a political hot potato which neither of the major parties wants to handle. Where political discussion on immigration has taken place, it has tended to focus on its imagined negative impact on unemployment, welfare spending, the environment, or on Australia's national identity. Very little evidence has been provided to support such negative causation and there has been almost no exploration of whether any negative impact might be minimised by tying immigration intake to targeted regional re-development, infrastructure projects, and cultural programs. These were all features of the successful immigration program of the post-War years, and should not be off the agenda.

Australia needs to face the Twenty-first Century thinking and speaking of Australian citizenship in more internationally expansive terms than before. The old Empire concept, stripped of its colonising mission, was not a bad model. It is perhaps now more relevant than ever, as a means of re-thinking the nature of globalisation.

We could begin with something simple: removal of the prohibition on Australians taking out the citizenship of another country as well as the prohibition on Australians with dual nationality standing for Parliament. We could move on to an approach to immigration which emphasised the contribution of new immigrants (not just those who settled here in the 1950s), rather than the problems. We could begin once again to think of people as ‘citizens’—as members of our community—even without their becoming legal citizens. We could hold out a range of entitlements and benefits to make the integration of immigrants easier, without attaching punitive conditions to these. Words and symbols of openness, optimism and expansion could be adopted.

In this centenary year, Australians have a unique opportunity to take a new perspective on our history. There has been a tendency for some time to focus on the mistakes that have been made in the past, and in return, an attempt to counter these with positive perspectives on our history, most recently on the federation experience. But we have rarely attempted to learn real lessons from either the negative or the positive approaches. We have remained cautious and fearful about trying out new directions, because we do not recognise that adventurous steps have been taken in the past without disastrous consequences. Federation itself was such a step. We applaud the great, successful experiment with multiculturalism, but forget that this was the outcome of the highly imaginative, indeed daring, policy of post-war immigration undertaken by the Chifley government and continued during the Menzies years.

Australians did not build a permanent memorial to federation in 1901, although they toyed with the idea for a while. One of the proposals in circulation was a massive female figure, 1 000 feet high, to be built in Sydney Harbour—so similar to the Statue of Liberty it is almost embarrassing to contemplate. Fortunately it was dropped. The real Statue of Liberty, which greeted the tired, the poor and the huddled masses of Europe as they reached the shores of the United States, was a gift from the French government for the centenary of America’s independence. Australia did not then, and does not now, need such an object. But a gift to itself of something carrying the same symbolic message would, I believe, be more than welcome, as we face our next one hundred years.



Question — Could you give us an idea of the benefits to this country of the new approach that you are espousing?

Helen Irving — I think there would be very clear benefits in an increased population in Australia. In terms of where that population is likely to come from, realistically, it is more likely to come from immigration than the natural birth rate. There are also good reasons not to try to massively increase the population by encouraging the current population to have more children. That’s another complex story, however.

The benefits of an increased immigration program in Australia can be—although the circumstances are different now—extrapolated from the benefits that we saw in the immigration program which followed the Second World War. The benefits come in terms of what you can support with a larger population. There are cultural benefits, in terms of the development of Australian industries and initiatives. And in terms of simple things, like the possibility of increasing the circulation of newspapers or publications that are produced in Australia so that you might be able to have a more diverse media.

Economically, I think there would be considerable advantages. There would be benefit also in opening up Australia's relations with the world, and in terms of developing the sorts of advantages that come from international exchanges broadly. I don't think anyone would deny that there are arguments about how you would get those international exchanges, but I think they would be very much supported by an expanded immigration program.

Obviously there are problems with simply introducing large numbers of extra people into Australia's major cities, in terms of demands on resources. An expanded immigration program would need to be tied to other programs—again using the model of the post-war immigration program, which tied immigration intake to regional development, infrastructure programs and to building up Australia's profile in areas where it was considered that there was a shortfall or a need. We have a long way to go before the discussion on how that might be done would be completed, but it is something that is worth discussing. And the idea that immigrants could come here with certain at least initial requirements for settlement attached to their arrival should not be off the agenda.

As well as the advantages to the people who might come here, we would benefit in terms of thinking more generously about who we are, in gaining and enriching our lives from the sort of exchange that would follow, and from ways of thinking about ourselves in a less insular, protectionist fashion.

Question — Shouldn't we start thinking in other terms and questioning ourselves on the fundamental weaknesses in Australian society? We seem to have an inability to be a self-sustaining society. We say, all the time, that we need more immigration to maintain our population, because we can't maintain our family structure or population by breeding ourselves. We say we must bring in more foreign investment to sustain our society, and we must bring in more directors from the United States to manage our organisations. And we are continually selling things overseas, until we will end up with practically nothing in this country that is owned by Australia. I think we should be examining how we make ourselves a self-sustaining society, and not create more division and difficulty for ourselves by an immensely diverse society.

Helen Irving — I don't think we are saying 'all the time' that we need a greater immigration program. Some people might say that, but I think they are a minority. Certainly, there is discussion about the need for overseas investment and importing the best brains and the best company managers and so on. It's not necessarily the same argument that would suggest that an expanded immigration program would be desirable.

When we talk about making Australia self-sustaining, that is very much part of that rhetoric of protectionism that we have adopted since before 1901. The idea that somehow we are the ones who deserve to use and exploit and live on this land, that we are here by birthright, was certainly entrenched by 1901. We have a suspicion of others getting access to the things that we have. And a lot of the rhetoric about national identity and certainly about the fragility of the environment and so on, supports the view that somehow others don't have a right to be here. What we need to think about is: who are 'we'? Why are the immigrants who come here and work here and make a contribution, not 'we' as well?

Again, in the post-Second World War immigration program, those sorts of concerns and doubts were widely expressed. The people who came after the War have now been embraced and adopted as part of us. They and their children are 'we', and they are, it seems, entitled to share in those things that we enjoy as Australians.

If we think more generously and expansively, we can think about Australia as a unique country, with a great deal that is unique to offer. But we can question whether what it has to offer should only be available to those who are already 'us', already here. Self-sustainability is a bit of dream, not just to Australia, but for any country, and it is a recipe for remaining small and relatively uncompetitive and—certainly in the long run—relatively poorer than we are now.

Question — Is Britain's immigration policy one we should emulate, in your view?

Helen Irving — There are many things about Britain that we wouldn't want to emulate. It's a complicated question. We hear a lot about the immigration policy in Britain, and the down side of that in terms of what are called the 'race riots'. They are only a very small part of British life. Overall, the integration of people from different backgrounds has been very successful in Britain. But then again, Britain is somewhat closed and more suspicious of the external world than ideally one would want, in particular in respect of integration into the European Community. That hasn't progressed as far as it has in some of the other European countries.

There are some good features of Britain's development, but it's not necessarily the one model that you'd want to adopt. When I talked about the old 'imperial' model, it was one that you would not necessarily *literally* want to follow, but was an alternative way of thinking about what sort of community we belonged to. Of course, there is a long history of a combination of hostility to Britain and also wanting to *be* British in Australia. Australians, at least part of the time, thought of themselves as members of a very expanded international community, and they were encouraged and enriched in many respects by that sense of an international consciousness. And that's all I'm suggesting that we should take from the old 'imperial' model. Britain itself has broken from that model as well, and no doubt builders of the old Empire are turning in their graves now.

It is now very difficult for people who used to be members of the old Empire to get any kind of rights or entitlements in Britain—rights and entitlements that they once automatically enjoyed. So it's a two-way process, but what I'm talking about is not

necessarily a model that you can locate in Britain, but one that was an ideal at one stage.

Question — In the early days of the White Australia policy, the device to deny citizenship to people of Asian descent, no matter how long they had lived in Australia, was to deny them access to permanent resident status. Their temporary visas were continually renewed. Do you see any similarity now in the granting of temporary protection visas to people who have been determined to be genuine refugees but who have entered Australia by bypassing the normal processing system?

Helen Irving — I think there probably is. That's a good point. I don't know if Australia is absolutely unique in respect of playing between temporary and permanent residence visas and entitlements to citizenship. Our refugee policy is one of the harshest in any comparable country in the world, and one hopes it is not the thin edge of the wedge, and a sign of further measures of suspicion towards immigrants. Those who are given the entitlement to come to Australia and become residents of Australia have a relatively generous approach held out to them. It is relatively easy for immigrants who come to Australia through the normal channels to become citizens when they are here.

My concern is really with how narrowly we think about those who are entitled to come here in the first place. Once they get through the net and are regarded as legitimately here, they are treated relatively generously, if they meet the dominantly 'white' racial criterion that has applied all along.

Question — I was struck by your reference to Arthur Calwell's rationalisation of the mutual obligations of citizenship: that provided people obeyed the laws and voted, they had all the protection and abundant benefits of being a resident and citizen of Australia. How might one expand the set of republican-type rights and obligations that could represent a new approach to citizenship in Australia? You have already referred to an international perspective to obligations, but perhaps you could address the more domestic rights and ethics that are not in the Constitution, but could somehow be a part of our constitutional background?

Helen Irving — The question is often asked whether becoming a republic means also looking at what republicanism means in a more profound sense, in terms of the rights and duties of the citizens of a republic. It's a large question. I do not favour an entrenched bill of rights, but I do favour the examination of the sorts of rights that are available—not just to Australian citizens but to all residents in Australia. Indeed, rights under the law should be—and in many cases are, although as I pointed out some of the political rights have been narrowing—available to all residents and not just those who are legally citizens. I think there is a lot of confusion in our discussion about citizenship these days, whether we are talking about legal citizenship, or citizenship in a more conceptual sense, as contributing members of a community.

Regarding what rights might be entailed if we start to think of ourselves more internationally, but in the context of an Australian republic—that debate has to go on and it will go on. I think it will become one of the prominent issues of the next few years. But my concern is that we should not move in a direction that is narrow or punitive, or ties rights to particular duties or responsibilities. I am concerned about the

shift towards thinking about rights and responsibilities as necessarily tied together or travelling together, because if you have rights, you have rights—they're not conditional. Rights are something that people should enjoy without having to prove that they have a right to have the rights.

Responsibilities are another matter, and this is again a big question. But what our specific responsibilities as Australians should be, and whether we should indeed be required legally to do things other than obey the law—which includes of course voting and serving on juries and so on—that's really a big debate that has to go on. The tendency is moving towards tying rights or entitlements to particular criteria of eligibility and criteria of performance, and I think that's a regrettable direction.

Question — You mentioned the greater cultural and artistic community and the vibrancy that that would produce, and I would value that. But there is also the problem that, at the moment, Australians don't seem to be very good at living within the limits of the environment and the resources that they have. It would be excellent if, in the early years of this century, we found some political commitment toward actually improving our performance in resource demands so that we can make room for the sort of things that you talk about. It seems that one has to do both at the same time. And it is a principle that is much bigger than the principles of mateship or equality and so on that were seen as part of the Australian federation era development and expansiveness of spirit. It would be terrific if this was taken up politically, and we need people to articulate it. It is excellent that a historian, who may be thought of as looking backward, can look forward also. We could cause tremendous damage, even at our present population, and if we don't do things well. If we commit ourselves to doing things a hell of a lot better, then we can make life a lot better in those other respects you spoke about.

Helen Irving — I agree that an expanded immigration program would really need to be tied to a whole range of other initiatives. It would be crazy to talk about increasing numbers, either naturally or by immigration, in isolation.

Although I'm not an environmentalist, I have not seen convincing evidence that Australia's environmental problems have been caused by over-population, so much as by bad management. There would certainly be a problem in terms of resources if you had, overnight, a massive increase in population in our cities. That is perhaps where the focus should go. Regional redevelopment could be something that is thought about in terms of an expanded immigration program, and certainly you would want to look at the environmental impact. But I think the problem lies really in the cities, and less in country areas. When we think in terms of protecting the environment, we think in terms of the outback or the country environment, rather the city environment. We would also need a shift in thinking along those lines.

Question — Given that people with dual citizenship have obviously met the requirements initially to become Australian citizens, I'd like to know your opinion on why our legislators would prevent those people from representing us?

Helen Irving — I'm not sure whether your question is about the rights of dual citizens to sit in Parliament or about the rights of Australians to take out dual citizenship, which I think is something that will change. There's an undertaking on the

part of the government that they may look in that direction. But it was a constitutional decision of course, in 1992, (*Sykes v Cleary* (1992) 176 CLR 77), which led to the interpretation of the Constitution to rule out anyone with dual nationality from sitting in the Parliament. And then, more recently, in 1999, it was confirmed that that included people with dual Australian/British nationality. It would be a huge shock to the founders of Australian federation—and, indeed, to many people after federation—that Britain is now a foreign power for the purposes of our Constitution.

Why people with dual nationality can't serve in the Parliament—outside of war time when perhaps a person might have allegiances with the country with which Australia is at war, which would be a relatively special case—is something that mystifies me as well. And I don't believe that that was the intention of that section of the Constitution that says: 'If you are a citizen or a subject of a foreign power or under an allegiance to a foreign power, you are ineligible to stand for Parliament.'

If you look at the debates at the time when that section was introduced into the Constitution in 1898, you will see that what they were concerned about was people who were actively engaged with another country and who were potentially going to be traitors to Australia in time of war. They didn't really mean people who were entitled to hold a passport of another country. Indeed, there weren't passports at the time, so that has really only been a later interpretation—that if you are entitled to hold a foreign passport, even if you got it years before and have never exercised it, you are the citizen of a foreign power.

I think Australia would gain a great deal by allowing people with dual nationality to sit in the Parliament. If there are questions of loyalty arising in time of war, there are all sorts of ways of providing for emergency situations. But you really shouldn't build a policy of representing the people around what might potentially happen if someone in Parliament were to have dual nationality with a country with which you were at war.