

THE THRESHOLD QUESTION

SUBMISSION

TO
THE SENATE STANDING COMMITTEE ON
FINANCE AND PUBLIC ADMINISTRATION

*PLEBISCITE FOR AN AUSTRALIAN REPUBLIC
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by

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ALIGNMENT

It is well established that the mechanism to establish an Australian Republic will be through the procedure of section 128 of the Constitution. Change requires the support of the Federal Parliament, a majority of voters and a majority of voters in four of our six states.

The Australian people have been reticent to make changes to their constitution and thus a more technically complex proposition, will require effort to align a proposal for constitutional change to voter sentiment if an affirmative vote is to be obtained.

It is my view that the Parliament should endeavour to consult the Australian people in good faith prior to submitting a constitutional proposition. Excepting a constitutional emergency, Parliament should attempt to predetermine the majority view of the Australian people on a particular issue requiring constitutional reform. It should then develop the mechanisms that would provide assurance that the proposal for change is aligned with that view. With the objectives and technical mechanisms (such as the text of the amendment) established and proven, it is then practical to utilise section 128 of the constitution to give effect to this effort.

The failure of the vast majority of constitutional propositions demonstrates that the Parliament has not adequately consulted and aligned their positions with public sentiment.

An Australian Republic is a more complex example because of the multiplicity of ways in which a proposition can be framed and implemented. At the very least, it involves changes to twenty sections of the constitution, where the Queen is mentioned or referenced.

The Parliament put significant resources into running a Constitutional Convention in 1998 with half the delegates elected and political representation from states, territories and minor political parties. The most successful propositions were the Bi-partisan Appointment Model and the McGarvie Model, with the former obtaining 45% of the final model vote. This percentage was eventually refected in the referendum result of 1999.

This said, the convention provided little support for two direct-election models (the Hayden and Gallop models) representing an apparent divergence from opinion polling which has consistently shown that the direct election of a Head of State is a popular option and probably an essential component of any republican proposal likely to be successful at referendum.

It is my view that these results are reconcilable. Australian's believe strongly in the principle of direct election, however they do not support a presidential or semi-presidential system. This is one example of the necessity to distinguish between the features of a proposal, its objectives and its mechanisms.

A similar statement could be made about the contentious dismissal mechanism, which may be crucial to the avoidance of a presidential system (assuming that this is desired.)

Individual issues where distinguishing between objectives and mechanisms may also be rolled up into the broad question that is the subject of this inquiry. Forming a republic is not an objective in itself but simply a mere descriptive word that in modern usage describes a broad range of political systems that do not feature a monarch.

The objective of the republican movement is articulated, however the process of collecting the objective (or objectives) of the Australian people is a task yet to be fulfilled. The risk of failure therefore remains higher than would otherwise be acceptable and this is the current environment in which the Threshold Question is to be asked.

Asking the right question

The Threshold Question describes a type of question than can only be non-binding. In the case of this bill, the threshold question is “Do you support Australia becoming a republic?”

A range of alternatives to this question would be:

“Should Australian become a Republic?”

“Do you prefer Australia to be (1) a monarchy or (2) a republic?”

“Do you want to remove the monarchy from the Australian constitution?”

“Should all officeholders in the constitution be Australian citizens?”

“Should the Australian people be further consulted about a republic?”

This is the second time the Threshold Question has been proposed in legislation. The Hon Kim Beazley proposed *Plebiscite for an Australian Republic Bill* in 1997, although the proposal left the specifics of the question to a parliamentary committee.

The reason for referring to this question as “threshold” is that the objective is to prove a level of support sufficient to justify further support for republicanism and developing proposals. If worded correctly and assuming that voters answer the question in good faith and not strategically, it should be the easiest question for a voter to answer yes.

By definition, threshold question should establish the maximum level of support for republicanism or removing the monarchy. Voters who conditionally support an Australian republic should be able to vote “yes”, even though they may eventually vote “no” because their condition was not met in a subsequent referendum proposal.

A threshold question would be spoiled if it a segment of the population who identify themselves as republicans find themselves with a reason to vote “no”. For example, they may object to voting “yes” because they dislike the political party backing the question.

It is perhaps for this reason that the first *Plebiscite for an Australian Republic Bill (1997)* included a bi-partisan joint committee of twelve parliamentarians. The committee was to inquire into and report to both Houses as to “the most appropriate question, or questions, to be submitted to the electors at a national plebiscite to ascertain the electors’ views on whether the Australian Constitution should be changed to provide for a Republic with an Australian as Head of State [and] any other course of action likely to promote public debate about the issue of a Republic.”

Other submissions to this inquiry will cover a range of issues that may spoil the objective of the threshold question. It is not my intent here to cover what others have written.

In my view, the most likely reason the threshold question will be spoiled is that it will be associated with the previous bi-partisan appointment model. Voters were previously asked “*alter the Constitution to establish the Commonwealth of Australia as a republic with the*

Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament.”

It is proposed by this bill that voters be asked, “*Do you support Australia becoming a republic?*” which is interpretable as a shorter version of the same referendum question. A voter who simply thinks they are being asked the same question is likely to vote “no”.

Evidence that the threshold question may be spoiled in this fashion is seen in opinion polling which shows that specifying direct-election of the Head of State will increase the percentage of positive response as compared to a standard threshold question. This indicates that some respondents are biased, and in my view this bias is generated in part from the perception that parliamentarians are specifically seeking the privilege of appointing an Australian Head of State – something that they cannot do under the monarchy. When the question specifies that such a privilege will not be granted, affirmative answers increase markedly.

If we take all the above into consideration, asking a better or poorly worded question has the potential to alter the result by many percentage points. It is a great concern that the long-term future of the nation could hinge on linguistics and minor technical issues.

Undecided voters

A further consideration on the concept of a threshold question is its presentation to undecided voters or those who are disinterested in politics. Under none of the policies of Australian political parties or the Australian Republican Movement, are wholesale changes being proposed to the constitutional system. Therefore that section of the electorate indifferent to fate of the monarchy is likely to be significant. The percentage of undecided respondents in polling data is usually in the double digits. In a study conducted immediately after the last referendum, 28.5% of respondents “did not care much” or “at all” about the result¹.

The issue for this bill is whether to attempt capturing indifferent voters. Considering the proposed text of the threshold question, the verb “support” suggests that indifferent voters should vote “no” in the proposed plebiscite because they do not consciously support republicanism, even though they may vote “yes” to change the constitution due to their equal indifference to monarchism. Hence a more preferable key verb would be “agree” or “approve” rather than “support”.

An opinion poll would normally provide for an undecided voter, by offering a neutral third option. Such an option would need to cover those voters who do not understand, do not have an opinion or have not decided; and this should be considered by the committee.

Blank cheque and other issues

The threshold question also requires the electorate to be able to vote in good faith. A clear example of this is the blank-cheque problem, which is the most frequently raised issue with respect to the threshold question. This is compounded by the nature of the threshold question as not truly consultative. It does not in itself contribute to the alignment of a republican proposal with public sentiment.

¹ Gow D, Bean C, McAllister I (1999) Australian Constitutional Referendum Study No 1018, SSDA, Canberra

A direct solution to the blank-cheque problem is to confirm further consultation by asking the question “do you favour Australia becoming a republic through the use of a model selected by the Australian people?”²

The threshold question can be criticised as lacking cost-effectiveness. As it currently stands, the result will be only marginally more reliable than sample polling. The threshold question may be only asked once, however sample polling is able to track opinion over time. Where possible the most cost-effective method of achieving a result should be employed. The question does not require the same level of legitimacy as a referendum as the result is non-binding and it not likely to produce any new or valuable information.

It is my view that the threshold question should be part of a clear, well-publicised process model that has bi-partisan support. At the very least, the question should be presented in the context of authorisation of a genuine consultative process. If the process was established, more questions could be asked and thus greater value would be obtained out of the plebiscite.

Additional questions

The other plebiscite question often proposed by republicans is called the model question. The issue with the model question is that these invariably refer only to the models canvassed by the Republic Advisory Committee of 1993. The McGarvie model is often excluded even though it was the second most popular model at the Constitutional Convention of 1998.

In addition to the threshold question, it is possible to ask other broad questions to provide insights into the views of Australians. These would assist in developing models that would be more closely aligned to public sentiment.

The following questions are not specific to any model and meant to be merely indicative of the concept proposed in this submission:

- Should a republican Head of State be more independent of the Prime Minister?
- Should a republican of State have a greater role of protecting the constitution?
- Should a republican Head of State avoid making controversial speeches?
- Should politicians be prevented from immediately becoming Head of State?
- Should the new republic have a bill of rights?

It is with questions such as these that the process would involve real consultation and these would assist in eliminating the blank-cheque problem and contributing to the development of republican models without being a models plebiscite.

² Dr B. Gardner (2004) submission 482 to the Senate Inquiry into an Australian Republic

CONSTITUTIONAL ASSURANCE

Having reviewed the specific proposal of a threshold question, it becomes necessary to provide the context of what is meant by alignment and how consultation is not primarily concerned with meeting the unspoken demands of the people, but providing assurance that republicans are to offer the best possible constitutional system.

The threshold question may identify a majority that agree with the movement about a republic in principle, however the contentious element has been the provision of assurance that the proposed system best serves the Australian people and nation. The two legs of this are benefit and risk, and in this section there is emphasis on the latter.

Quality criteria

It is possible to develop a set of quality criteria identifying constitutional models with a basic level of functionality and or practicality. Although republican debate is focused on tipping points, such as dismissal or direct-election, there are range of non-controversial criteria that are obvious but may not be met by the first drafts of a proposal. Example of these include:

- Resolution of all constitutional deadlocks
- Avoiding conflict of interests in a constitutional decision
- Able to estimate the cost of a constitutional process
- Powers of the executive government are not expanded
- Justiciable and non-justiciable decisions are distinguished³

The determination of some criteria is a political process, however in others there are technical issues to resolve. Presently, the relationship between criteria and design is far too informal. The result is difficulty in assessing the practicality and benefit of constitutional reform.

A safety culture

It is one of the clear positions of constitutional monarchists that constitutional change can introduce unknowns and surprises into our system of democracy. This position has been countered with argument, whereas a superior response would involve dedicated investigation and research into specific issues raised.

In industries where it is important to minimise risk, such as in aviation, a safety culture has been fostered to deliver a reduction in accidents and injury. It is an environment where procedures and behaviours are encouraged and developed to identify and respond positively to mistakes, errors and disagreements.

The constitutional system, whether under the status quo or in consideration of a republic, has inherent risk. Although Australia is a very stable country, the opportunities for crisis exist and there should be no room for complacency or expediency.

My view is that constitutional change deserves a safety culture, yet it is undertaken in a political culture. Much attention is given in republican circles to the plebiscite process. Although a plebiscite has democratic legitimacy, being a political process it doesn't within itself deliver the sort of public assurance that will eventually carry a referendum. I intend this

³ Compiled based on suggestions from Mr Peter Crayson

statement to include the lack of assurance implicit in the blank cheque argument and other assurance issues that will undoubtedly arise.

In a political process, voters are perceived to be scared of voting for a proposition that carries risk. Hence it appears politically necessary that the change to a republic should be risk free. In reality, voters know that there are risks no matter the way they vote and in the case of constitutional reform it is far more crucial to have integrity of process – namely that risks are identified and mitigated against as far as practically possible.

A quality assurance paradigm

The practical step in reducing any risk is to adopt a quality assurance paradigm. The paradigm would outline the methodology by which proposals for constitutional reform could be designed, implemented and tested.

Arms-length assessment would be an integral part of this paradigm. Although every proposer has the good intention of providing sound detail and research, it is not realistic that self-assessment can be relied upon to provide a satisfactory outcome. The same provision must apply equally to the efforts of a committee or a convention.

We need to reject the adversarial system in the assessment of proposals, except during the final stage of an actual referendum. The adversarial system encourages proponents to argue for their models and proposals, rather than make adjustments. A good proposal should aim to adapt to new information and fulfil a wide range of expectations, rather than conform to a single philosophical/ political perspective or narrow range of expectations.

Access to all resource materials should be available to all members of the public, whether assembled by government, organisations or privately.

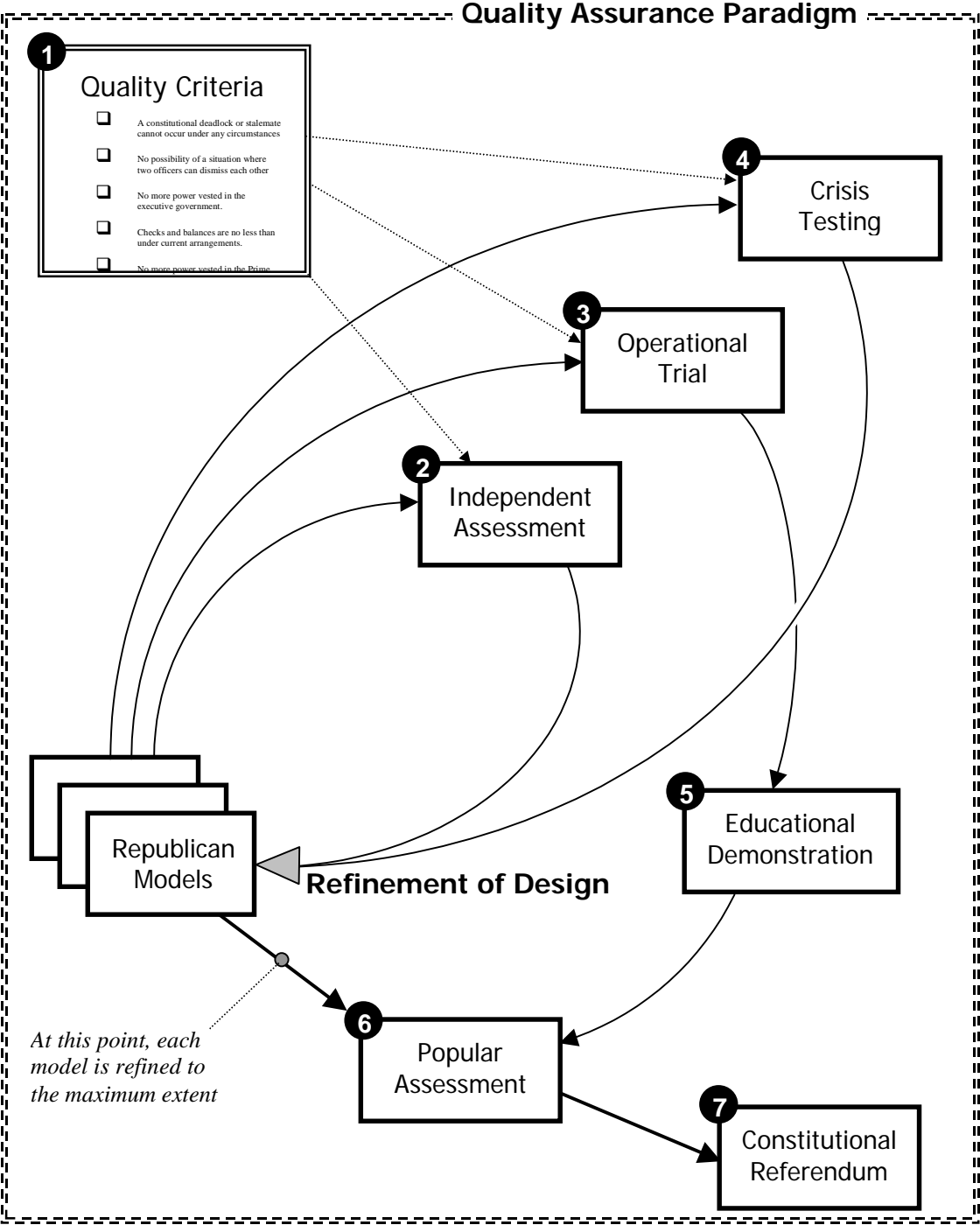
Demonstrations and trials are an excellent method of proposal assessment. They would be the equivalent of the test flight used in aviation. Today, very little has been done in this area, however a trial is often the best way to demonstrate a working model in action, to uncover defects, take corrective action and improve practicality.

There are many ways of conducting trials. Volunteers could assume roles under a constitutional proposal such as the President and the Prime Minister. The trial would demonstrate the model in terms of its fundamental comprehensibility and workability. Volunteers should be able to use the model provisions to achieve basic constitutional outcomes such as assenting to bills, appointing a High Court Judge and managing a minority government. All models should undergo some form of trial before it is put to the people, just as medicines undergo rigorous testing before they are employed by our health system.

The diagram on the next page attempts to provide a framework for the previous discussion. The criteria for assessing a republican proposal are separate from the proposal itself. The model undergoes refinement, first through independent assessment, then by operational trials and testing under crisis conditions. These processes take place publicly in a transparent fashion. They should be open to scrutiny by any interested person.

Only a model refined to the point where no further development is necessary is put to the people either in a plebiscite or referendum. This is no different to insisting that a vehicle has been crash tested before it can be purchased by a driver.

Further information about assurance should be obtained from experts in the safety, assurance and quality fields. A great deal of work already exists on these subjects and it can be easily adopted for the purpose of constitutional change. Some of the best safety professionals work for the Commonwealth in organisations like ANSTO and CASA, the latter having even developed safety management software.



The Parliamentary Education Office

Parliamentary Education Office (PEO) in Parliament House Canberra has the role of educating primary and secondary school students in our system of parliamentary democracy, through a mock parliamentary process. In June 2004, I was fortunate to observe the process, seeing the method as also being applicable for the assessment of the constitutional reform necessary to establish a republic.

In Parliament House a room is arranged in the same formation as a House of Parliament. There are a number of props to complete the impression, such as a mace, speaker's chair and dispatch boxes.

On the day of my visit a Year Seven class from Queensland were to be inducted. They immediately took positions on both the government and opposition benches. Within a few moments, the PEO educator was assigning roles to the students. The Speaker, Prime Minister and Leader of the Opposition were selected and given instruction sheets. Two independents sat on the cross benches.

At two minutes into the session, the parliamentarians were standing as the speaker entered and opened the parliament, using the instruction sheets provided. Use of the sheets was continued into a debate on a bill to ban violence from cartoons. The session quickly moved to unscripted debate. A division was called and the government won the final count. At this point the PEO educator allowed questions.

It was easy to see how though demonstration the merits of our parliamentary system can be understood and assessed. It is difficult to make adequate assessment based on written material alone.



Image from www.peo.gov.au

It should be pointed out that although this session involved Year 7 students, the same basic methodology is applied for older students. The PEO have experience in performing these demonstrations for adults

After the session, I was able to have a break with the educator and the PEO deputy director. They expressed faith in the capacity of the simulation to communicate and demonstrate democratic processes. A simple trial of any constitutional amendment would provide immediate insights into its practicability and desirability.

With respect to the republican debate they also see community groups successfully using the format of a parliamentary inquiry to examine republican models in an engaging way.

I encourage Senators to spend thirty minutes as a silent observer of a PEO educational session to observe how parliamentary processes are explained.

THE SPECTRUM OF POWERS

The most critical design question when developing a republican model is the amount of power to be offered to the nation's president or head of state from the total powers the constitution grants to its executive government. In the Australian context, this question has rightly centred on proposed distribution of power between the Prime Minister and the Governor General.

It is possible to outline a spectrum of powers within which the power of a proposed Head of State can be compared in various republican models. The objective of this paper is to visualise this key design question of presidential powers.

The success of the bi-partisan appointment model up the referendum will be shown to be due to its position in relation to other models considered by the Australian Republican Movement, Republican Advisory Committee and the 1998 Constitutional Convention. Was it the best position from which to pass the test of a national referendum?

The spectrum involves making assumptions about how a republican government must operate at its most general level, and its in breaking these assumptions that other republican models can be envisaged, one of which could prove to be Australia's republican future.

Legal and political power

The powers of the existing Governor General, Prime Minister and proposed Presidents must be considered from at least two perspectives:

- Legal power as described in the constitution and laws, which can be limited by political action, convention or precedent.
- Political power derived from the authority associated with how an official obtains their position, their mandate and influence, limited by the constitution, laws and courts.

The United States offers its President a large amount of both legal and political power, the consequence being that no other official in that country compares in terms of executive authority. The political dominance achieved there is clear and incontestable.

Many democratic republican nations and true Constitutional Monarchies such as Ireland and Great Britain, offer their Heads of State moderate legal power but little political power. The consequence is that the Prime Minister holds more executive authority, although they are not quite in the incontestable position as their counterpart across the Atlantic.

Republican models builders have reflected that the relationship between the Governor General and the Prime Minister in Australia is generally equivalent to the relationship between the Queen and the Prime Minister of the United Kingdom. With the exception of a few proponents of an executive presidency, all republican models attracting a minimum level of support at the Constitutional Convention have used these relationships as archetypes.

Their conclusion has been that a future Australian Head of State should be conferred with similar legal powers to the present Governor General.

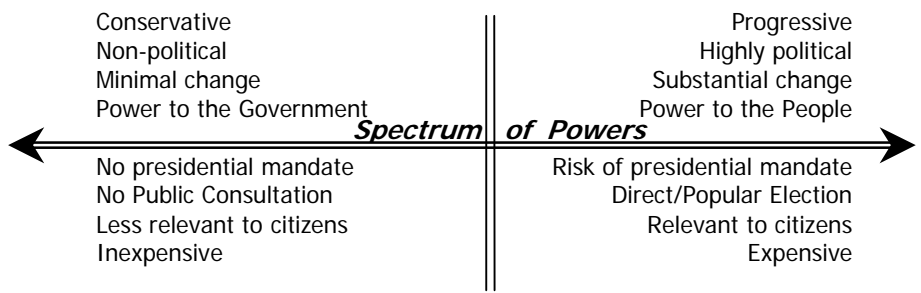
Despite the constitutional fact that these legal powers are important, to reduce or mechanise them would involve codification of constitutional conventions and reserve powers, reducing their effectiveness in event of constitutional crisis and opening the possibility of the repeal of Presidential decisions in the courts. Model designers have sought to avoid the complexities of codification, legal and political, and accepted the reasonable conclusion that the changes could make the constitution inflexible, perhaps even unworkable.

As a consequence, these republican models assume the essential powers of the Governor General are transferable to the new Head of State and have used the appointment and the dismissal provisions of their model to limit the level of the President's political power.

For example, the appointment provision in the bi-partisan appointment model involved community consultation, a nominations committee, the Prime Minister, the Opposition Leader and finally a joint sitting of Parliament – the effect of which was said to bind the President to the Parliament and the people without an election or mandate and give the President a similar level of authority to the present Governor General without politicisation. The dismissal provision was said to ensure the President observes the same conventions as the Governor General.

Critics of various republican models have noted that assigning power to the President occurs at the cost of the Prime Minister's authority. In the case of the dismissal provisions of the bi-partisan appointment model, some critics concluded that the Prime Minister was offered more power at the cost of the proposed President.

An exception to this has been some of the individual efforts to completely redraft the constitution, which either codify the powers of the President or assign them to another constitutional actor such as the Chief Justice of the High Court or the Speaker of the House of Representatives. None of these has yet developed into a popular model due to, in the former case, the complexities of codification. In the later



Above: Introduction to the Spectrum of Powers

are ongoing political implications for the government and a possibility that the constitutional arrangements will evolve so that executive political power is shared between the President and Prime Minister.

case, transferring power to another actor complicates understanding of the model and the implications.

Construction of the spectrum

The spectrum of powers diagram attempts to make linear the distinctions between the popular models for an Australian Republic. The assumption behind the linear nature of the analysis is that the models are distinguished far more significantly by the political powers assigned to the President (as described previously) and less so by their legal powers.

The diagram above shows the spectrum in terms of its conservative and progressive extremes. A number of general terms are used to describe the extremes of the spectrum.

A model that allows the Prime Minister to appoint and dismiss the President with no restriction would appear on the extreme conservative side of the spectrum. It is minimal change given that the existing conventions allow the Prime Minister to effectively do the same. There is low interest in the appointment, given that the office is subordinate in all but name to the Prime Minister.

A model that allows open nomination and direct election would appear on the extreme progressive side of the spectrum. The electorate is entirely involved in the election of the President, which involves political campaigning. There

Comparing models

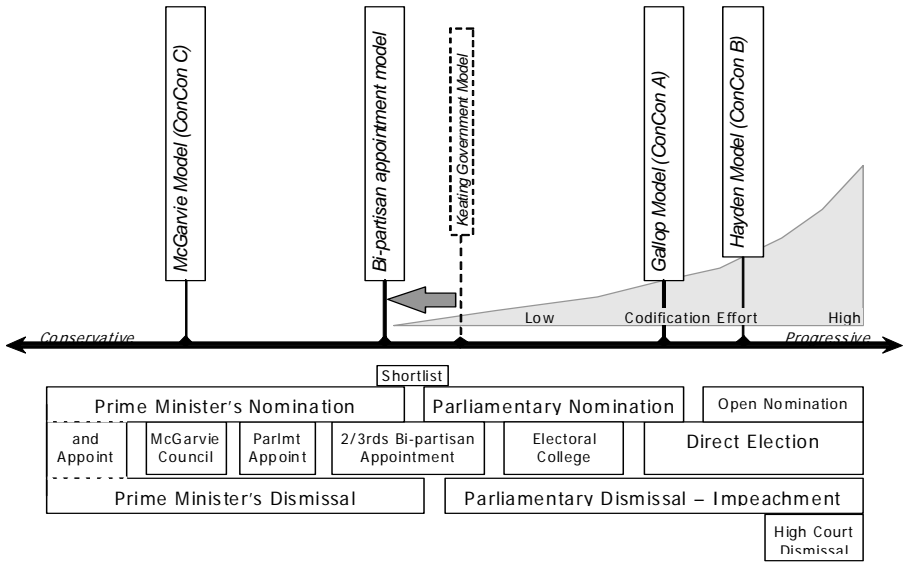
Between the conservative and progressive extremes are a number of popular republican models, including the bi-partisan appointment model and those being suggested for a future plebiscite. The diagram below provides the relative positions of these models on the spectrum of powers. Below the line are the main provisions of the models, which themselves indicate where a model belongs on the spectrum.

The line itself is marked *Conservative* at one end and *Progressive* at the other, although these general terms should be preferably understood in the context of republican model building.

Five specific models are shown by the block diamond on the line. These are the four models voted upon at the Constitutional convention, plus the 1993 preferred Keating Government Model (also preferred by the ARM during those years). An arrow appears to indicate the change in ARM position between the time of the Republican Advisory Committee and the conclusion of the 1998 Constitutional Convention. It is likely that the most popular direct-election model of the convention – the Gallop Model, moved in a conservative direction while being developed there.

Below the line are the general features of the models. The organisation of these along the spectrum is meant as a guide.

In the final analysis the decision as to whether a feature is more conservative or progressive is partly a question of opinion, partly a question of common sense. Furthermore there are anomalies, unavoidable as the further detail of each model is explained. The obvious example is the organisation of Prime Ministerial dismissal, for which the McGarvie model is less conservative than the Bi-Partisan Appointment model.



Above: Popular Republican Models compared on the Spectrum of Powers

Finally the diagram indicates that the codification effort for the more progressive models is greater for those holding the conservative positions. The triangle height is indicative of the effort and if more models appear on the progressive side of the spectrum, the

codification effort, that is the legal powers, would be in need of some elaboration.

Other new models which appear (with the exception of Copernican Models) are likely to accept the contention that they are either conservative, progressive or somewhere between. The progressive models are likely to attempt a codification of the President's powers such that the reserve powers of the Governor General are limited, eliminated or transferred.

Assessing popularity

The Presidential Power Spectrum can be used to show the difficulty of obtaining success in the Parliament, which must agree to formulate the changes and success in the electorate, where a majority of electors in a majority of states must say yes in a referendum. Both the Parliament and the electorate have different conservative and progressive elements and this generally determines whether they, firstly, approve of any change and then, secondly, the type of republican models they have confidence in.

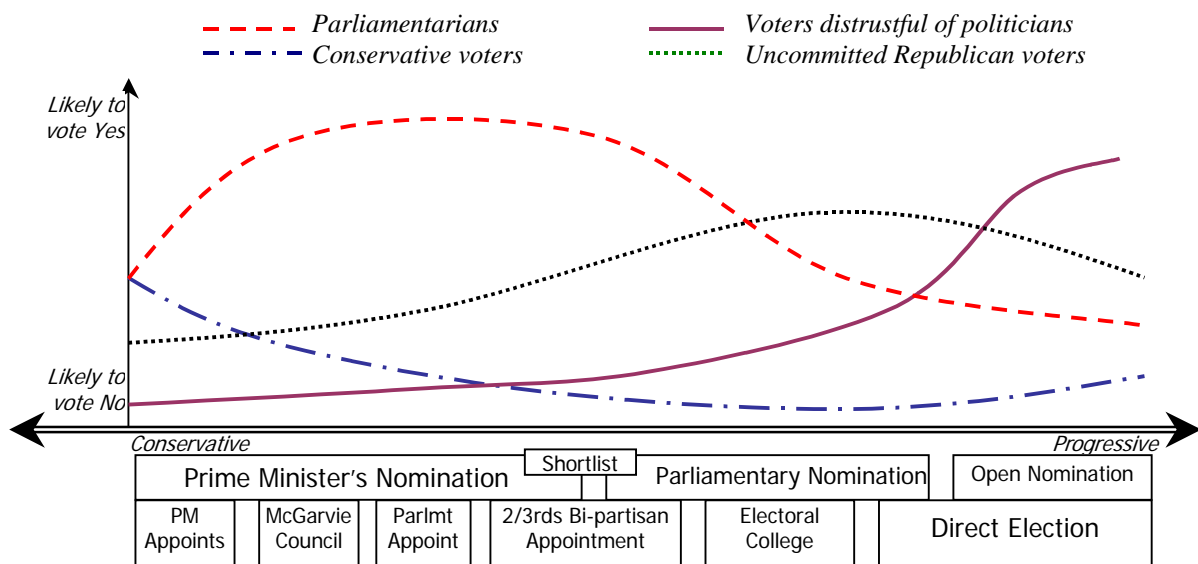
In the diagram above a voting block of electors who hold certain beliefs about the move to a republic are tested against the conservative, moderate or progressive models on the spectrum. The test results appear as a support curve on the spectrum. Note that no polling has been used to create this document, so the results presented are only theoretical. The parliamentarian group, who should have a well developed understanding of the political system, are inclined to vote for a moderately conservative model and adverse to the change

and cost of direct election. Conservatives vote for conservative models but in some circumstances for conservative systems. A voter distrustful of politicians will reject involvement by parliamentarians even at the nominations stage while strongly supporting direct election. A republican voter, uncommitted to any model, could be supportive of all, but polling data suggests they are likely to support the more conservative of the direct-election models.

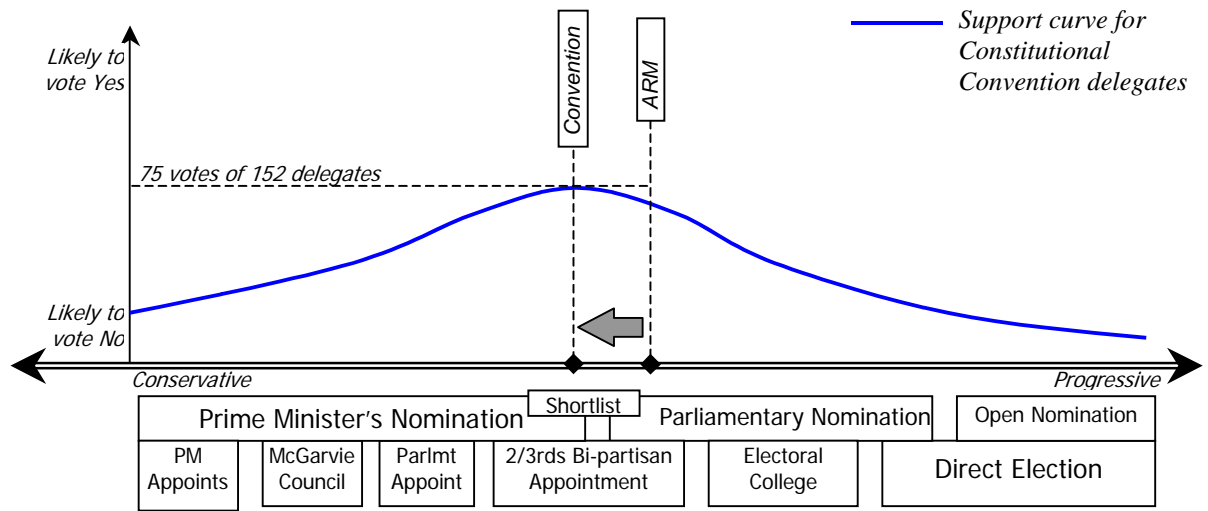
The spectrum projects the well understood idea that majority support from parliamentarians doesn't always translate as electoral support sufficient to pass the test of a referendum.

The strategy for republicans, who are flexible in their support for a model, has been to find the centre then broaden the provisions outwards to accommodate the beliefs of republicans on both the conservative and progressive side of that position. This is why the ARM preferred model was to incorporate a nominations committee (a progressive concept) and prime ministerial dismissal (a conservative concept). These in turn were modified so that the nominations committee short-list was not binding on the Prime Minister (conservative) and a prime minister's dismissal would be ratified by the Parliament within 30 days (progressive).

Although most discussion about models is about whether the provisions of a model are good or bad, advantageous or disadvantageous, popular or unpopular the underlying assumption behind the strategy is that support for a model is greatest in the middle. For republicans not committed to a particular model, finding the ideal compromise position is the key to success.



Above: Theoretical Support Curves along the Presidential Power Spectrum



Above: Finding the Middle along the Presidential Power Spectrum

Supporters of the compromise strategy would accept the support curves described in the above diagram. It shows that at the convention the bi-partisan appointment model, introduced by ARM delegates to the Constitutional Convention, was moved to a slightly more conservative position through dialog with other delegates.

Further conservative movement would have reduced the total support for the model. An example of this was the Bishop amendment, which would have attracted slightly more support from conservative delegates but would have lost the support of even more progressive delegates.

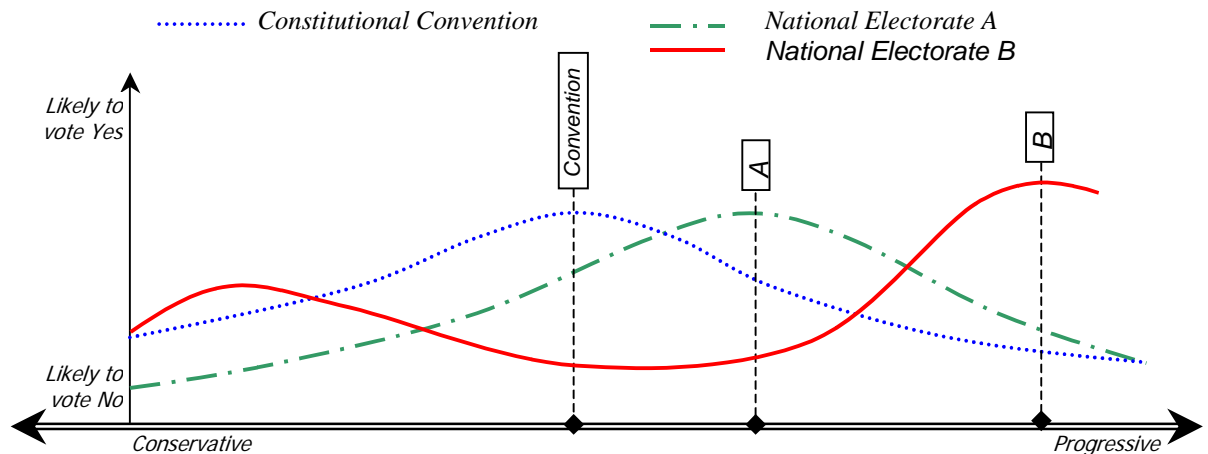
Achieving compromise to produce a model with the highest possible support does not guarantee majority support and this did not happen at the convention. What it does show is that no other model, not just the models voted upon and not even any hypothetical model that may have developed after further discussion or lobbying, in fact, no model whatsoever on the spectrum of power could have achieved higher support.

The spectrum at referendum

The support curves for the referendum itself may not be read as simply. The success of the NO campaign has been largely attributed to its appeal to both conservatives and progressives. What does this say about the support curve that could be drawn for the national electorate?

In the diagram below there are two views of the electorate A and B. The A support curve represents political common sense. It says that the range of views present at the convention was also present in the electorate. It says that the best strategy to win a referendum is to find the centre and then broaden the appeal of the proposal outwards. If the electorate is more progressive than the convention delegates, this is reflected by a progressive movement of the support curve. The result is model A – the best chance for a republic under these assumptions.

The B support curve represents a perspective of the electorate according to some advocates of direct-election. It is a purist's view, proposing that the best chance of constitutional change cannot be achieved by mere compromise. Under this support



Above: Referendum perspectives along the Presidential Power Spectrum

Plebiscite solution

The most popular work-around for the paradox is to offer the electorate a plebiscite. The rationale for a plebiscite is that the results will unite republicans behind the most successful model. Once the debate on the model has been concluded, it is more likely that a referendum will succeed.

The ARM propose a number of models all of which appear on the spectrum of powers. In addition there is the McGarvie model.

It is likely that no model will attract majority support in the plebiscite. This in itself may indicate that the most attractive model is unlikely to pass at a referendum, however the plebiscite solution assumes that republicans will agree to support the winning model in the interests of achieving the goal. Unfortunately, we would need to imagine that republicans supporting a McGarvie-like model would, after the plebiscite, realise that their objections to more progressive models were groundless. Alternatively, we could imagine that direct-election purists would abandon their deeply held democratic ideals and support an appointment system.

There is no evidence that this would happen. McGarvie model supporters believe that the status quo is unequivocally better than directly-electing the President. As the referendum showed, direct-election purists would rather work with monarchists than accept parliamentary appointment.

Finally, it is likely that the support curve will move between the plebiscite and the referendum. The most attractive model in one year may be substantially different three years later, especially if a number of compromise provisions are included during the intervening period.

In conclusion, the plebiscite proposal is likely to affect only the margins of the republican model debate. The support advantage from winning the plebiscite may not translate into success at the referendum.

Three unsuitable solutions

The republican paradox exists because no model along the spectrum of powers can satisfy both the progressive and conservative sides of the debate.

To unlock the paradox, the model maker should begin to consider proposals that do not appear along the spectrum of powers. There are three known solutions to this problem.

The first solution is keep with the status quo. The legitimacy of the Queen has no political basis and the Governor General borrows this apolitical authority.

The second solution is to codify the powers of the President, extinguishing the reserve powers. This leaves the President with legal powers and no political power. There are a small number of republican models which attempt to do this, but they involve a radical redrafting of the constitution.

The experience of politicians and political experts is that redrafting the constitution is extremely unlikely to win the favour of the electorate. There is almost no possibility that a majority of the people will consider a new system as safe, especially when the objective is to remove the Queen from our political system and when confidence in our constitution remains generally high.

The third solution is to establish an Executive Presidency, either within or external to the Parliament. A small group of direct-election republicans are in favour of such a solution, however the revolutionary changes required are generally regarded as unsaleable to the electorate.

The current stalemate

The paradox leaves the republican debate and republican movement stalemated, and those within the movement are well aware of the problems in trying to move forward. The promotion of a national plebiscite is evidence of the belief that there are no real solutions. They look to the electorate for a direction – a firm decision to resolve this stalemate.

The capacity of model makers to find republican models that do not appear along the spectrum of powers has its origins in the original terms of reference for the Republic Advisory Committee. The fundamental assumption behind the terms of reference and thereby all the models canvassed has been to remove the Queen and it doing so, promote the Governor General to President.

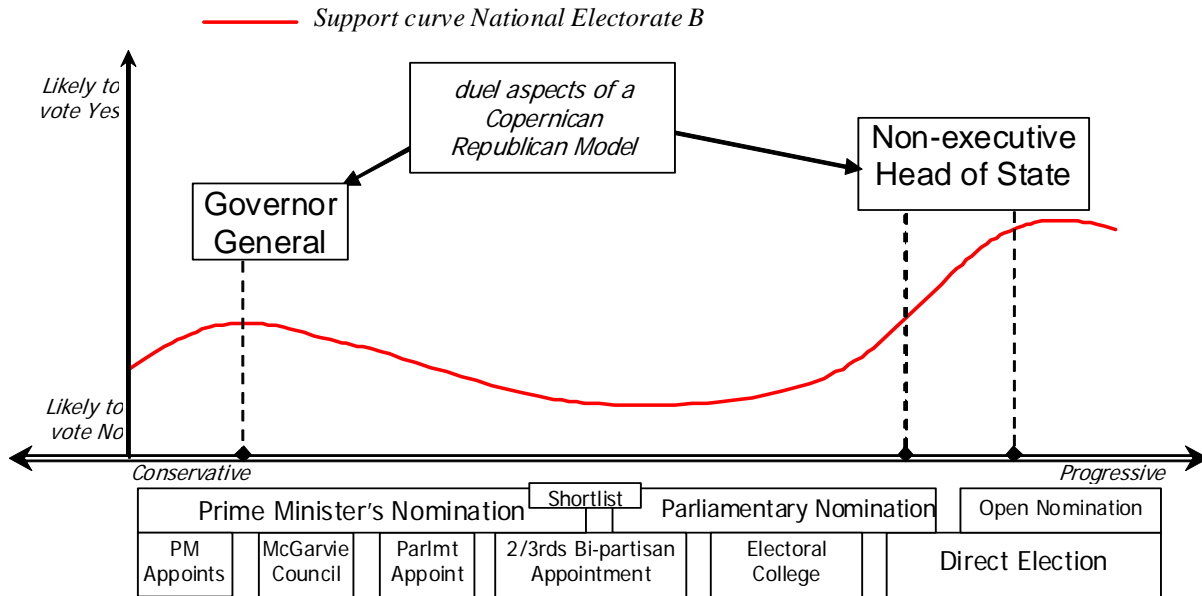
The advantage of the spectrum of powers paradigm is that it demonstrates that these fundamental assumptions can be revisited. In fact, they must be. The alternative is a republic that is less sensible, less reasonable and less practical than the status quo – a republic just scraping over the referendum line if at all.

A fourth solution

We have already uncovered three solutions to the spectrum of powers. The first is to maintain the status quo and this solution was refected in the results of the 1999 referendum. The second solution is the codification of all the powers of the President. The third is an executive President. As discussed, while these resolve the paradox, more problems are created than are solved. In the case of the status quo, nothing changes.

The fourth solution is to revisit the fundamental assumptions that to remove the Queen, that her powers must be combined with those of the Governor General and offered to the President. A new alternative is to replace the Queen with a President and leave the position of the Governor General unaltered.

A Copernican republican model uses this alternative method of establishing an Australian republic. The Head of State is qualified as a Non-executive or Honorary President to demonstrate the position is entirely ceremonial.



Above: The duel aspects of a Copernican Model

Such a model cannot be placed on the spectrum of powers in just one position. Existing models establish or alter one position, yet this model establishes or alters two. Let this be called the duel aspects of the model. The consequence is that the model sits in more than one place on the spectrum of powers.

The Governor General on the conservative side of the line holds the first position. They are nominated by the Prime Minister but are appointed by the Head of State. The function of the Head of State is equivalent to McGarvie's Constitutional Council in terms of its conservative appeal.

The other position held by the Head of State is highly progressive. Two positions are shown to indicate that candidates for election are accepted via two methods – public petition and parliamentary nomination. The former method should have the greater support.

After introducing support curve B (discussed earlier) we can see that a Copernican Model sits in an interesting position. It appears to take advantage of support from either end of the spectrum of powers. Although we must factor in a reduction of support from voters who cannot or will not break their republican assumptions, the position of the model appears to be favourable in terms of overall support.

The conclusion of this essay is that a Copernican Model could be a highly popular model in the eyes of the electorate. It could accede to the wishes of those progressive voters who desire a popularly elected Head of State, without objection from conservative voters concerned that such an election would destabilise our existing system of government.

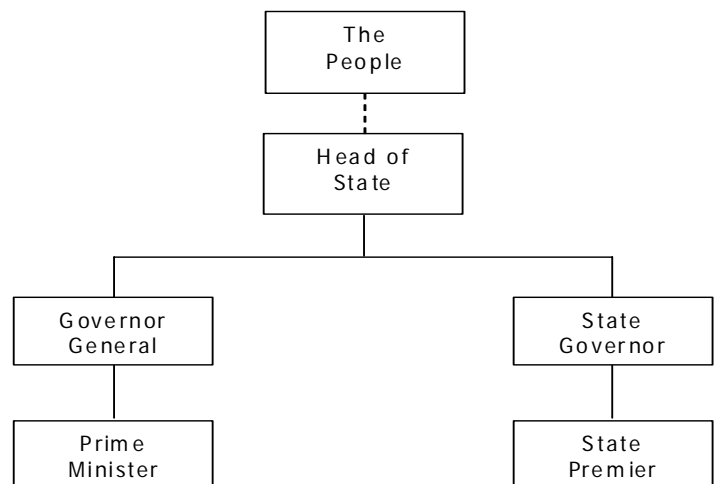
COPERNICAN PARADIGM

The Copernican Republican Group advocates a class of model retaining the Governor-General and state governors without promoting the former as Head of State. We propose replacing the Queen with an elected Australian who would perform the ceremonial duties of a national representative and have one codified power to appoint and dismiss governors with very limited or no discretion, at the behest of the Head of Government (Premier/Prime Minister).

While most other republican proposals merge the roles of Governor-General and Head of State, recent experience has shown this to be a superfluous and divisive step which will hinder any chance of success for a republic. The merging of these roles is not appropriate for our unique system of government which features broad, undefined reserve powers and a strong upper house.

The Copernican Republican Group advocates only the necessary steps to achieve a republic. The reserve powers are preserved with the Governor-General and state governors who are not elected, have no mandate and can be dismissed through the initiative of the Head of Government. In mirroring existing arrangements, the least constitutional concern is generated. Australians oppose any potential for the politicisation of the new Head of State, yet it was firmly established by the 1999 defeat that direct-election is the only appointment method acceptable to voters. Fortunately, this is not an issue in any of our proposals. By establishing a ceremonial position, independent of the Prime Minister and of Parliament, we satisfy this popular requirement without involving the executive government or any form of direct parliamentary controls.

Absent of real executive power, the Head of State would be above politics. Furthermore, in creating a new position we would be free to include a range of anti-political devices without unwinding the checks and balances defining the governor-premier relationship. These could include a one-term limit, a proscriptive candidate campaign process and/or use of a voting system which does not support preference deals. The merit of any device would be based only upon its capacity to maintain the apolitical nature and dignity of the Head of State.



Above: Proposed Hierarchy of Executive Government

The Copernican approach appears anti-intuitive to some republicans, however it is fundamentally a continuation of our existing constitutional framework that has always included a Head of State and Governor-General as separate officers and with specific constitutional powers. The main criticism seems to be that our existing nine ceremonial positions would not be reduced to eight - hardly a problem in a nation that has grown fourfold since 1901. A cost analysis revealed that the additional expense of the office of Head of State would be far less than the hidden costs of other direct-election models at the state level.

Further information is available at the Copernican Forum: <http://www.7gs.com/copernican>