

Squabbling over “head of state”

Second submission of John P. Costella, Ph.D.
to the Senate Inquiry into an Australian Republic

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Dear Senators,

Recent debate over the republic has degenerated into a semantic squabble over the term “head of state”. In this brief submission, I argue that this argument is drawing attention away from the real issues that need to be debated; and that, in fact, much would be gained by republicans *accepting* the monarchists’ thesis on this point.

Republicans have often phrased the republic question in terms of making an Australian our “head of state”. This seemed to be an innocuous way of explaining the issue to the general public until the mid-1990s. At that time, the monarchists began to argue that our Governor-General is in fact our “head of state”, with the Queen our “Sovereign”. This dispute has grown in volume in recent years, to the point that it is now drowning out all other debate.

Sir David Smith has recently made a lengthy, detailed and valuable submission to this Inquiry on this very issue (as have others, such as the AIDC). Added to the other evidence that has been provided over the years, it seems to me that there is no doubt that the term “head of state” has no intrinsic or fundamental definition in the case of Australia, and that the balance of evidence seems to provide stronger support for this term being applied to the Governor-General than to the Queen.

Indeed, since making my first submission to this Inquiry, I have realised that my own first publication on the republic issue, in 1994, implicitly equated the Governor-General and the President as both being our “head of state”. Other articles in the media have done likewise, as did the Keating Government’s own *Commonwealth Government Directory* (see the AIDC submission).

I ridiculed the idea of the Governor-General being our “head of state” in the first proofs of my recent book (submission 25a to your Inquiry), but I would now like to concede that I was in error. I have since altered that section of my book to more fully discuss the issue, in line with the opinions I am providing in this submission. (Updated proofs are available from my website.)

The fundamental point is that most republicans wish to give a republican President powers that, to a greater or lesser degree, more or less correspond to those of the Governor-General today. In a republic, the President would, axiomatically and constitutionally, be the “head of state”. It therefore seems logical to describe the Governor-General today with the same term. The paradox arises because, with such a designation, the “head of state” of Australia

today is *not* at the apex of our constitutional arrangements. Our “head of state” is appointed by the Queen, who is the head of state of another country, namely, the United Kingdom.

Republicans have long pointed to this absurdity as a reason for rejecting the thesis that the Governor-General is our “head of state”. I, too, held this view until recently. But I now believe that we should *embrace* this absurdity as illustrating most clearly why we should become a republic!

The monarchists’ insistence on using the word “Sovereign” for the Queen has seemed to many of us republicans as being mischievous pedantry; but if one gives the suggestion its due credence, the clarity of the republic question is, actually, greatly improved.

The republic debate *is*, fundamentally, all about *sovereignty*. Today, the sovereignty of Australia is held by the Queen, and will be passed down through her family when she dies. Everyone agrees about this: the monarchists insist that we describe the Queen as the “Sovereign”. Republicans want the sovereignty of Australia to be removed from the British Royal Family, and transferred to the Australian people.

Such *popular sovereignty* does not necessarily imply that the President (the head of state) necessarily needs to be directly elected—they could, in principle, be selected by the Parliament or the Prime Minister, because these people are themselves elected by the people (although I have argued in my previous submission that no option other than direct election is likely to be approved by the people at a referendum). It simply means that there is no artificial and foreign “Sovereign” sitting at the apex of our constitutional arrangements, as there is today.

Sir David Smith and Professor David Flint have argued that, if republicans can accept the semantics of our Queen being “Sovereign” of Australia rather than our “head of state”, then the debate about the republic could proceed sensibly on the substantive issues. Although I cannot in any way speak for other republicans, I, for one, am prepared to concede the point, accept the common sense of their proposal, and accept their challenge to publicly debate the republic issue before the wider community.

Do Australians really care whether the Queen is called our “head of state”—a term they had never heard of until the republic debate started? Of course not. Some Australians wish to keep the British Monarchy; most wish to take the final step in our evolving independence. The sooner the debate returns to this fundamental issue—and the concomitant issues related to the powers of the President and the method by which they are appointed and dismissed—the sooner we are likely to make real progress towards an Australian Republic.

Sincerely,

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