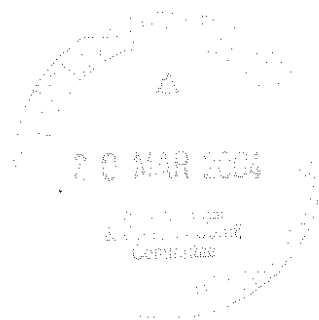


28th March, 2004

The Secretary
Senate and Legal Constitutional Reference Committee
Parliament House
CANBERRA ACT 2000



SUBMISSION TO : INQUIRY INTO AN AUSTRALIAN REPUBLIC

Dear Sir/Madam,

Enclosed are two answers to two statements which require answering before instigating an inquiry into whether or not Australia would benefit from becoming a Republic

"That a Constitutional Monarchy is a better system of government for a federation" - Historical background

Most Australians are aware that one of the main reasons for the 1788 British penal colony in NSW was the loss of the American colonies in 1783. The need for a place to send convicts was of paramount importance.

The fact that the penal settlement established in 1788, with an autocratic government, could be granted Responsible internal self government with Ministers of the Crown and two houses of parliament by 1856 - that is in 68 years, is incredible. During this period the United States of America in 1787 created a great Presidential Democracy with glowing introductory words about the blessings of liberty etc. But it took them until 1863 to free their slaves - 76 years, and the slaughter of about 600,000 of their citizens in the Civil War of 1861-65, is even more incredible.

Meanwhile the concept of self government quickly developed on the Australian continent. The settlements in Hobart, Melbourne, Adelaide and Brisbane also became self governing colonies. Western Australia, which had never been a part of NSW, was the last to gain Responsible Government in 1891.

The concept of federation took some time to gain momentum. Fortunately there was much common heritage to encourage federation. The settlers were the same people, Each self governing colony had responsible government and they all shared the same Constitutional Monarchy. Some historians argue that the concept of Constitutional Monarchy was the glue waiting to bind the fledgling federation.

The late Sir Robert Menzies once stated that democracy does not come from the top. It comes from the bottom. Our constitution was not just an act of the British Parliament. Nor was it an act drawn up by our Australian politicians. No, it was produced from input to a Peoples' Convention representing all the self governing colonies. Then it was approved by referenda in each state. Having been approved by the people it was then passed into law by the British parliament. The people chose Queen Victoria and her heirs and successors as our Sovereign. There could not be a better example of democracy coming from the bottom.

Now, 104 years later we are still united and have joyfully celebrated the first century of one of the world's oldest complete democracies. From almost day one our federation has enjoyed universal adult suffrage and the secret ballot. Preferential voting commenced in 1919. Our constitution separates the powers of the Executive, the Legislature and the Judiciary.

"That a Constitutional Monarchy is a better system of government for a federation" -Historical background(cont'd)

Further the powers of the Federal Parliament are well documented. This ensures that the states can deal with local matters. This in turn enhances the British inheritance of self government, best summed up as the delegation of power.

All these measures limit the centralisation of power. In a Constitutional Monarchy all executive authority is delegated. In a republic executive authority is attained by gaining power. Power once attained is seldom delegated. Clearly a system of government based on the delegation of power is best for a federation.

If we remove the monarchy from our federation with its vital convention of the delegation of power, will there be a move towards centralism? Have the powers of an elected head of state been codified? Have we a Bill of rights to enhance our freedoms once we lose the umpire of our Monarch? What will happen to our freedoms, our stability and our Parliamentary democracy?

Think very carefully of our future. There are very few successful republican democracies. Successful federal republican democracies are even fewer. None of them can compare with our freedom, stability or parliamentary democracy.

"That problems exist in a Federation based on Republicanism"

The Australian Constitutional Monarchy is an established well tuned and tested form of government. It was designed by Australians for Australians. It has withstood the sacrifices of two world wars, a wretched depression, involvement in numerous small wars and an ever expanding migration program of many races and creeds.

Like an anchor chain it's strength is in its weakest link. But each link or state has been case hardened. Each state in our federation plays its part in strengthening our nation. Because of our geography and harsh hinterland many things divide us. However, each state has the same system of government with its Constitutional Monarchy based constitution. The things which unite us are greater than the things which divide us.

Although the preamble to our constitution refers in the words of the status quo of the 1900s in that we will be united under the Crown of the United Kingdom of Great Britain and Ireland, that statement is made invalid by the Australia Act of 1986. It is appreciated that our Republicans essay to make capital out of this unamended preamble, which is no longer valid. According to the Australia Act of 1986 we are united under the Queen of Australia.

What worries supporters of the Australian Constitutional Monarchy is how a republican constitution will affect our Parliamentary Democracy. Remember we inherited our Westminster system. It was handed to us on a platter. We did not need to struggle for our inheritance. We did not need a war of independence. Our forbears just assumed that Britain's freedom, stability and parliamentary democracy, enshrined in history, would be ours and they were right.

That is why our constitution does not have a Bill of rights or inspiring preambles extolling the rights of man or liberty etc.

We should be mindful that our parliamentary democracy is an off shoot of Constitutional Monarchy. If we remove the monarchy with its 1,000 years of experience and legitimacy there will be anarchy if the elected head of state does not have clearly codified powers. That wonderful "safety valve", the reserve powers of the Monarch can not be assumed by a person beholden to his/her selectors, whether they be politicians or the Australian electorate.

That problems exist in a Federation based on Republicanism" (cont'd)

Currently our Australian Vice-Regal office bearers reserve powers are governed by the conventions exercised by the Sovereign. If they do not conform to these conventions their commissions can be withdrawn on the advice of Her Majesty's Australian Prime Minister or State Premiers.

Should there be another political crisis, similar to October/November, 1975 when the Parliament could not obtain Supply the reserve powers would be essential. In November, 1975 the Governor-General terminated the commissions of the Executive Councillors, appointed a Caretaker Cabinet, dissolved parliament and ordered an election. The ensuing election roundly endorsed His Excellency's action. Nothing could be more democratic.

To date no one has been able to ascertain how this situation would be handled if the head of state were to be elected by the politicians. As the head of state would be beholden to his/her selectors the concept of he/her appointing some of these MPs to exercise delegated authority and then being put in a position where he/she may have to determine these commissions is approaching the sort of scenario we all find entertaining when attending a Gilbert and Sullivan light opera.

Summation

1. Our Australian Constitutional Monarchy is the reason we have such a well run federation.
2. Electorates which have a large number of new settlers, many from Countries which are republican dictatorships, voted NO to the Republic in November, 1999.
3. There is no current evidence available to hasten the need for an inquiry into an Australian Republic.

Yours sincerely



GEORGE HALLEY