



COMMONWEALTH

GOVERNMENT

DIRECTORY

Governor-General and Commander-in-Chief

LAST UPDATE: 22.12.95

His Excellency the Hon.
Sir William Deane AC KBE

(appointment effective from 16.2.96)

Function: Under the Constitution, the Governor-General is the Queen's representative in the Commonwealth. He is the head of state in whom the executive power of the Commonwealth is vested. The Governor-General is also one of the three elements comprising the Commonwealth Parliament. His powers include: summoning, proroguing and dissolving Parliament; recommending appropriations; assenting to Bills; issuing writs for general elections; appointing and dismissing Ministers; submitting proposals for referendums; making Proclamations and Regulations; and creating government departments and making statutory appointments.

Canberra residence

Government House, Canberra ACT 2600
Tel. (06) 283 3533

Sydney residence

Admiralty House, Kirribilli NSW 2061
Tel. (02) 955 4095

Republicans say that a President exercising the powers of the Governor-General would be the Head of State. It follows that the Governor-General exercising the SAME powers NOW is Head of State.

The Official Guide

December 1995 - February 1996

The Commonwealth Directory edition recording the appointment of Major General Michael Jeffery AC CVO MC (Retd) as Governor-General and Head of State designate has not been published as at 7 July 2003.

Summary of Commonwealth Government Directories

A2

EDITIONS			
1	1978	<p>THESE EDITIONS</p> <p>DID NOT LIST:-</p> <p>"FUNCTION".</p> <p>THEY SIMPLY</p> <p>ANNOUNCED THE</p> <p>APPOINTMENT OF THE</p> <p>GOVERNOR GENERAL</p>	<p>"There should be no dispute about the fact that the Governor-General is the constitutional head of state of Australia, despite the arguments put up by remnants of the republican movement."</p> <p>Piers Akerman, <i>Daily Telegraph</i> 20 March 2001</p> <p>"He should amend the <i>Commonwealth Government Directory</i> to reinstate "head of state" in the job description of the governor-general and consider legislation which turns into law the conventions that the governor-general be an Australian citizen and is head of state"</p> <p>Paul Sheehan, <i>Sydney Morning Herald</i> 21 March 2001</p> <p>"Mr Keating realised even then that if he wanted to establish the president as head of state he would have to admit that the governor-general was the head of state."</p> <p>Paul Sheehan, <i>Sydney Morning Herald</i> 20 March 2001</p>
2	1979		
3	1980		
4	1981		
5	1982		
6	1983		
7	1984		
8	1985		
9	1986		
10	1987		
11	1988		
12	1987 - 88		
13	1988 - 89		
14	1989		
15	JUN 90		
16	DEC 90		
17	JUN 91		
18	DEC 91		
1	AUG 92	<p>← BEGINNING HERE, UNDER THE PRIME MINISTERSHIP OF REPUBLICAN THE HON. P.J. KEATING, THE GOVERNOR GENERALS' ACTIVITIES AND STATUS WERE SET OUT UNDER "<u>FUNCTION</u>":- WHICH STATED "<u>HE IS THE HEAD OF STATE</u>"</p> <p>THIS DESCRIPTION CONTINUED FOR 15 EDITIONS UNDER THE PRIME MINISTERSHIP OF REPUBLICAN THE HON. P.J. KEATING UNTIL 16 DECEMBER 1996 AND THEREFORE CONFIRMS HIS AGREEMENT THAT THE GOVERNOR GENERAL IS PROPERLY (AND OFFICIALLY) OUR AUSTRALIAN HEAD OF STATE.</p> <p>BUT MYSTERIOUSLY, <u>THEY WERE REPORTED BY G.H. STAFF ON 8 MARCH 2001, AS HAVING BEEN DELETED ON 16 DECEMBER 1996 BY *CAROL SUMMERHAYES THEN DEPUTY OFFICIAL SECRETARY TO THE GOVERNOR GENERAL</u></p> <p>*PREVIOUSLY ON THE PERSONAL STAFF OF THE HON. E.G. WHITLAM</p>	
2	NOV 92		
3	FEB 93		
4	JUN/AUG 93		
5	SEP/NOV 93		
6	DEC 93/FEB 94		
7	MAR/MAY 94		
8	JUN/AUG 94		
9	SEP/NOV 94		
10	DEC 94/FEB 95		
11	JUN/AUG 95		
12	SEP/NOV 95		
13	DEC 95/SEP 96		
14	JUN 1/4 96		
15	SEP 1/4 96		
1	MAR 97	<p>← THE WORDS "HE IS THE HEAD OF STATE" DISAPPEARED FROM THE MAR 97 EDITION, AND REMAIN DELETED UP TO OCT 2000</p> <p>AUSTRALIANS ARE THEREFORE ENTITLED TO RECEIVE ANSWERS TO:-</p> <ol style="list-style-type: none"> 1. On Whose Authority were the words "He is the Head of State" removed.? 2. Why were they removed? (Note A Below) 3. Will they be immediately reinstated? As referred to by Piers Akerman, <i>Daily Telegraph</i> 20 March 2001 4. If not, why not? As referred to by Paul Sheehan, <i>Sydney Morning Herald</i> 21 March 2001 <p>NOTE A : Particularly in the politically sensitive period when the new Government proposed calling a Constitutional Convention and republicans had to change their tune on who the Head of State was.</p>	
2	JUN 97		
3	DEC 97		
4	MAY 98		
5	JAN 99		
6	JUN 99		
7	SEP 99		
8	OCT 2000 (latest)		

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1/8

A I D C

Australians for an INFORMED Discussion on our Constitution *Reason before Passion*



Nov030503

UNITED IN DISUNITY

One of the difficulties of agreeing on a proposed republican Constitution is the seemingly irreconcilable dissent amongst republicans; especially among their respected and expert leaders. We list some of these so that electors are aware of them. AIDC stresses that it is motivated by the need to highlight the very great difficulties of designing a republican Constitution which contains the checks and balances of our present Constitution that have enabled it to provide faultless service, peace and stability for over 100 years. The list is by no means comprehensive and records simply a cross section about:-

QUESTION No. 1

Whether to have a popular/direct election of a President

Answer	
YES	Says Republican Chair Prof. John Warhurst . "The next ARM Conference will deal ONLY with the direct election model ⁽¹⁾ and "It would make sense for the next ARM sponsored Conference to look very seriously at direct election as a first priority." ⁽²⁾
NO	Says Republican Neville Wran "As a matter of tactics, those who want a republic in place must take the direct electionists head on – the principle of the popular vote – is a recipe for chaos and confusion." ⁽³⁾
YES	Says Republican Clem Jones ⁽⁴⁾
NO	Says Republican Malcolm Turnbull "Nothing worried me more than the direct election argument that a direct election would start off with high support but be destroyed by concerted opposition from the coalition and all other credible figures who would point to its fundamental contradiction: that it would turn the Head of State into a political partisan." ⁽⁵⁾ This would give us the worst of all worlds." ^(5a) (He therefore fears a political president which is exactly what his referendum model produced.)
YES	Says Republican ALP leader Jenny Macklin ⁽⁶⁾
NO	Says Republican Paul Keating "Paul Keating and I both agreed that direct election would turn the Head of State into a political partisan." ⁽⁷⁾
YES	Says Republican Prof. Glyn Davis, Griffith University "It is a viable meeting point between the republican tribes." ⁽⁸⁾
NO	Said Republican Peter Reith "The President could be there for life. The President would be a poodle of the Prime Minister." ⁽⁹⁾
YES	Says Republican Ted Mack ⁽¹⁰⁾
NO	Says Prof. Greg Craven "All direct election models will fundamentally disturb the Constitution." ⁽¹¹⁾

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YES	Says Senator Andrew Murray He is for direct election ⁽¹²⁾
NO	Says Republican Sir Gerard Brennan AC KBE, former Chief Justice of the High Court <i>"The model of direct election could be adopted only at a price, namely, the virtual elimination of eminent non-political citizens for the Presidency."</i> ⁽¹³⁾
YES	Says Republican Will Fowles "I support direct election." ⁽¹⁴⁾
NO	Says Victorian Republican John Brumby <i>"An elected President cannot be an impartial umpire—conflict will inevitably arise."</i> ⁽¹⁵⁾
YES	The Republican party of Australia <i>"For popular election of the president"</i> ⁽¹⁶⁾
NO	Says Sir Zelman Cowen AK GCMG GCVO QC <i>"I believe very strongly that such a mode of election (direct election) is unwise and inappropriate" It poses "a potential challenge to a Prime Minister who does not have such a base The direct election of a President would ensure political outcomes."</i> ⁽¹⁷⁾
YES	Republican Rev. Tim Costello <i>"Supported a direct election model"</i> ⁽¹⁸⁾
NO	<i>"Most republican leaders are opposed to a directly elected President"</i> ⁽¹⁹⁾ But note final comment at reference ⁽²⁶⁾
YES	Republican Phil Cleary Universally known as a direct election supporter ⁽²⁰⁾
NO	Republican Prof. George Williams <i>"A directly elected President might be in a position to challenge the political leadership of the Prime Minister."</i> ⁽²¹⁾
YES	Labour MP Lindsay Tanner ⁽²²⁾
NO	Says Republican Amanda Vanstone <i>"It would be a complete folly to have an elected head of state whose political power may tempt them into using that power."</i> ^(22a)
NO	Republican John Fahey is against direct voting and would vote No in a future referendum with direct voting. ^(22c)
YES	Republican Democracy First Group (Jim Bain) has submitted <i>"a directly elected Head of State"</i> ^(22d)
NO	Republican Peter Costello ^(22e)
YES	Republican Bede Harris , Constitutional law Lecturer University of Canberra favours direct election ^(22f)
NO	The Late Richard McGarvie – an oft repeated belief of his.
YES	Says Professor George Winterton <i>"A republic can only be achieved in the foreseeable future through some form of direct election."</i> ^(22g)
NO	Republican Sir Anthony Mason ^(22h)
YES	Republican Harry Evans Clerk of the Senate ⁽²²ⁱ⁾
NO	Republican Elizabeth Evatt AC ^(22j)
YES	Republican and Constitutional Expert Prof. Stuart Macintyre ^(22k)
NO	Republican Leslie Zines AO ^(22l) Others against popular election include Hon. Malcolm Fraser, M. Cowper, Sue Tongue, Sir Ninian Stephen, Justice Kirby. Others for it include Mackay, Tony Blackshield, Prof. Saunders, Prof. George Galligan, Kim Rubenstein ^(22m)
YES	The Australian Newpoll 79% prefer a directly elected President ⁽²³⁾
NO	Republican Prof. George Winterton <i>"Popular election would almost guarantee the election of a politician. Do we want a succession of millionaire entrepreneurs as President?"</i> ⁽²⁴⁾
YES	ARM's (moderate) direct-election model No. 4 (of 6) ⁽²⁵⁾

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YES/NO?	<p>Contradicting "most Labor Leaders are opposed to a directly elected President"⁽¹⁹⁾ 45,000 members have now POPULARLY elected their ALP President! <i>"The President could become a rival source of power to the parliamentary leader."</i> The Australian 8.9.03 p1. <i>"It mirrors constitutionally the fundamental concerns surrounding the republican push for a directly elected president. Lawrence, in effect, will become the popularly elected president. There would be two power centres within the one system pulling in destructively different direction!!."</i> The Australian 4.8.03 p9</p>
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Summary

The above is by no means a comprehensive list. There are many more examples of dissent on this vital aspect of any new republican Constitution. In spite of republican ARM leaders (Keating, Wran, Turnbull, Brennan, Winterton, Craven, Vanstone and others) being strongly against popular election, the ARM says *"However if the Australian people indicate they want to elect a Head of State directly, then the ARM would support this."* ie in conflict with its leaders.

References to Question 1

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|---|--|
| <ul style="list-style-type: none"> (1) (2) (3) (4) (5) (5a) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (22a) (22c) (22d) (22e) (22f) (22g) (22h) (22i) (22j) (22k) (22l) (22m) (23) (24) (25) | <ul style="list-style-type: none"> Republican Party of Australia Newsletter No. 29 Jan 2003 Warhurst letter to Mr. O'Leary 17 Feb. 03 "The Case for YES" (Federation Press 1999 p2) "Fighting for the Republic" (Hardie Gorman Books 1999 p.188) "Fighting for the Republic" p.189 The Australian 14.6.02 Speech 15/16 April 2003 Prof. John Warhurst "Fighting for the Republic" p.189 Julian Leeser's paper to Samuel Griffith Society, Adelaide April 2003 "Fighting for the Republic" p.186 Mack's stance – widely reported The Australian 20.11.02 p11 Canberra Times 10.8.01 Fourth Geoffrey Sawer Lecture 18.7.2001 Julian Leeser's paper to Samuel Griffith Society, Adelaide April 2003 t.b.a. Party Policy Williamson Community Leadership lecture 31.5.1995 ARM National Director James Terrie on 19.7.2000 during ARM Elections Weekend Australian 16.17 June 2001 Actively supported direct election at the Con.Con. "Constitutional Politics: University of Queensland Press 2002 The Age 17.9.2002. Univ. of New England Earle Page lecture 21.5.97. Fighting for the Republic" p.179 The Australian 1 May 2002 p2 The Australian 14 June 2000 p.11 The Australian 6 Sept. 2002 The Australian 11 June 2001 p.5 University of Wollongong "Millennium Dilemma" 1997 video Ibid Ibid Ibid Ibid Ibid November 15, 2002 "Republican Monarchy" University of Queensland Press 1994 p.22 ARM's model No.4 (of 6) – see current ARM brochure <i>"We believe the President's powers should be clearly defined."</i> |
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QUESTION No. 2

Whether a President's Powers, including reserve powers, should be codified (written down) – or not

Answer	.
NO	Says Republican Sir Gerard Brennan AC KBE Former Chief Justice of the High Court "The absence of codified conventions has been beneficial in allowing the evolution of an independent system of national government." ⁽²⁶⁾
YES	Says Republican Malcolm Turnbull "I support full codification of the powers of the President ... the rules should be written down." ⁽²⁷⁾
NO	Says Republican Paul Keating "the reserve powers should remain as they are – unwritten" ⁽²⁸⁾
YES	Says Republican Paul Kelly of The Australian: "Republicans must codify." ⁽²⁹⁾
NO	Says Gareth Evans "Definition of the unwritten conventions would be a labour of Hercules – frankly I think the task is impossible." ⁽³⁰⁾
YES	Says ARM's Republican Michael Ward . He wants them codified ⁽³¹⁾
NO	Says Republican Robert Manne "Shouldn't be codified." ⁽³²⁾
YES	Says Republican Donald Horne "If the powers are not written even I will vote NO" ⁽³³⁾
NO	Says Republican Prof. George Winterton "Leave them untouched" ⁽³⁴⁾
YES	Says Constitutional Expert Republican Brian Gilligan ^(34a)
NO	Says Sir Ninian Stephen former Governor-General ^(34b)
YES	Says Republican and Law Professor Cheryl Saunders ^(34c)
NO	Says Republican Sir Zelman Cowen former Governor-General ^(34d)
YES	Says H.E. Quentin Bryce AC Governor of Queensland ^(34e) (prior to appointment)
NO	Says Republican Sir Anthony Mason former Chief Justice ^(34f)
YES	Says Republican Leslie Zines AO ^(34g)
NO	Says Republican Tony Blackshield but with some exceptions ^(34h)
YES	Says Dr. Helen Irving ⁽³⁴ⁱ⁾

Summary

The above highlights further the almost total dissent on codifying or not codifying a President's power (or powers)

References to Question 2

(26)	Fourth Geoffrey Sawer Lecture 18.7.2001
(27)	The Australian 16.7.2001
(28)	Speech to Parliament June 7 1993
(29)	Quadrant May 1995
(30)	Australian Financial Review 9 May 1995
(31)	Bulletin May 1995
(32)	Quadrant April 1995
(33)	Sydney Morning Herald 3 June 1995
(34)	Quadrant April 1995
(34a)	University of Wollongong "Millennium Dilemma: 1997 Video
(34b)	Ibid
(34c)	Ibid
(34d)	Ibid
(34e)	Ibid
(34f)	Ibid
(34g)	Ibid
(34h)	Ibid
(34i)	Ibid

QUESTION No. 3

The ARM Brochure says “the ARM will make sure that we become independent and self-confident nation with our own Head of State. (see also Question 4)
The following confirm not the need “to become independent”, but that **WE ARE INDEPENDENT”**

Answer	
YES	Republican Sir Zelman Cowen, former Governor-General and Head of State of Australia, says we are independent. ⁽³⁵⁾
YES	Republican Sir Gerard Brennan, former Chief Justice of the High Court, says we are independent. ⁽³⁶⁾
YES	Republican Prof. Cheryl Saunders, “full independence from Britain” ⁽³⁷⁾
YES	Republican Hon. Kim Beazley former ALP Opposition Leader said “A Nation..... with no doubts about its independence and sovereignty” ⁽³⁸⁾
YES	Republican Malcolm Turnbull, “We are an independent nation.” ⁽³⁹⁾
YES	The High Court “Australia was independent” ⁽⁴⁰⁾
YES	The Australia Act of 1986 “a sovereign, independent, Federal nation” ⁽⁴¹⁾
YES	Republican Dorothy McRae-McMahon says “We are really on our own.” ⁽⁴²⁾
YES	Republican Simon Crean says we are independent ⁽⁴³⁾
YES	Republican Hon. Peter Costello, Treasurer, says we are independent ⁽⁴⁴⁾
YES	“The weakness of the republican case is that it cannot demonstrate precisely how we would be more independent or unified without the Queen.” ⁽⁴⁵⁾

References to Question 3

(35)	Sydney Morning Herald 8.9.200
(36)	Fourth Geoffrey Sawer Lecture 18.7.2001
(37)	University of Queensland “Constitutional Politics” 2002 p.204
(38)	University of Notre Dame paper 7 October 200
(39)	“The Reluctant Republic” (Wm. Heinemann 1993)
(40)	Sue v. Hill 23 June 1999
(41)	See The Australia Act 1986
(42)	“The case for YES”
(43)	Hansard 2.6.2003 p.15069
(44)	His Con.Con. speech 3 February 1998 p.129
(45)	Sydney Morning Herald Editorial 9 June 1977

Summary

Even republicans (except ARM) are unanimous that we are independent.

QUESTION No. 4

Who is Head of State of Australia? AIDC says the Governor-General is. Some republicans disagree

Answer	
The Queen of Australia:	<p>Says ARM, whose sole strategy is “We want an Australian Head of State” (asserting erroneously that the Queen of Australia is) See ARM Brochure.</p> <p>Says ARM Chair, Prof. John Warhurst, who says leading experts support his view, but declines to nominate them on request.</p> <p>Says Daryl Williams former Attorney-General, but, despite many requests, has been unable to provide any official document which says so.</p> <p>Republicans, apart from those listed below, subscribe to the erroneous belief that the Queen is Head of State of Australia.</p>

The Governor-General is Australia's Head of State:

Says **Sir David Smith KCVO AO**, former Official Secretary to 5 Governors-General. Visiting fellow 1998-99 and Visiting Scholar 2000-2003 in the Faculty of Law at the Australian National University. Sir David has agreed to email to those requesting his definitive paper of February 2003 "The Governor-General is our Head of State". His email is: dandjsmith@ozemail.com.au

From AIDC's paper "Who is Australia's Head of State" – the following agree:-

Republican Sir Zelman Cowen, former Governor-General, in his Williamson Community Leadership lecture refers to the role of "Head of State" (referring to the Governor-General).⁽¹⁷⁾

The United Nations. On the occasion of its 50th birthday, October 1995, it invited 190 Heads of State from around the world to celebrate it. U.N. protocol confirmed the Governor-General, Bill Hayden – not the Queen – is Australia's Head of State and he attended as Australia's Head of State.

Sir Harry Gibbs GCMG AC KBE former Chief Justice of the High Court of Australia: "*The Governor-General acts and is treated both at home and abroad as the Head of State of Australia.*" 6 June 2001.

The late Richard McGarvie AC (Republican) said "*Thus the State of Victoria has a Governor who acts as Head of State*". Australian Institute of Management 8. 9.1993

Mr. Douglas Sturkey, former Official Secretary to the Governor-General, on 8 May 1997 wrote "*Since then (1971) Australian Governors-General have been received as the Nation's Head of State*"

Republican Malcolm Turnbull, former ARM leader, "*As Head of State, the Governor-General acts as the official representative of the Australian Commonwealth*" p.82 "The Reluctant Republic".

John Laws, 2UE, on 20 February 2002 repeatedly referred to the Governor-General as "Australia's Head of State" – based on 2UE's extensive and reliable research facilities.

The (republican) Australian Newspaper In its editorial 2-3 March 2002 said (correctly):- "*The Queen is no longer our Head of State.*"

To save space we add to the above a list of those who agree that the Governor-General is our Australian Head of State:-

The Federal Dept. of Foreign Affairs

Professor David Flint AM, Constitutional authority

Professor Colin Howard QC, Constitutional authority

Blackwells Encyclopaedia of Political Institutions by Vernon Bogdanor

The Commonwealth Government Directory – the Official Guide.

The NSW Government Directory)

Mr. Bob Carr, Premier of NSW) In relation to State

The Governor of Tasmania) Heads if State

The Governor of Western Australia)

"Governing Australia" Atkins & Graycar, an authoritative book on the Constitution
republican Senator Natasha Stott Despoja S.M.H. 23.4.2001

republican Greg Barns, former ARM chairman. The Australian 10.4.2001

The 1975 dismissal of the P.M. by the Governor-General, the Head of State of Australia, was done without the need to refer to the Queen, who is Sovereign.

Kerry O'Brien ABC 7.30 Report 23.4.2001

Jonathan Holmes, ABC's Executive Producer of the 7.30 Report.

Crimes Act 1976 (Internationally Protected Persons)

Dr. Frank McGrath AM OBE

republican Peter Beattie Premier of Queensland Channel 9 Today show 27.2.02

Answer continued on page 7

B7/s

	Continued from page 6: H.E. Richard Butler when Governor-elect of Tasmania. <i>"We need to have a governor-General or a Governor to complete the circle of legislative executive, judiciary and the Head of State."</i> ABC 'Online PM' 18.8.2003 The Hon. John Howard , Prime Minister 2.2.98 at the Con Con amongst others
References for all the above are available by sending to a \$1.0 stamp and a stamped addressed envelope to AIDC, GPO Box 2221, Sydney, NSW 2001	

The Queen's own web site makes no mention of her as Head of State of Australia
 From internet site <http://www.royal.gov.uk/today/realms.htm>

<p>"COMMONWEALTH REALMS</p> <p>A Commonwealth realm is a country where The Queen is the Sovereign. The Queen is Queen not only of Britain and its dependent territories, but also of the following realms: Antigua and Barbuda, , Australia, Bahamas, Barbados, Belize, Canada, Grenada, Jamaica, New Zealand, Papua New Guinea, St. Christopher and Nevis, St. Lucia, St. Vincent and the Grenadines, Solomon Islands"</p>
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In addition

- The Australian Constitution makes no mention of her as Head of State of Australia.
- The Royal Style and titles Act 1953 makes no mention of her as Head of State of Australia.
- Of special significance are the words of Sir David Smith KCVO AO, which confirm conclusively that the Queen is NOT Head of State of Australia:

Sir David Smith says: "When designing the Australian Constitution, the founding fathers had before them the Canadian Constitution which describes the Queen as Canada's Head of State, and they drafted a Constitution for Australia which contained no such provision. Instead they gave us section 61, which as Lord Haldane, the Lord Chancellor, expressed it in 2 cases before the Privy Council in 1916 and 1922, *"put the Sovereign in the position of having parted, so far as the affairs of the Commonwealth (of Australia) are concerned, with every shadow of active intervention in their affairs and handing them over, unlike the case of Canada, to the Governor-General."*

Summary to Question 4

Since not even the Queen herself states anywhere that she is Head of State of Australia and since no official document exists which states that she is – the claim by republicans is unable to be substantiated.

Comprehensive Summary

AIDC opposes the need to change the successful system of government that we have enjoyed for over 100 years and agrees with former ARM Chair, Malcolm Turnbull:-

See Page 8 over

MALCOLM TURNBULL:-

You've got to be practical. Conservative Republicans will never agree to abandon the Westminster system. Members of Parliament don't want a separate executive presidency. It breaks their lock on ministerial positions.

But the strongest argument is that we already have a perfectly good, functioning democracy. Governments go in and out/ They are more answerable to the voter than, say, the British ones. We have elements of Westminster, elements of Washington. It's a uniquely Australian system that works well."

From an interview with Frank Devine in:

The Australian

OPINION

13

THE AUSTRALIAN – MONDAY 16 JULY 2001

The following abbreviated catalogue of 45 criticisms comes from *UNSW Law Journal
Forum Vol 4 No 2 June 1998

*Available by calling 02.9385.2237 fax 02.9385.1175 (\$11 posted)

Ref:May29

Criticism Number	On Forum Page No.	
		Republican Prof. George Winterton, UNSW
1.	5	Cumbersome
2.	5	Unsatisfactory
3.	5	Too difficult
4.	5	Lacking grounds for removal (of President)
5.	5	Incompatible with status of Head of State
6.	5	Vital structural weakness
7.	5	No justification for reinstating a President
8.	5	Presidential dismissal (faulty)
9.	7	Flawed
10.	7	Disappointing re Presidential powers
		Republican Prof. Cheryl Saunders U. Melbourne
11.	7	Not the way to go
12.	10	Reveals defects in the process
13.	11	Significantly flawed
14.	11	Minimalism a mistake
15.	11	Flawed and unworkable
16.	11	Difficult to understand
17.	11	Difficulty of how to proceed from here
18.	11	Incomplete
		Republican Dr. John Uhr ANU
19.	13	Scepticism about its enduring qualities
20.	13	Leaves issues unattended
		Sir Harry Gibbs Former Chief Justice of The High Court of Australia
21.	16	Futile unless acceptable model suggested
22.	16	Patently defective
23.	16	Lack of public consultation
24.	16	Senate completely ignored
25.	16	Fails to state President/PM balance
26.	17	Unsatisfactory regarding States
27.	17	Preamble proposed is out of place
28.	17	Republic at any price
29.	17	Defective and a disaster for Australia
		Republican Prof. Greg Craven, U. Notre Dame
30.	19	Doubt about 2/3rds majority
31.	20	A weak model with serious deficiencies
		Presidential Republican Prof. Linda Kirk, Lecturer in Law U. Adelaide
32.	21	Fails to prevent a politically motivated dismissal of a President
33.	21	Incongruous
34.	21	Shortcomings
		Republican Prof. John Williams Lecturer in Law U. Adelaide
35.	24	Hollow attempt to appease the electoral demands (in smaller States)
36.	24	A smorgasbord "republic"
37.	24	Institutionalises suspicion
38.	24	No provision for Vice-President. States can "decline or accept" a State "republic", with startling outcomes
39.	24	Genuine independence of President cannot be established
		Alex Reilly, U. Perth, Lecturer in Law
40.	25	Possible withdrawal of rights and freedoms (which the High Court has previously found to be contained in the Constitution)
		Republican Prof. Moira Rayner (Deakin University)
		elected 'real republic' Convention delegate
41.	28	More power to (politicians) via political parties.
42.	28	If the referendum succeeds we'll have cobbled amendments and a poetic meaningless Preamble

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| 43. | 28 | Crucial aspects picked up from Malcolm Turnbull at the urinal |
| 44. | 30 | Unsatisfactory and a compromise and voted by a minority
Republican Yat-Sen Li |
| 45. | 33 | Underrepresented groups (non-English speaking) not adequately considered. |

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Plus 10 quotes from other informed respected republicans eminently well qualified to comment

46. The Late Hon. Richard McGarvie, AC, (republican)

Labor Party Member 1949 - 1970, former Victorian Supreme Court Judge and former Governor of Victoria and appointed delegate to the Constitutional Convention:

"By the time they vote, people will realise how the model would damage essential elements of our democratic system" and "How much would it strain our Federation to have the Commonwealth become a Republic whilst the States are left to defend themselves" Victorian Bar News Winter 98 and "The President would have a greater mandate from parliament than the Prime Minister". The Age 20.2.98

47. Senior Republican Dr. John Hirst

Says of the model "an affront to republican principles" and "a blot on the scheme." Quadrant June 1998

48. Republican Sir Anthony Mason AC KBE CBE

Former Chief Justice of the High Court of Australia. He disagrees with the dismissal of a President "without prior notice and without even the need to state reasons.."

49. Republican and former NSW Governor and Head of State Hon. Gordon Samuels A.C.

"It sounds a warning to those who would place the responsibility for dismissing a President in the hands of a majority - any majority - of the Parliament without at least specifying the rules of procedure." UNSW Forum launch 23.5.98

50. Republican Professor Brian Galligan U. Melbourne Lecturer in Political Science

"It is not properly a republican model at all." Quadrant April 1998

51. Republican Pat O'Shane AM Aboriginal Magistrate on the issue of the Model:

"A monster - an absolute monster" SBS "Insight" 22/4/99

52. Republican Mr. Harry Evans, Clerk of the Senate, and arguably Australia's most senior Public Servant, says of the dismissal process "the most ridiculous Constitution alteration proposal I have ever heard of" and "No other country has been so misguided as to adopt such an obviously unbalanced arrangement." Letter 10.6.1999.

53. Republican Sir Zelman Cowen PC AK GCMG GCVO KStJ KTer "I am troubled root and branch by the notions expressed in the dismissal of a president" Joint Select Committee Hansard p.210 6 July 1999. "I think that what is proposed is prima facie very disturbing" p. 216

54. Republican Hon. Peter Costello "I do not believe this is an optimal model. I think it is a hybrid on a hybrid. It is a compromise" 1988 Constitutional Convention p. 975

55. Republican Thomas Keneally AO "The biggest structural change since Federation" Channel 9 Nightline 18.1.99

Other Quotes to Remember:

"We already have a perfectly good functioning democracy..... It's a uniquely Australian system that works well." (Malcolm Turnbull p.13 *The Australian* July 16 2001).

"By the mid 1950s Australia was certainly an independent nation." (Malcolm Turnbull "The Reluctant republic" William Heinemann 1993 p56).

From respected republican Sir Gerard Brennan AC KBE, former Chief Justice of Australia. For 18 quotes from his 18 July 2001 paper to the Fourth Geoffrey Sawer Lecture in ACT, all substantially demonstrating the benefits of our present Constitution and the disadvantages of an elected Presidency - send self addressed envelope to AIDC, GPO Box 2221, Sydney, NSW 2001 for a free copy

Summary:

Were you aware, if you voted Yes, that you voted for a constitution model vastly inferior to our present one? And doesn't this emphasise the urgent need for electors, and in particular students (our future generation), to support the initiative of the Constitution Education Fund-Australia in promoting such education?

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A I D C
Australians for an INFORMED Discussion on our
Constitution
Reason before Passion



Feb252003a

PLEBISCITES
WHAT IS A PLEBISCITE?

In the context of the ALP/ARM republican plebiscite/s proposal, it is in the putting to all Australian electors a question requiring a YES or NO answer.

In this case "Do you want an Australian Head of State?" or "Do you want a republic?" or similar. Any answer is totally non-effective, ie whatever the result, it has absolutely no legal or constitutional validity or effect whatever. The truth is that the Governor-General is our Australian Head of State. (See Note A below).

It could be described as a gigantic and gigantically expensive 'Newspoll'. And like all political and other polls, the result on any given day will vary - sometimes dramatically - from the answer to the same question put on another day. Whatever the answer, "a plebiscite would have no power to change anything and would be absolutely no guarantee of a successful republican end process" Republican Hon. Tim Fischer - The Age 20 11.2001

This is particularly so in this case since electors will be voting 'blind', ie **there is no alternative republican Constitution model on the table.** So if those who may have voted YES to the question "Do you want a republic?" later find that the republican model finally presented is "flawed and unworkable" (as was the Nov. 99 model see Note B) - their non-effective YES vote will have changed to a non-effective NO vote thus rendering the plebiscite poll totally invalid and a waste of public funds. A raft of plebiscites cannot change our Constitution. **The only way our uniquely successful Constitution can be changed under Section 128 of The Australian Constitution is by a referendum.**

Note A Send a stamped addressed envelope for a free copy of AIDC's "Who is Australia's Head of State?"

Note B Send a stamped addressed envelope for a free copy of AIDC's "If you voted YES at the Nov. 1999 referendum were you aware of the serious deficiencies that model so strongly criticised by Australia's top republicans?"

THE REPUBLIC

Plebiscite plan wins approval

MIKE STEKETEE

A NEW referendum on a republic could be held within five years, under a process approved yesterday by the ALP national conference.

But NSW Premier Bob Carr warned that any proposal more radical than the parliamentary appointment model rejected last November "would not have the remotest chance of being carried".

He advocated reassuring conservatives about change by retaining the title of governor-general, rather than describing a head of state as president.

The clause inserted yesterday in the party platform says: "Labor will conduct plebiscites to establish support for an Australian head of state and the preference for different forms of a republic. When a preference has emerged, Labor will initiate an appropriate referendum under section 128 of the Constitution."

Kim Beazley told the conference a Labor government would hold a first plebiscite on whether or not Australia should become a republic at the election after next. "But then, after that, the proposition should conclude rapidly," he said. He has said previously a second plebiscite would be held on the form of a republic, followed by a referendum to make the formal change to the Constitution.

Republican activists say the resolution agreed to yesterday provides scope to telescope this process by holding only one plebiscite involving multiple questions on whether Australia becomes a republic and, if so, what form it takes. This could be followed quickly by a referendum.

But Labor strategists at this stage still favour separate plebiscites to minimise the influence of monarchists in the second vote.

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A plebiscite is a taxpayer funded propaganda stunt and a diversion of hundreds of millions of taxpayer funds away from our under-funded health, education, employment, environment programmes, to name but some*. The ALP/ARM plebiscites and referenda proposals would cost around \$2,000,000,000 – around 2 billion dollars (Note C) Such costs would be vastly more in the public interest if applied instead to the 82% of Australians who have little or no knowledge of how our present and proven system works: “A uniquely Australian system that works well” Malcolm Turnbull – The Australian 16.7.2001. Because if we don’t understand how our **present** system works how can we possibly know whether an alternative (republican) system would be **better**? – or more importantly – **worse**.

The November 1999 referendum was resoundingly defeated with 72% of all Federal electorates voting NO and 63.6% of all ALP/Democrat electorates voting NO, as well as an overall Australia majority voting NO. And every State and the NT voted NO. And yet only 8 months after that landslide victory for NO the ALP and ARM again proposed spending vast amounts of our money and resources and time to seek to reverse that decision but with no alternative on the table.

Not only is a plebiscite grossly wasteful of valuable resources, but also it generates a vote of no confidence perhaps stretching over years in our unique and successful system of governance with nothing being offered in its place.

The ALP/ARM proposal to hold a **second** multi million dollar tax-payer funded plebiscite includes a doubly wasteful plan to offer electors a menu of models from which they are expected to ‘pick a box’ and choose the ‘best’. Since 80% of electors are either not aware that we **have** a Constitution at all let alone its unique quality as arguably the best in the world, how can they be expected to know if one of the menu models is better or worse? No, the republicans have amongst their ranks former Governors-General, Prime Ministers, MPs, Chief Justices, Silks and Politicians. Aren’t they capable of designing a republican model which they assert is better than our present one and present it to us for examination and debate?

Summary

A raft of plebiscites cannot change our Constitution. The only way to change our Constitution is by referendum. That requires an alternative republican Constitution to be presented. Where is it? It is difficult to conceive of a more irresponsible proposal.

*** A Question**

Were \$100,000,000 - \$500,000,000 to be allocated by an Australian Government to one of the following – which do you feel would contribute greater benefit to the Australian community?

1. Reducing unemployment?
2. Providing more hospital beds and health care generally?
3. Holding up to 14 State & Federal non-effective plebiscites?
4. Improving the environment and planning better bushfire control?
5. Reducing the drug problem and related problems of crime and suicide?
6. Encouraging Civics Education across Australia.?

Note C Send a stamped addressed envelope for a free copy of AIDC’s “An Attempt to cost the ALP/ARM proposal for a cascading series of non-effective non-legal non-constitutional Plebiscites”