



COVER SHEET

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Let's leave hysteria to the monarchists

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It has become clear that the worst enemies of the Australian republic are – republican Australians! So many republicans, having formed a preference for some particular model of the republic, have then become convinced that their model is the *only* acceptable model and spend much of their time spreading hysteria about the disaster that would befall us if another model were adopted.

When I say this I am not just referring to direct-election republicans – the Cleary-Mack-Jones team – campaigning for a ‘no’ vote. I am also referring to the many earnest advocates of the bipartisan parliamentary election model who keep insisting that we couldn't *possibly* leave the election of the President to the people. Every time they say this they reinforce the suspicion in the minds of direct-election supporters that parliamentary-election people in general, and the Australian Republican Movement (ARM) in particular, are a thoroughly undemocratic, or *demophobic*, lot (as indeed *some* of them are!), and make it less likely that the direct-election people will vote ‘yes’.

This passionate commitment to one and only one model of the republic would be all very well if there were

only two 'sides' contesting the referendum campaign and one side was logically certain to attract a majority vote – but something like 30 percent of the Australian people still want to retain the House of Windsor as our nominal sovereign, and they will vote 'no' to whatever republic is proposed. As long as the republicans are divided, the monarchists hold a veto. Propose the so-called 'ConCon' model – it will lose if all direct-election republicans vote 'no'. Then propose the (apparently more popular) direct-election model – it will *also* lose, if all supporters of ARM take the 'my model or nothing' approach that they criticise so vigorously in the direct-election republicans. We will retain the monarchy forever, or at least as long as monarchists have enough votes to play a spoiling role (which is to say, until one kind of republic attracts 50 percent of people's first preferences).

So this chapter is addressed to *both* sides of the republican schism. Republicans should forget their hysteria about each other's models. Let's leave the hysteria to the monarchists, and all accept that *either* of the main models for an Australian republic should work acceptably well. Direct-election republicans should vote 'yes' in November, and hope for a better republic later. Parliamentary-election republicans should treat direct-election republicans as potential allies, not as deranged fools, and try to win a 'second-preference yes' from them. They should also, in the horrible eventuality that the 1999 referendum is defeated, be prepared to vote 'yes' at a later referendum – even if next time the Government only offers the people a republic where they vote directly for the President.

Why do I say the arguments about each type of republic are hysterical? First, let's consider republics from around the world. Malcolm Turnbull lists 15 republics with

non-executive Presidents.¹ Their methods of electing Presidents are tabulated below:

Direct election – usually with a requirement for nomination by a high number of voters, or for nomination or screening by Parliament	Elected by Parliament	Elected by an electoral college – usually members of central Parliament and regional/state assemblies
Austria Iceland Ireland Portugal Singapore	Greece Israel Malta Mauritius Trinidad and Tobago* Bangladesh	Germany Italy Vanuatu India

* described as electoral college, but this consists of all members of both Houses of Parliament

The table shows that republics of all kinds can function equally well. Around the world you can find republics with *directly* elected presidents, that are stable democracies that respect the rule of law, and republics with presidents elected *by parliament or an electoral college* that are stable

democracies that respect the rule of law. If two or three of the republics in the table are less than perfect democracies, that is because of special factors such as lack of a democratic tradition, or racial and religious intolerance far more entrenched than any similar problems here. It would be insulting to Greece, Germany, Israel and Italy to say that they are not democratic because they do not elect their Presidents directly. It would be insulting to Austria, Iceland, Ireland or Portugal to say that they are unstable because they *do* elect their Presidents directly, and ludicrous to say it of Singapore where the criticism might instead be that it is all *too* stable.

Of course it is true that every one of these republics has different detailed provisions in its Constitution, particularly as to the powers of the President, and ours will presumably be different from any of them. So for example parliamentary-election advocates warn us that we may not be as stable as Ireland if we opt for direct election, because the Irish Constitution gives very limited power to the President whereas ours will (if minimally amended as generally assumed) give the President 'dangerous' powers. But that is to assume the correctness of one of the hysterical forecasts about the future under the 'wrong' version of the republic, which are addressed below.

Let us turn to the specific suggestions about how the world will fall apart if we go for the wrong model. When you consider them rationally, they are so hysterical that I wonder whether most of them have been cooked up in some monarchist kitchen and poured into the ears of republicans while they slept! (See *Hamlet*, Act 1, Scene 5.) In the following table I present each hysterical argument with its rational rebuttal.

Argument Direct-election advocates are hopelessly divided. There is no agreed model.

Rebuttal The 'ConCon' model only emerged out of last-minute negotiations. If another convention contained a majority of direct-election people, they would negotiate an agreement too. In everything that follows I will assume that the majority would prefer a non-executive President. Supporters of an executive President à la the United States seem to be a definite minority.

Argument The people will elect a pop star or a footballer.

Rebuttal Hysterical nonsense! Consider the last Presidential election in Ireland. A pop singer did indeed get nominated – but she only got 9 percent of the vote, and the majority of the people elected a law professor as their President. Should we expect the people of Australia to be more superficial than the people of Ireland?

Argument The election will cost too much.

Rebuttal All elections are expensive but that's a small price for democracy. If we took this argument seriously, we wouldn't have elections but invite the Chief of General Staff, or the Chief Executive Officer of BHP, to rule by decree! And besides, election by Parliament will not be particularly cheap either, if Parliament has to be recalled especially for the 'election' of a President.

Argument A directly-elected President will feel that they have as much legitimacy as the Prime Minister, and will be tempted to try to take over real executive power.

Rebuttal (i) If this means that the President will try to rule like the President of the United States, there are many other provisions in the Constitution and in our general public law that will stop them from doing so.

(ii) If it means that a directly-elected President will be more likely to do the wrong thing in a '1975-revisited' scenario, there is absolutely no guarantee that a President elected by Parliament won't have secret ambitions, like Kerr, to exercise real power and to make a mark on history. As long as conflicts over 'supply' can arise between the Houses of Parliament, the danger is there under our current Constitution, and the *same* danger will remain under *either* model of republic.

Argument Candidates will only be able to campaign if they are supported by a political party. It will therefore be *more* likely, not less, that we will get a politician as President this way than if we leave it to the politicians.

Rebuttal *Some* truth in this one. Consider Ireland again: the last-but-one President, Mary Robinson, was supported by the Labour Party and had Fine Gael's preference recommendation, and the current President, Mary McIlhenny, was

supported by Fianna Fail. *But* in each case the winner seems to have had support across party lines, and nobody has suggested that either has shown any partisanship in the carrying out of her duties. Perhaps the real fear here is that candidates will send subtle messages that they will be prepared to show bias towards a certain party in a crisis, and that people will vote for them *because* of that. I think most Australians will understand that they need to select someone who will be neutral and fair.

Arguments against election by Parliament

Argument Members of Parliament are politicians, and they'll elect a politician.

Rebuttal First, this seems to be based on total ignorance of the details of the proposal. With a requirement for nomination by the Prime Minister and seconding by the leader of the Opposition, and then election by a two-thirds parliamentary majority, only someone who is trusted by both sides of politics will stand a chance of being elected. A politician *might* be elected, but they would have to be a politician with an extraordinary reputation for being balanced and fair-minded.

Secondly, what is so terrible about a former politician becoming President? Governor-Generals McKell, Casey and Hasluck had all been politicians, and were all greatly respected as Governor-General. Labor Party supporters may have been disappointed by Bill Hayden's

conversion to monarchism, but nobody has suggested that he made any decisions that showed a bias towards his former party.

Argument Election by Parliament is less democratic than direct election by the people.

Rebuttal For democratic government, it is not necessary that *all* officials be directly elected. We don't elect judges, we don't directly elect the Prime Minister. Unlike some US states, we don't elect dog-catchers and state prosecutors. The President needs to be someone who will be respected by both sides of politics, and who will apply the same rules to both sides in the political struggle. They should therefore be elected by more than a mere majority vote – and it's only possible to demand this of a relatively small group of voters.

More hysteria: the 'last chance for decades' theories

In the last few months, we have heard more and more the of the two 'last chance' arguments. Parliamentary-election supporters are claiming that if the 1999 referendum is lost we won't have another chance to vote for a republic for several decades. Direct-election supporters are saying we'd better not vote 'yes' to the current proposal because if it is passed no government will *ever* offer us the chance to change from parliamentary election to direct election. The good old Aussie technique, the scare campaign, lives! As an aside, I wonder whether monarchists are whispering it into the ears

of both kinds of republicans – thinking up scare tactics to oppose change comes naturally to conservatives, and it would be *such fun* for them to dream up scare stories and feed them to those who have generally been their opponents in the past! Again I present the arguments and the rebuttals in a table.

Argument If we vote ‘no’ we won’t get another chance to vote for a republic for ‘several decades’ (letter from Michael Lavarch to former ARM members, dated 22 March 1999).

Rebuttal I think everyone should vote ‘yes’, but I hate dishonest arguments – and this is totally dishonest. A republic *is* inevitable, in a country with Australia’s anti-aristocratic spirit. If postponed for a while, it will simply become *more* inevitable. I don’t want to seem too callous, but the most vocal monarchists are dying off one by one, and as every batch of 17-year-olds turns 18 the British monarchy will have fewer supporters – and it will have even fewer when Charles Windsor succeeds to the throne. Within a few years we’ll have a republican Prime Minister (Beazley, Crean, Costello or Reith). Of course if all republicans just fall into a sulk there will be no further referendum, but we won’t – will we? If we keep up the pressure there’ll be another referendum within 3 to 5 years – and *if* we’re defeated in 1999 maybe we’ll learn from experience and agree to support whatever form of republic is put forward, and argue *afterwards* whether further change is

needed. Indeed, we should agree to do that *now* – but not because of silly arguments about the last chance for decades.

Argument If we vote 'yes' we won't get a chance to vote for a *real* republic for decades, if ever.

Rebuttal There will be a lot of pressure on the Government of the new republic to call another convention to consider further change because:

(i) The Constitutional Convention recommended that, *if* a republic is adopted, there should be another convention in 5 years, this time with two-thirds of the members elected. This has no legal force but it will have strong moral force, especially considering:

(ii) The adoption of a republic in itself will be a symbolic affirmation that We the People are the sovereign authority in this country. Hopefully, the Constitution itself will say much more clearly than at present that we *own* our Constitution (though this seems doubtful now that the Howard draft preamble has been released – see Appendix). If there is any call from a substantial number of people for further change, the politicians *should* find it hard to ignore.

And if we do have a 'further change' referendum the ARM won't be there to organise a 'no' campaign because they dissolve once we get a republic!

Conclusions and consequences

First, for the Government

We the People really should be allowed to choose on a preferential-voting basis between the present system and either form of republic. The world wouldn't end if you gave Us the People a real choice! And to the various constitutional lawyers who say you can't present alternative amendments in a constitutional referendum, I say – what an unimaginative lot you are! Section 128 of the Constitution requires that a majority of people (nationwide and in a majority of the states) must *approve* a proposed law altering the Constitution. It does not take much creativity to design a ballot paper in which people can indicate whether they approve one or both or neither of two proposed alterations – and if both, which one they approve the most. If one received approval which satisfied section 128, it could be presented for the 'royal' assent. If both satisfied section 128, one would hope that the one with the greatest support would be presented for assent – though we might have to trust to the Government's good faith on that!

Second, for direct-election republicans

If the Government is only going to give us one republican choice, and that is going to be the bipartisan model, it should be supported for the following reasons: first, it's really not *all that* terrible; and second, only by voting in *some* sort of republic can we shut the monarchists out of the debate, and rob them of their balance of power. While there is a debate between three alternatives, and while enough republicans insist 'my model or nothing', the monarchists will win – *whichever* model is offered. But once a majority has voted for some sort of republic, the continuation of monarchy is dead as an alternative. It will

never come back. Future constitutional debate can only be about whether to make further amendments to the form of the republic – and monarchists will either have to abstain or choose which kind of republic they hate the least. (But don't be over-confident that, in a later 'face-off' between the two republican models, yours will win). Once we have a republic, *some* monarchists will want a 'real' republic; others will want to stick to the minimal change. Don't get hysterical over the prospect of no further change – the minimal republic, I repeat, is really not *all that* terrible.

Finally, for parliamentary-election republicans

Do not campaign for a 'yes' vote by slugging the idea of direct election, and attacking its supporters as simpletons. This is a marvellous way of getting their backs up and ensuring they will vote 'no', even if just to punish the elitist, anti-democratic lot pushing parliamentary election due to their hysteria about direct election. Instead, try to persuade them by saying:

You want a different kind of republic, and no doubt it would work, just as ours would work. But 'bipartisan election' is all the Prime Minister is going to offer. It will be way better than hereditary monarchy, so please vote 'yes'. And then, if you don't like the way the republic works, feel free to campaign for further change. *That* will be the time for us to fight each other.

And then don't get hysterical over the prospect that there might be a further referendum one day, and that direct election *might* win. *It's* really not all that terrible either.

Note

- 1 Malcolm Turnbull, *The Reluctant Republic*, Heinemann, 1993, Appendix Three.