

SUBMISSION TO THE SENATE LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE INQUIRY INTO AN AUSTRALIAN REPUBLIC

This submission presents the outline of an additional Model for the Australian Republic. **Republic Model X (as now, bicephalous Head of State: Part-time elected President with largely expressive functions; Full-time appointed Governor- General with largely Constitutional functions).**

A President directly elected by the Australian people. A Governor- General chosen by the Prime Minister and appointed or dismissed by a President who is bound to act in accordance with the Prime Minister's advice.

The President shall serve as Chair of a Council of State, that would have a widely representative composition (similar to that of the 1998 Constitutional Convention, but with considerably smaller membership). The Council of State would normally meet annually. The Governor- General shall serve as Chair of a Steering Committee of the Council of State. The Steering Committee shall meet regularly, and act under delegations from the Council.

A core function of both the Council and its Steering Committee shall be the authorisation of public policy relevant statements that the President proposes to make in his/ her official capacity.

Eligibility and Nomination

Every Australian citizen who is qualified to be a member of the Commonwealth Parliament and who has forsworn allegiance, obedience or adherence to a foreign power shall be eligible for election and to hold office as the President.

Any Australian citizen may at any time nominate any other Australian citizen to be listed for consideration for the position of Governor- General by the Prime Minister.

Shortlisting

A sitting of the Council of State shall by at least a two-thirds majority choose no fewer than three candidates from the list of eligible nominees for an election of the President by the people of Australia.

Removal

The President shall be removable only by a two thirds majority vote of the Council of State, on the joint recommendation of the Governor- General (as Chair of its Standing Committee) and the Prime Minister.

The Governor- General would be dismissed within two weeks of the Prime Minister advising the President to do so.

Powers

While the President's Constitutional position would resemble that of his/ her Irish counterpart, s/he could take initiatives (especially, perhaps, in the areas of Constitutional reform and Reconciliation) on the advice and with the support of the Council of State.

The Governor – General would retain the range of powers currently vested in the position.

Term

The President shall hold office for two terms of the House of Representatives.

The Governor- General would continue to enjoy the security of tenure currently attached to his/ her position.

RATIONALE FOR MODEL X

This model departs structurally from the McGarvie model in only one critical respect – the proposed retention of the current bicephalous Head of State. In so doing, Model X follows Mc Garvie in protecting the vital gubernatorial role that he so brilliantly characterised – that of Constitutional auditor. An earlier version of this model was deemed acceptable by Richard McGarvie himself.

It is submitted that Model X is superior to the Mc Garvie model, both on grounds of principle and on those of political feasibility.

In principle, the role of expressing the identity of Australians to the world and to themselves should be separated from that of acting as Constitutional auditor. The two roles do not call for similar aptitudes and characteristics. I am confident that Australians would welcome Presidents who were happy to stay in their own homes – and quite possibly their own jobs – leaving the occupancy of Government Houses and their attendant ceremonials to the Governor- General and State Governors. It has to be admitted that direct election of the President carries the risk that a demagogue could come to win the office. However, the selection processes proposed in Model X reduce such a risk virtually to zero. Further, the behaviour of the President would be subjected to the disciplines entailed in gaining the assent of the Council of State to proposed public policy relevant statements.

A further issue of principle is this: the dyadic relationship between the Prime Minister and the Head of State that is a characteristic of all five of the models outlined in the Discussion Paper is fundamentally unstable. Ironically, the triadic relationship that we currently possess - Prime Minister, Governor- General, Monarch - is more stable and more in accord with republican principles than any of the five republican models

advanced in the Discussion Paper. For a republican approach requires effective checks and balances, and these are best provided by a triadic structure. Although the specifics of appointment and dismissal vary from office to office, ultimately each of the three office holders would be liable to dismissal if s/he lost the confidence of the other two.

It is submitted that the most feasible course of reform is one that minimises the extent of Constitutional change. Model X is truly the most minimalist, for unlike all the other Models (including McGarvie's), it does not have to wrestle with the complexities of attempting to merge the role of the Crown with that of the Governor- General. For the most part, the textual Constitutional changes that Model X requires could be achieved by replacing the word 'Queen' with 'President'. The only additional clauses that would be needed would be those outlining the method of election of the President and the nature and composition of the Council of State. The offices of the Governor- General (and of the State Governors) would be left completely undisturbed.

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