

The Secretary,  
Senate Legal and Constitutional  
References Committee  
Parliament House, Canberra  
ACT, 2600



Dear Sir / Madam,

**Ref Discussion paper "*Inquiry into an Australian Republic*",**

Overleaf, please find my replies and what is intended as constructive supportive comment to the 25 questions set out in the above reference discussion paper. I trust your committee will find these answers helpful when reporting to the House of Representatives and the Senate.

I would be happy to attend and explain more fully my written answers should the committee desire but I am eighty-eight and need time to arrange flight and accommodation in Canberra for a night or so. I look forward to hearing from you.

I am , Sir / Madam

Yours Truly,

A handwritten signature in black ink, appearing to read "Ruston". The signature is written in a cursive style with a long horizontal stroke extending to the right.

[Maj. E.W. RUSTON, MC]

**Discussion Question:**

**Answer and Supportive Comment**

- 1.0 No! The two offices of state must be independent of each other. The Head of State must be free to seek from or give advice to the Prime Minister or Head of State / Premier of any state or territory. The Head of State must not be answerable to any political party, ethnic group or religious/ pressure group. The ideal example to use as a model is that of the Monarchy, "Which has served this nation well."<sup>1</sup>
- 2.0 Our elected Head of State's powers should be exactly the same as those at present exercised by the Monarch and the Governor General. This existing arrangement has served Australia well over the 100 years since federation.
- 3.0 No powers should be codified save those already codified, the Head of State must have freedom to exercise what is historically referred to as "The Royal Prerogative", and in so doing, uphold traditional power vested only in the Head of State.
- 4.0 Assistance must be made available to all nominees standing for election as Head of State. Such assistance must include financial, material, accommodation and use of all media services (privately or publicly owned) to include: I.T services, television, radio and press. All of these services etc must be controlled to ensure they are fairly and equally apportioned to all candidates in terms of space, time and cost. Transport for candidates and their immediate staff to carry out electioneering duties, by air, road or sea, as well as subsistence and accommodation costs must all be covered by the public purse (this seems reasonable given the event).
- 5.0 The control of these issues must be firmly in the hands of the Australian Electoral Commission (AEC), who will be responsible for authorising all such expenditure and payment of accounts.
- 5.1 Political parties could have a minimal role to play in elections for a Head of State, along with trade unions, professional, industrial, commercial and administrative organizations such as ex-servicemen/women's organizations. Religious and ethnic groups would be able to express their comments but could not nominate any individual specifically to represent them as such, but could express their preferences to their state government/territories.
- 5.2 I suggest the whole election be under the administration of the AEC and all voting be by postal vote. The AEC should have authority to delegate power in all respects to local authorities who would organise, man and control all duties resulting from postal voting procedures within their boundaries. Such action would dispense totally with polling stations, security at such sites and should be cost effective. It would certainly simplify voting for the populace.

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<sup>1</sup> To quote former Prime Minister, Paul Keating.

- 6.0 All assistance from the public purse should be controlled by the AEC who by controlling the voting itself and counting of votes would be well placed to supervise and control assistance and its costs.
- 7.0 As already stated, I firmly believe the Head of State, should we eventually decide to replace the monarchical system with a republic (God forbid!), should be by a direct election., by a 100% postal vote in line with “*model D*”<sup>2</sup> of the discussion paper.
- 8.0 I see no reason why the relationship between the elected Head of State should become “a rival centre of power” if the same powers as are presently conferred on the Monarch and Governor General are conferred on the elected Head of State. The system has worked in the favour of Australia for a century, please allow it to continue.
- Special note re:  
Preferential  
voting
- Regarding the method of voting query<sup>3</sup>, Australians are familiar with preferential voting which is a good reason to continue in its use. However, I suggest if an elector wishes not to give any preference to certain persons whose names appear on the voting paper then he/she should be allowed to vote (preferentially) only for those he/she wishes to vote for and his/her votes must be valid. To insist every name is given a preference number seems to me to be farcical and not “good civics”.
- 9.1 I do not support the idea of an appointed Head of State since it is too open to abuse and would be ‘grist’ to the political mill to produce ‘backdoor political objectives’. It bodes ill in the long-term!
- 9.2 I lean towards the Irish system of nomination; the second method set out on page 29 of the discussion paper.
- 10.0 Yes, there should be disqualification facts which bar any individual from seeking or being nominated to seek the office of Head of State. Again I prefer the Irish system as outlined on page 29. I would add other limiting factors such as:
- No criminal record of felony status,
  - Sound health,
  - English his/her first and daily used language,
  - If from an ethnic minority to be at least 3<sup>rd</sup> generation Australian.
- 11.0 Maximum number of nominees – Yes  
Minimum number of nominees – N/A
- 11.1 Existing state and territory governments should be encouraged to submit names of possible nominees on a non-political, non-religious basis. States and Territories should also encourage registered major ethnic organizations to submit to them a name of any qualified member of their community for consideration by the state/territory.

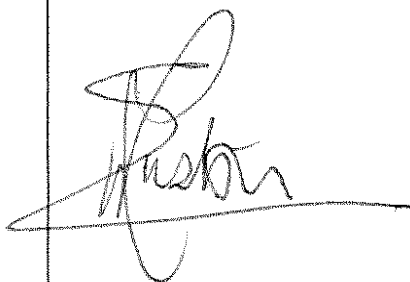
<sup>2</sup> See Reference Article, page 15: ‘Direct Election A’

<sup>3</sup> See Reference Article, page 9

- 11.2 In consideration of the fact that the field from which nominees must be chosen is continent wide and the objective is to elect the Head of State, not more than one name should be put forward by any state or territory. Ipso facto, this procedure would recommend seven names.
- 11.3 When the necessary legislation is in place and the procedures are 'under way', it seems to me the Governor General at that time, the Prime Minister, his government and the Senate would wish to put forward nominations. I suggest this might be a task to be determined by a free vote at a joint sitting of both houses, the Governor General's nominee to be considered at that time.
- 11.4 For discussion, I would suggest the final maximum number of nominees be six and the minimum be two (see note 3, above). If a joint sitting of both houses is adopted and a free vote pertains, the final selection could well be by numbers of votes cast for each nominee to decide who shall be the chosen candidates. Such a system of selection would make it clear to all Australians, both houses of the Federal Parliament, on a free vote chose the list of candidates from whom the whole electorate would chose the Head of State for the initial period of a republican government of this country.
- 12.0 I have delegated that issue to states/territories etc, for it is apparent to me that the states and territories must have an important role in this business of selecting candidates for the highest office in the land.
- 13.0 We already have a 'President of the Senate' and it seems to me that we should preserve that title for that office. If that is conceded, then the title of 'Governor General of the Commonwealth of Australia' is appropriate for the office under review. If Australia is to remain a full member of 'The British Commonwealth of Nations', the title of Governor General would, I am sure be acceptable not only to Australiasians, but also to the British Commonwealth of Nations as a whole.
- 14, 15 & 16 Continuity in office of a person respected for their ability, sincerity and devotion to duty must not be cast aside in the quest to determine the length of time in offices of a Head of State. As a nation we must make the best use of our resources. If a patently successful Head of State is willing to continue in office, the selection system should be moulded to allow this to happen.
- 17.0 The Head of State would be subject to the laws of Australia like every other Australian citizen and bona fide visitor to this continent. That being so, it would seem fair and reasonable if a Constitutional Council be assembled and given the clearly defined authority to remove a Head of State from office. Failing that it would seem convenient and appropriate if the High Court of Australia discharge the duty of removing from office the Head of State. It would only do so on the recommendation of the Prime Minister, having satisfied its members that such action was in the national interest. Neither the options (Constituency Council's or the High Court of Australia's decision could be contested nor would either be required to publish any member's vote; it would only be required to publish its finding.

- 18.0 No, it is not in the nation's interest for any reasons to be codified (or spelt out) listing on what grounds a Head of State should or could be removed from office.
- 19.0 Could Australia not have a vice Head of State? Having one would solve this problem.
- 20.1 Be a registered citizen of at least 3<sup>rd</sup> generation status.
- 20.2 Aged between (and including) 35 and 60, and to be deemed physically capable of carrying out the duties.
- 20.3 Known to his/her peers within his/her profession and respected in every aspect of the profession for integrity and person.
- 20.4 Has a stable family life in the community in which he/she resides and the support of the family in the quest for this high office.
- 20.5 Has never 'borne arms' in armed conflict against Australia or its traditional allies (New Zealand, United Kingdom, United States etc.) or in anyway supported terrorism.
- 20.6 Be of graduate status or held commissioned rank in the historic defence forces (AIF, ADF or in British Armed forces in the Second World War or subsequent.
- 20.7 Has never registered as a conscientious objector or refused to carry out war work in time of war.
- 20.8 Has no criminal record of felony status.
- 20.9 Has never been subject to a bankruptcy order.
- 20.10 A nominee's primary language must be English, in which the nominee must be fluent in speaking, reading and writing. It would be expected the nominee's immediate family would be fluent to the nominee's standard and use English as their primary language in their family, scholastic and daily life.
- 20.11 A nominee can declare without adverse effect to his/her application, historic links with a nation in which lie the family's historic roots. A nominee would be expected to have fluency in that country's language and profess secondary loyalty to that country but the nominee must declare his/her loyalty to Australia above all others.

- 21.0 Yes. Failure to comply or meet any of the items listed above.
- 22.0 The Federal Judiciary must be entirely separate to the legislative authorities. That being so the Head of State should have power to appoint or remove federal judges. Before so doing the Head of State will note the Prime Minister's views regarding any decision the Head of State may decide is best in the national interest.
- 23.0 Yes, without doubt.
- 24.0 Yes, as Head of State, every office of State must be available to a Head of State on matters of constitutional issues which may affect that service. It follows therefore the Head of State can consult the Head of the Judiciary, namely the Chief Justice. I think this is in line with current practice.
- 25.0 We should accept that states will wish to retain their governors and should frame legislation to foster the states' declared preference. It is noted Queensland's constitution materially differs from all others. Her Majesty has stated she will accept the decision(s) of the electorate of Australia. That being so, I suggest it would be in the interests of all concerned if Her Majesty's opinion was sought on the issues of dealing with states so that decision would be final. Above all, we must avoid political inspired acrimony in all this business. The Monarchy has served the empire and Commonwealth well as an institution far better than any republican led comity of nations and we should recognise that truth.



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