

The Secretariat  
Senate Legal & Constitutional Committee  
Room S1.61 Parliament House  
Canberra ACT 2600

## Submission the Inquiry into an Australian Republic

### Summary

The key arguments of this submission are:–

1. the republic will only happen when all republicans are united. The division over the method of choosing the head of State might be remedied by a model that is less prescriptive – a model that is more flexible and evolutionary;
2. how the head of state may be removed is far more important than how the head of state is chosen, because the ease of removal directly affects the security of tenure and the independence of the head of state;
3. short-term use of the title “Governor-General” for a republican head of State simplifies the Constitutional amendment to establish the republic, and emphasizes the purpose of the republic, which is to replace the Queen as the head of State. It also allows a simultaneous, second amendment to codify the Governor-General’s powers to appoint and remove the Prime Minister;
4. a voluntary, mail-out plebiscite is required, and suggested questions are included.

Attached to this submission are two (2) Constitutional amendment proposals. They are:

- Appendix A – Establishment of a Republic; and
- Appendix B – Powers of the Governor-General.

### Opening Discussion – Choosing the head of State

The fundamental question about the republic is: “How should the head of State be chosen?” Republicans are split into two camps over the issue – direct-electionists (the liberal camp) and proponents of appointment by Parliament or the Executive (the conservative camp). Approval of a Constitutional amendment (refer section 128) requires a majority nationwide and in a majority of States. Table 1 summarises the 1999 referendum results for each State. A swing of 5% would achieve a national majority, but a uniform swing of almost 9% is required to win four States. And swings are rarely uniform. We must not underestimate the difficulty of our task. Every republican vote is valuable.

State	% Yes	% Swing Required
New South Wales	46.4	3.6
Victoria	49.8	0.2
Queensland	37.4	12.6
Western Australia	41.5	8.5
South Australia	43.6	6.4
Tasmania	40.8	9.2
<b>National Total</b>	<b>45.1</b>	<b>4.9</b>

**Table 1. Summary of Results – Republic Referendum, 1999** (Source: AEC)

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Opinion polls have shown strong public support for direct election of a President, but that does not mean a direct-election model will win a referendum. There is a hardcore of republicans who are implacably opposed to direct-election, just as there is in favour of direct-election. If a direct-election model were put to the people, it would most likely fail because the republican camps will divide again. Meanwhile, some republicans tinker with complicated models (e.g. short-listing by committees, public nomination, bipartisan nomination and so on) to try find a formula palatable to both extremes. But such complicated, hybrid models satisfy no-one. There seems little prospect anytime soon of consensus on how to choose the head of State.

A possible solution is a model that recognizes this lack of consensus and does not prescribe nor exclude any selection process – a model that is flexible enough to embrace the aspirations of all republicans.

Consider how the architects of our federation drafted the original Constitution. They did not tangle themselves in excess detail. They broadly outlined the federal structure – the Parliament, the High Court and a common market. Then existing Colonial (State) laws, traditions and institutions were adopted to function in transition until the Parliament was ready to make new, detailed laws. The Constitution employs the phrase, “until the Parliament otherwise provides . . .” dozens of times. Similarly, the head of State could be chosen under the existing custom (i.e. by the Prime Minister) but only “until the Parliament otherwise provides”.

But the Parliament should not be able to change the selection process immediately after the republic becomes established. A delayed transition is appropriate. Similar transitions were employed by the architects of federation to ease the colonies into a common market (refer sections 87, 88, 93, 94, 95 & 96). The appropriate length of the delay is negotiable. Ten years is probably the limit of the patience of more ardent republicans, and five years is probably the minimum delay that is still meaningful. Seven years has been adopted for this submission (refer to proposed section 59, Appendix A) as follows:

During a period of seven years after the establishment of the Republic and thereafter until the Parliament otherwise provides, the Governor-General shall be chosen by the Prime Minister.

In this way, conservative republicans will get a republic that for at least seven years is similar to the status quo ante. But liberal republicans will get a republic that can *evolve* (perhaps to an elected Presidency) through legislation and not through an easily-stymied referendum. And the people get a system of government that puts some limits on Prime Ministerial power (at least in respect of choosing and removal of the Governor-General/ head of state). A plebiscite on the question of how the head of State should be chosen is vital. (Refer to plebiscite question 2, at comments to questions 26 – 28).

But postponing the issue (of how the head of State should be chosen) does have some risks. What will the Parliament decide upon in seven years time? No-one can know for sure. But the delay and uncertainty is also the proposal's strength – we gain more time to consider the issue, the sum of changes may be made in several steps rather than all at once, and the initial step is truly minimalist to both the Constitution and our system of government.

The architects of our federation recognized that the purpose of the Parliament is to debate public policy issues and to make political decisions on behalf of the people. It seems appropriate to defer to Parliament on those issues about the republic that confound us. The republic will only happen when all republicans are united.

#### The Committee's Discussion Paper

**Question 1** *Should Australia consider moving toward having a head of state who is also the head of government?*

No, definitely not. An executive President such as that of the United States or France would not be a step forward for Australia. It puts far too much power into the hands of one person.

**Question 2** *What powers should be conferred on the head of state?*

Generally, the same powers as is currently available to the Governor-General.

The existing Constitution distinguishes between powers that are exercisable by the Governor-General and those exercisable by the Governor-General in Council. The distinction is historical. The former are powers that were part of the Monarch's prerogative at common law, while the latter had come under the control of statute law. In practice, the former are exercised by the Governor-General with the advice (and countersignature) of the Prime Minister, while the latter powers are exercised through the formal process of the Federal Executive Council (FEC) (The Constitution of the Commonwealth of Australia, Lumb & Moens, Butterworths 1995, p343).

It is modern practice that legislative powers which the Constitution originally vested in the Crown or the Governor-General (s1, 56, 58 and 128) are now exercised by the Governor-General in Council. But powers relating to dissolution of the Parliament (s5, 28 and 57) and the appointment and dismissal of Ministers (s64) / Executive Councillors (s62) are often more urgent from the Prime Minister's political viewpoint, and are exercised under the less formal process.

The change to a republic is an opportunity to bring the Constitution up to date with modern practice, by specifying FEC control over legislative matters (refer s56, 57, 58, 128 of Appendix A) and removing the Governor-General's lapsed powers of discretion (refer s5 and 58 of Appendix A). And where the Governor-General retains some discretion (eg. under the Reserve powers) but usually acts with the advice of the Prime Minister, then the Constitution should say so (refer s63 of Appendix A).

**Question 3** *What powers (if any) should be codified beyond those currently specified in the Constitution?*

The existing Constitution depends heavily on unwritten convention. These conventions include the details of the procedure to appoint and dismiss the Prime Minister, and are sometimes controversial. No proposal for a republic needs the handicap of such controversy. But if the Australian head of state is directly elected (which is a possible outcome of the model at Appendix A) then codification of such powers becomes very important (refer to comments under question 8). To that end, a second Constitutional amendment question should be put simultaneously with the republic question. The second question would codify the Governor-General's powers to appoint and dismiss the Prime Minister (refer Appendix B). Submission of this second question simultaneously with the republic question only becomes possible if the title of the head of state continues as "Governor-General" (refer to comments under question 13).

**Question 4** *Should some form of campaign assistance be available to nominees, and if so, what assistance would be reasonable?*

**Question 5** *Should/ can political parties be prevented from assisting or campaigning on behalf of nominees? If so, how?*

**Question 6** *If assistance is to be given, should this be administered by the Australian Electoral Commission or some other public body?*

**Question 7** *If the Australian head of state is to be directly elected, what method of voting should be used?*

These matters and those raised under questions 9, 10, 11 & 12 are best managed under legislation, not directly by the Constitution. Such detail would become frozen because the Constitution is so difficult to amend. The Constitution merely needs to provide the Parliament with the general power to legislate about any matter related to the head of state, which the Constitution has not addressed elsewhere (refer to s59, Appendix A) as follows:

Subject to this Constitution, the Parliament may make laws relating to the head of State.

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**Question 8** *If direct election is the preferred method for election of a non-executive president, will this lead to a situation where the president becomes a rival centre of power to the Government? If so, is this acceptable or not? If not, can the office of head of state be designed so that this situation does not arise?*

It is not acceptable to have two centres of power. A directly elected President will have an nationwide mandate (from an electorate of about 12 million voters) that imparts an authority which challenges that of the Prime Minister whose direct mandate is the same as any other member of the House of Representatives (who are chosen by electorates of about 80 000 voters). And if Australia adopts a directly-elected Presidency, but too much of our Constitution remains as unwritten conventions, what is to stop it evolving into an Executive Presidency like the USA? These is why some republicans resist a directly-elected Presidency.

Other republics have solved this problem. Their Constitutions clearly spell out the role and powers of their head of state and head of government. Under an Australian republic, our Constitution must also define a clear demarcation line between the powers of the head of state and of the head of government, and spell out their roles, powers, appointment and removal. The model proposed by this submission provides such a demarcation line (refer to proposed section 63, Appendix A). And the second proposal (refer to Appendix B) codifies the appointment and removal of the head of government. Refer to comments to questions 1, 2 and 3.

**Question 9** *Who should be eligible to put forward nominations for an appointed head of State? For an elected head of state?*

**Question 10** *Should there be any barriers to nomination, such as nominations from political parties, or candidates being current or former members of parliament?*

**Question 11** *Should there be a maximum or minimum number of candidates?*

**Question 12** *Should there be a minimum number of nominators required for a nominee to become a candidate?*

Refer to comments under question 4.

**Question 13** *What should the head of state be called, Governor-General, President of the Commonwealth of Australia, or some other title?*

Ultimately, the term "President" should supercede "Governor-General", because the latter has colonial/ vice-regal connotations. But there are pragmatic reasons why the term "Governor-General" might be retained for the short term. In particular, the Republic-isation of the Constitution is considerably complicated by changing "Governor-General" to "President", and having to distinguish between the existing office of "President of the Senate" and the proposed "President of the Commonwealth". Sections of the Constitution that otherwise would not need amendment include 7, 15, 17, 18, 19, 21, 23, 28, 32, 33, 35, 37, 62, 65, 67, 69, 70, 72, 83, 85 and 103. A title change also affects sections 5, 42, 56, 57, 63, 64 and 128.

Other reasons to maintain the term "Governor-General" include:

- some references to the Governor-General have historical worth and/ or are spent (e.g. s103) and to amend them by vesting spent powers upon a "President" misrepresents that history;
- such title-related amendments obscure the central purpose of the proposal, which is to remove the Queen as the head of State; and
- some people distrust terms like "President" and "Republic" (for whatever reason).

Perhaps a more evolutionary approach would reassure those who distrust a republic but not shackle us indefinitely to outdated terminology, as follows:

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The head of state of the Commonwealth is herein called "The Governor-General". But after seven years from the establishment of the Republic, the Parliament may alter the title of that office.

After a seven year interval, when the Republic has been tried and tested by at least one appointment of a republican head of State, the colonial title could be jettisoned. But under the above proposal the temporary, colonial term "Governor-General" will be used repeatedly in new sections of the Constitution that define a republican head of State. (Refer to Appendix A, there are about ten such references in each of s59 & s60. Excess use of "Governor-General" doesn't feel right). A variation of the proposal is to use two terms within the Constitution, as follows:

The head of state of the Commonwealth is herein called "The Governor-General" or "the head of State". But after seven years from the establishment of the Republic, the Parliament may alter the title of that office.

The generic term "head of State" is used in new sections 59 and 60 when referring to the office and "Governor-General" is used in original provisions or in new sections when referring to the person holding that office. And the possessive form "Governor-General's" is less cumbersome than "head's of State". (Refer also to definitions at section 127, Appendix A). A plebiscite on this question would be a useful guide (refer to plebiscite question 5, at comments to questions 26 – 28).

***Question 14** What should be the length of term of office for head of state ?*

***Question 15** Should a head of state be eligible for re-appointment/ re-election?*

Yes

***Question 16** Should there be a limit on the number of terms an individual may serve as head of state?*

No

The appropriate length of the term of office is inter-related to the method of choosing the head of State and the method and cost of voting. The issue only becomes acute if the head of State were directly elected, which my proposed model (Appendix A) allows but it is not a requisite outcome. Until such time the current practice of a more-or-less fixed, more-or-less five-year term seems adequate. A seven-year term (as applies to the French President) or eight years (as applies to NSW Legislative Councillors) is far too long for any public office (elected or not). A six-year term is not unreasonable and would match that enjoyed by senators for the States. But the term of office must have a Constitutional limit to prevent someone being installed as "President for life".

If the head of State were directly elected, synchronizing Presidential and Parliamentary elections seems desirable to reduce cost. But that gets complicated because the duration of the Parliament is variable. Coupling the term of office of the head of State to the Parliament, e.g. "two terms of the House of Representatives", is not appropriate. The head of State should be in place while Parliament is dissolved. Any election for the head of State must happen before the expiry of the incumbent's term. The head of State has the responsibility to dissolve Parliament on the advice of the Prime Minister, but if in doing so prematurely ends his own term of office, the independence of the head of State is undermined. Therefore, to maintain the independence of the head of State a fixed term is highly desirable. But unless the Parliamentary term is also fixed (which is way outside the scope of this proposal) desynchronized terms are the inevitable consequence.

Finally, voting in Australia may be on the cusp of major change – electronic/ on-line voting. The ultimate effect of which (if any) is unknown, but it might reduce the costs of out-of-sync elections. The Australian Electoral Commission has studied overseas trials of electronic and on-line voting, which might be of interest to the committee.

Therefore, we need a flexible solution where the Parliament can adjust the term of office of the head of State (but not for the incumbent who must have security of tenure) to suit the evolution of the

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head-of-State selection process, the evolution of voting technology and any future changes to the Parliamentary election cycle, as follows (refer s59, Appendix A):

The Parliament may prescribe the duration of the term of office of the head of State. But each term of office shall expire on a predetermined and fixed date, and the maximum duration of each term shall be six years. A person may serve more than one term.

*Question 17 Who or what body should have the authority to remove the head of state from office?*

*Question 18 On what grounds should the removal from office of the head of state be justified? Should those grounds be spelt out?*

These are perhaps the most important questions raised by your discussion paper. The dismissal process in the 1999 referendum model, where the Prime Minister could sack the President and then had to front the House of Representatives but could ignore its censure (if any), was the most objectionable part of that proposal. The Prime Minister was to have a power of immediate dismissal over the President, which was more power than he enjoys over the Governor-General.

To dismiss the Governor-General, the Prime Minister has to request the Queen to do it. But it is not an immediate process. Yes, the Queen must abide by the Prime Minister's advice, but the Queen can reasonably be expected to take a few hours to consider such an unusual request. And there is about ten-hour time difference between London and Canberra, which may also cause a delay.

The removal of the head of state is far more important than how the head of state is chosen, because it affects the security of tenure of the head of state and the efficient, impartial execution of that office. Therefore, this process must be defined by the Constitution. But given that the selection process of my propose model is flexible (refer Appendix A), the removal process has to be appropriate no matter how the head of state is chosen. The removal process should err on the side of reduced Prime Ministerial power to improve the security of tenure of the head of state, and because that seems to be the disposition of the electorate (as shown in 1999 and in subsequent opinion polls). A plebiscite on this question would test that assumption.

There are two circumstances where the removal of head of state might be justified: political circumstances and non-political. The non-political circumstances include medical incapacity or un-Constitutional acts by the head of State. The facts of such an event may require impartial judgment, which the High Court is the appropriate body to provide. The political circumstances to warrant removal of the head of State should be decided by Parliament not the Prime Minister.

One option is removal by the House of Representatives, which is effectively removal by the Prime Minister, who dominates that House. The process could take an hour or two (or days, if the House is not sitting) and in these respects this option is similar to the existing dismissal procedure. But this option still gives the Prime Minister too much sway over the head of State, and it is not appropriate if the head-of-state were directly elected.

Another option is removal by a bi-partisan majority of the House of Representatives, say a 60% or two-thirds majority. The voting threshold must be sufficiently high to prevent unilateral action by one political party or other, because otherwise the head of state cannot act independently. But the threshold should not be so high that dismissal is a hollow threat. This option seems to be viable because it does weaken Prime Ministerial control over the head of state, but voters outside of NSW and Victoria are usually wary of processes that bypass the Senate (and approval in four States is needed to amend the Constitution).

The other options for removal by Parliament involve both the House of Representatives and the Senate. A comparable removal process already exists in the Constitution – section 72. That section allows the removal of High Court judges when each House votes for such removal on the grounds of “proved misbehaviour”. But “proved misbehaviour” is a bit meaningless. What is the level of proof? Exactly what qualifies as misbehaviour? It is all very subjective. To be pragmatic, if the head of state

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has lost the confidence of enough MPs (for whatever reason) then he/ she should go – no explicit grounds are necessary.

The final option involves a joint sitting of both Houses. This has an advantage over separate resolutions from each House, because if only one House acts the head of State is not removed but is discredited. Again, the voting threshold must be sufficiently high to prevent unilateral action by one political party or other. Such a joint sitting could not be convened without the Prime Minister's consent (who advises the head of State to summon the Parliament) but nevertheless the Prime Minister's power to remove the Governor-General/ head of State is curtailed. The President of the Senate and the Speaker (as the chief officers of the Parliament) should execute the removal – not the Prime Minister, which would be far too contentious.

A plebiscite on this question would be a useful guide. (Refer to plebiscite questions 3 and 4, at comments to questions 26 – 28). The recommended option is as follows (refer to s60, Appendix A):

The Governor-General may not be removed from office, except by:

- (i) an order of the High Court on the grounds of contravention of this Constitution or incapacity; or
- (ii) the President of the Senate and the Speaker of the House, if at least sixty percent of the total number of members of the Senate and the House of Representatives vote for such removal at a joint sitting thereof.

***Question 19 How should a casual vacancy be filled?***

The current convention is that the most senior State Governor acts as Governor-General when required. If the method of choosing the head of state may be altered by the Parliament, the method to fill a casual vacancy should also be determined by Parliament (refer to proposed section 60, Appendix A) as follows:

Whenever the office of head of State becomes vacant a person shall act as head of State and, until the Parliament otherwise provides, such person shall be the longest serving State Governor.

***Question 20 What should the eligibility requirements be for the head of state?***

***Question 21 On what grounds should a person be disqualified from becoming head of state?***

The fundamental eligibility requirement should be Australian citizenship, or more particularly, citizens who are eligible to vote. Any requirements for residency or to be Australian born are not appropriate because that devalues the meaning of citizenship. Age requirements are not appropriate because they are arbitrary.

The qualifications and disqualifications for Federal MPs could apply to the head of State so to be consistent (refer to proposed section 59, Appendix A). But the relevant section of the Constitution (section 44) has a few historical hangovers such as allowing members of the military to sit in Parliament. A serving General as President (or sitting in Parliament) is not a good idea (refer to proposed section 44, Appendix A). A plebiscite on this question would be a useful guide (refer to plebiscite question 7 at comments to questions 26 – 28).

A Minister of State (or a Minister for a State or Territory) should be disqualified, because that would be an unacceptable concentration of power. Members of Parliament should not be excluded from being chosen as head of state, although membership of Parliament must cease when the head of state takes office. It seems petty to prohibit members of Parliament from being chosen as head of State. Several former MPs have served us well as Governor-General, including Paul Hasluck and William

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McKell. Similar examples from overseas include (senator) John F. Kennedy and (State senator) Jimmy Carter of the USA, and (senator) Mary Robinson of Ireland. We should encourage experienced people to stand for such offices, and not put barriers in the way.

*Question 22 Should the head of state have power to appoint and remove federal judges?*

The Constitution vests these powers in the Governor-General in Council, and that need not (and should not) be changed.

*Question 23 Should the head of state have the prerogative of mercy?*

No. Justice should not be so random, nor depend on who you know.

*Question 24 Should the head of state be free to seek constitutional advice from the judiciary and if so, under what circumstances?*

Yes, at any time. The head of state has a considerable responsibility and it seems completely sensible that he/ she can get constitutional advice. The only caution is that such advice or meetings should not be clandestine. This matter might be better managed under legislation, not directly by the Constitution. Refer to comments to questions 4.

The solution is not to quarantine the head of state, but to make clear the rules relating to the powers and responsibilities of the office (refer section 63, Appendix A and refer Appendix B).

*Question 25 What is the best way to deal with the position of the states in a federal Australian republic?*

Each of the State premiers is a republican. Perhaps the committee should invite them to make a submission on this particular issue. After all, the Senate is traditionally the States' house.

The Parliaments of States such as NSW, Victoria, and South Australia, which can amend their Constitutions by legislation, will have a mandate to do so if those States approve the federal referendum. But as your discussion paper noted, Queensland must have a referendum to cut its ties to the monarchy. And Queenslanders' support for a republic is the least of any State (refer Table 1). However, I predict that Queensland will cut its ties to the monarchy, but only after a national referendum for the Australian republic is decisively won. And if that win is of such magnitude that Queenslanders approve the national referendum, they are most unlikely to reject a similar State referendum.

The political momentum from a decisive national referendum will deliver a uniformly republican federation.

### ***Models for a Republic***

The five models considered in your discussion paper all illustrate my fundamental point, that any model that is too detailed is likely to lose crucial support from one end or other of the pro-republican spectrum. For the record, I have no particular preference on how the head of State should be chosen. Each option has its merits and demerits. But I disagree with model A (McGarvie model) and model C (electoral college model). Choosing the head of State should be transparent and simple. Both these options create new bodies, which are unnecessary or are not accountable to the Australian people.



**Question 26** *Should there be an initial plebiscite to decide whether Australia should become a republic, without deciding on a model for that republic?*

**Question 27** *Should there be more than one plebiscite to seek views on broad models? If so, should the plebiscites be concurrent or separated?*

**Question 28** *Should voting for a plebiscite be voluntary or compulsory?*

A multiple-question plebiscite is desirable, particularly if the republican camps remain divided, to measure the relative strength of each pro-republic and the anti-republic groups. But unlike a referendum, there are more than two possible answers to a multi-question plebiscite. Therefore, the pro-republican groups can finally fight it out, and any artificial alliances between republicans and monarchists will unravel. The plebiscite also has value as a means of direct consultation with the people of Australia, and allows consultation with many more people than opinion polls do.

Voting for the plebiscite should be voluntary and by mail. A precedent for a voluntary plebiscite was the Fraser government's plebiscite on the national anthem. And a precedent for a voluntary vote by mail was the election of delegates for the 1998 convention. Voluntary voting measures public interest through the voter response. Voting by mail gives voters more time to consider their answers and to consider a few more questions than voting in person. But a too long list of questions is likely to discourage participation.

All questions must be on one ballot paper, so that anti-republican responses can be considered separately from pro-republican responses. The views of both groups are important, but an uncontaminated pro-republican response would highlight grounds for (and the need for) compromise between the pro-republic groups. Conversely, separate ballots for each question would assist anti-republicans to bias the results toward models that they hope to defeat at the referendum.

Suggested questions, in descending order of importance, are:

1. Should Australia become a republic where the Queen ceases to be our head of State?
2. If Australia becomes a republic, would it be appropriate that the head of State be chosen by:
  - (a) the Prime Minister?
  - (b) a bi-partisan majority of a joint sitting of the Federal Parliament?
  - (c) an electoral college chosen by the State and Federal Parliaments?
  - (d) an electoral college elected by the people of Australia?
  - (e) direct election by the people of Australia?
3. If Australia becomes a republic, would it be appropriate that the head of State be removed from office by:
  - (a) the Prime Minister?
  - (b) the Federal Parliament (subject to conditions defined at question 4)?
  - (c) the High Court, for any reason?
  - (d) the High Court, if the head of State is incapacitated?
  - (e) the High Court, if the head of State contravenes the Constitution?
4. If Australia becomes a republic where Parliament may remove the head of State, which of the following voting thresholds are appropriate:
  - (a) an absolute majority of the House of Representatives only?
  - (b) a bi-partisan majority of the House of Representatives only?
  - (c) an absolute majority of both the Senate and the House of Representatives, voting separately?
  - (d) a bi-partisan majority of a joint sitting of the Senate and the House of Representatives?

5. If Australia becomes a republic, should the title for the head of State be:  
(a) "President"? OR  
(b) "Governor-General"?
6. Whether or not Australia becomes a republic, should the procedure to appoint (and dismiss) the Prime Minister:  
(a) remain as unwritten conventions? OR  
(b) be written into the Constitution?
7. Should serving members of the defence forces be allowed to sit in Parliament or be head of State?

Each question requires a simple Yes/ No answer, but voters may skip any question. The issue of how the head of State is chosen is simplified by excluding the complex "embroidery" such as nomination processes. The complex issue of removal of the head of State, is simplified by using two questions instead of a too-long, single question. Multiple "Yes" answers are possible (and desirable) for multiple-option questions 2, 3 and 4 because we want to know what people will accept not just their particular preference. We are looking for common ground.

The secondary purpose of question 2 is to demonstrate to both republican camps the magnitude of their support. I expect that neither can garner enough support to win a referendum on their own. The direct-electionists are probably favourite to do well on this question, but will they do well enough? The support of a majority of republicans is not enough, nor is a simple majority of all voters (refer Table 1). I contend that the republic will only happen when all republicans are united.

The compromise options proposed by this submission, i.e. selecting the head of State by the Prime Minister until the Parliament makes other arrangements, and the short-term use of "Governor-General", are not included among the plebiscite questions. Such compromise options would be premature in such a first round of consultation, and would more appropriately be considered at the subsequent convention. Further plebiscites are not recommended to avoid "plebiscite-fatigue" and because a face-to-face forum is a better means to debate and decide the final details. But the people get the final say, at the referendum.

**Question 29** *What is the best way to formulate the details of an appropriate model for a Republic? A convention? A parliamentary inquiry? A Constitutional Council of experts?*

There is one golden rule when formulating the details of the model for a republic. Keep the model simple and flexible, to keep all republicans on board.

An invitation-only convention is desirable to achieve a political consensus on the final detailed proposal. But invitation-only should not mean politicians only – anyone with something to contribute should be invited. Expert input is desirable but decision making on the model is not their prerogative. Public input is necessary but through the plebiscite (or submissions) not through elected delegates to the convention. Elected delegates filter and sometimes misinterpret the people's views and sometimes have their own agenda. Elected delegates to the 1998 convention seemed constrained by their election platform, and were reluctant to negotiate.

Any amendment of the Constitution must be approved by two groups – the Parliament (through a bill passed by at least one House) and by the people (through a referendum). Therefore, both groups should be consulted. The plebiscite is the best means for direct public consultation, and the convention provides a more co-operative forum than the Parliament, before the formal approval process is begun.

*Question 30 What is the preferred way for a process to move towards an Australian republic ?*

1. No referendum has succeeded if either the Prime Minister or the opposition leader fails to support it. Australia needs leadership from a republican Prime Minister, who will give new impetus to the debate, and who will have the political wisdom and courage to choose and promote a model that will deliver a successful referendum.
2. The voluntary plebiscite (described above) is highly desirable. It should be held a few months before the convention, which should be held at least one year before the referendum. The purpose of the plebiscite is to engage the public and produce guidelines for the convention.
3. The details of a proposal are then decided at a convention (described above). The agreed model must be made known early to the electors by newspaper supplements, the web, and mail-outs, so that public reaction and any constructive criticism can be incorporated by the Parliament. The boosters of federation were proud to show off their proposed Constitution to the people, and so should we.
4. The referendum is the next step, but the timing and tactics of which are beyond the scope of this submission. The most important tactic is to have a sound proposal.

Closing Remarks

The attached Constitutional amendment proposals are an illustration of what is possible. No doubt, in the wake of the plebiscite and convention, the final model will differ. I thank the committee for the opportunity to make this submission, and wish you well in your deliberations.

Vive the Republic!

C J Wolfs