

Constitutional Conversation

No.9 — AUTUMN 2022

OUR CLEAR POST-POLL PRIORITIES



By **DAVID MUIR AM**
Chair



Welcome to the autumn 2022 edition of our quarterly newsletter.

By the time you receive our next edition in a few months Australians will have voted in a federal election to choose a government to run our nation for the next three years.

They will likely have made their choice between returning the government of Scott Morrison, or will have opted for Anthony Albanese as prime minister. Or maybe the result will be a hung Federal Parliament with a minority government of some complexion.



Morrison and Albanese voters' choice

Whatever the outcome we know that a priority for the next government of Australia will be, and should be, resolving the issue of constitutional recognition of First Nation's people.

The process that led to the [Uluru Statement from the Heart](#) was initiated in 2015. The statement was drafted and released in May 2017 after [extensive dialogues](#). Five years later the issue is still not resolved.

It must be concluded and, we believe, must involve a change to our Australian Constitution in line with the Statement from the Heart's call for the constitutional enshrinement of a First Nations' Voice to Parliament and a Makarrata Commission overseeing a process of treaty development and truth-telling.

This unfinished business should be a priority for the

next government chosen by Australian voters.

But that does not mean we will stand still on the issue of Australia becoming a republic.

We believe we must continue to discuss the republic issue with our fellow Australians and to continue advocating our ideas and plans for a Head of State who is an Australian elected directly by Australian voters.

We must also continue advocating our suggested "roadmap" for constitutional reforms built around Australian Constitutional Assemblies to involve average voters in updating our Constitution in other areas such as fixed four-year terms, synchronised terms for both houses of parliament, recognition of local government, and other changes to deliver lasting benefits to all Australians.

The Real Republic Australia supports recognition of First Nation's people in our Constitution. But we will continue our push for a republic with a real directly elected Head of State – not one picked by politicians or parliaments or from a list of candidates approved by politicians or parliaments.

In coming months we will release a discussion paper outlining our republic model and again pointing to the "roadmap" we released last year to help reach our goals.

Constitutional change is hard. It takes a lot to convince Australians to alter the Constitution and the "double majority" needed – a national majority of votes plus a majority states voting in favour – sets the bar very high.

That's why our priority is to continue our dialogue with Australians – including through this newsletter – so that when we reach a referendum on the republic we can be in the best possible position to see it approved.



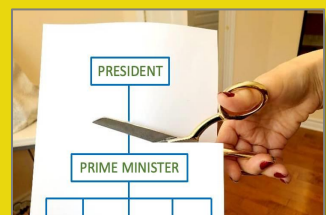
JAMAICA:
CURRENT AND FORMER LEADERS SUPPORT REPUBLIC MOVE

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REPUBLIC MODEL:
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Jamaica likely to follow Barbados

Commonwealth nation moves closer to becoming a republic

The Caribbean island nation of Jamaica is set to transition to a republic this year as it marks its 60th year of independence from Britain in August.

Its move would follow the November 2021 declaration of Barbados as a republic.

Other former British colonies in the region – all members of the Commonwealth of Nations – are already republics including the Caribbean nations of Trinidad and Tobago, and Dominica as well as Guyana on the northern mainland of South America.



Holness

In a [New Year's Day message](#) Jamaica's Prime Minister [Andrew Holness](#) said the 60th anniversary of independence this year was the time "to start the process of redefining our State as a republic".

"We must resolve to ensure that the republic we will create, will substantively improve the wellbeing and secure the freedom and prosperity of every citizen," Mr Holness said.

"The task for the 60th therefore must be to set the Jamaican Republic on a path where it can actually deliver for its citizens."

The vehicle for proceeding with a change to a republic is a new Ministry of Legal and Constitutional Affairs established after the 2020 election to consider constitutional and law reforms.

Opposition Leader Mark Golding supports a move to a republic but [has expressed a preference for a national referendum](#) on the issue instead of the usual parliamentary

process for making amendments to the Constitution. (See below)

He said the extra cost of holding a referendum, estimated to be about AUS\$9 million, would be worth it.

"Jamaica truly becoming independent is something that is significant and it is worth us investing in the referendum process," Golding said. "I think it is important that we do this when we have the momentum and can agree around the issues."

Jamaica's longest-serving prime minister, Percival Patterson, popularly known as PJ Patterson, [has urged both the government and opposition](#) to back a move to a republic.

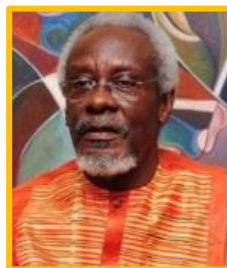
The respected elder statesman and former leader of the People's National Party who served as the nation's sixth prime minister from 1992 to 2006 said both major parties had accepted that a new head of state would have largely ceremonial powers defined by the parliament.

He urged action before the 60th anniversary of independence.

"It is repulsive to contemplate a Diamond Jubilee where our constitution rests on an Order in Council dated 23rd July, 1962 and a head of state who does not reflect our own image and enables every Jamaican to aspire in reaching the highest position within our native land," Patterson said.



Golding



Patterson



KEY FACTS:

Christopher Columbus suppressed the island's original inhabitants and took possession of Jamaica for Spain in 1494. It remained under Spanish rule until a successful British invasion in 1655. It became a British colony with an economy based on the African slave trade until its abolition in the early 19th century. Jamaica gained independence on 6 August 1962.

- **Population:** 2.9 million
- **Size:** 10,990 sq kms – 235 km long by 35-82 km wide
- **Constitutional monarchy** – Head of State, Queen Elizabeth II represented by Governor-General Sir Patrick Allen.
- **Bicameral Parliament** with maximum five-year terms:
 - **Senate** – 21 Senators including 13 appointed by the Governor-General on the advice of the Prime Minister and eight appointed on the advice of the Leader of the Opposition.
 - **House of Representatives** – 63 Members elected in single-member electorates.
- **Prime Minister Andrew Holness** leads the Jamaica Labour Party and first won government in March 2016 and secured a second term in August 2020 with 49 lower-house seats.
- **Opposition Leader Mark Golding** leads the People's National Party which holds 14 seats in the lower house.

Constitutional changes

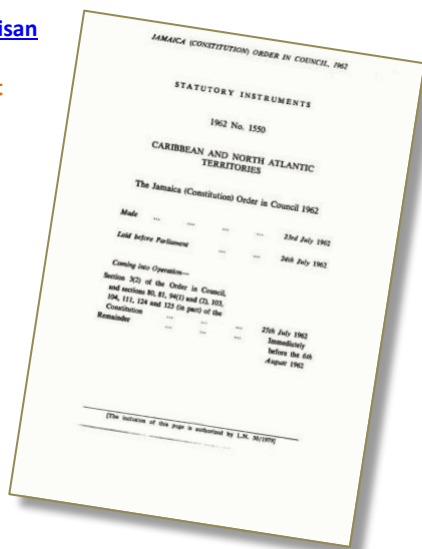
The [Jamaican Constitution](#) (right) was drafted by a [bipartisan joint committee](#) of the Parliament of Jamaica in 1961 and 1962 prior to the nation's independence from Britain that took effect from 6 August 1962.

The Constitution came into force with the passage of the [Jamaica Independence Act 1962](#) by the UK Parliament.

The Constitution outlines procedures for amending its provisions.

In cases where a proposed amendment is deemed not to be of significant national importance, a change can be approved by a majority decision in both houses of Parliament.

If the provision is considered more significant, an amendment must be approved by two-thirds of all the members in both houses of Parliament.



Source: [Jamaica Information Service](#)

New Assemblies tackle big issues

The Real Republic Australia suggests using a new and ongoing system of Australian Constitutional Assemblies to drive constitutional reform including the transition to a republic. Our idea is based on the successful Citizens' Assemblies used in Ireland where several have already been held and more are planned.

The Irish Government has announced plans to establish new Citizens' Assemblies to consider potential reforms in significant areas of public policy and administration.

The Citizens' Assemblies bring together a group of average voters chosen from the electoral roll to reflect the composition of the wider Irish community in terms of age, gender, income, and regional spread.

The Assemblies usually consist of 99 citizens and an expert chair who are asked to meet regularly usually over a period of months to consider an issue referred to them by the government and recommend potential reforms that can either be accepted or rejected by the government.

The recently announced new Citizens' Assemblies will consider:

- how Ireland can respond to the crucial issue of a loss of biodiversity, and
- a directly elected mayor for Dublin and new ways to better manage the growing city.

In announcing the Assemblies [the Irish Government said](#) a further two would be held at a later date on:

- the future of education, and
- drug policy.

Already 34,000 people on the Irish electoral roll have been sent invitations to register as possible members of the two latest Assemblies – 20,000 sent nationwide for the Biodiversity Assembly and 14,000 sent in the Dublin area for the Dublin Assembly.

The required 99 members of the new Biodiversity Assembly will be picked from among those who register their interest.

The Dublin Assembly will be composed slightly differently and will have a total membership of only 79 comprising 67 people drawn from registrations of interest being joined by 12 members of local authorities.

The two Assemblies are expected to start their work in April and should conclude their work by the end of the year.



Irish Citizen's Assemblies at work



Some previous Assemblies have resulted in proposals for referendums to alter the Irish Constitution.

The process was first used through the [2012 Constitutional Convention](#) involving 33 MPs and 66 Irish citizens who were asked to consider reforms to the nation's constitution.

A flow-on from the special Constitutional Convention was the ongoing system of Citizens' Assemblies – comprising 99 citizens and an appointed chair.

Ireland's Prime Minister Michael Martin has said the Assemblies were a key component of government.

CONTINUED NEXT PAGE:

HOW TO ASSEMBLE AN ASSEMBLY:

The Irish Government says it has **tweaked the process for constituting Citizens' Assemblies based on the experience of previous forums.**



The following steps are taken to establish an Assembly:

- Letters are posted to a sample of Irish households inviting someone from the household to apply to become a member of an Assembly.
- Each of the nation's 26 counties receives invitations proportionate to its population.
- Households are selected randomly from an online geographical database of households.
- Invitations are addressed generically to "The Householder" not to named individuals.
- Only one adult from each household that receives an invitation is eligible to apply, and it is up to households themselves to decide who might apply.

- Invitations are non-transferable between households.
- The registration process requires each applicant to use a unique identifier code, which prevents more than one application from the same household, or more than one household using the same invitation.
- After a householder registers their interest in becoming a member of the Assembly key demographic information gathered during the registration process is used to conduct a random selection of members.
- The overall composition of an Assembly broadly mirrors the composition of the wider Irish society in terms of gender, geography and socio-economic status.

Ireland finds value in tapping citizens' views

FROM PREVIOUS PAGE:

"We want to build on the success of previous Assemblies in examining a wide range of important national issues," Mr Martin said.

"These Assemblies have become an important part of our democratic system in recent years, offering people an important opportunity to contribute directly to national decision-making.



Michael Martin

"Ireland's Citizens' Assemblies have been recognised and studied internationally as templates for how to broaden participative democracy, and I look forward to these two Assemblies continuing that important work."

The Real Republic Australia has proposed a system of 99-member Australian Constitutional Assemblies based on the Irish experience that could consider issues such as a transition to a republic, as well further Assemblies being constituted to examine other beneficial constitutional or administrative reforms.

In our "roadmap for a republic" released last year we envisage that each Assembly would decide its work plan and the frequency and method of its meetings, with most expected to be virtual meetings held at weekends or after working hours. At the conclusion of an Assembly, a federal government will need to justify its decision to support or oppose progressing any recommendations of the Assembly – recommendations which will reflect the view of the wider Australian community not just politicians.

We believe the Australian Constitutional Assembly process would help achieve an Australian republic, especially because it would extract cheap party politics from the process.

A simplified outline of the process we suggest to achieve a republic is provided at right.

We propose that the an Australian Constitutional Assembly be used to identify options for workable republic models and to draw up a shortlist to be put to Australian voters in a non-binding plebiscite.

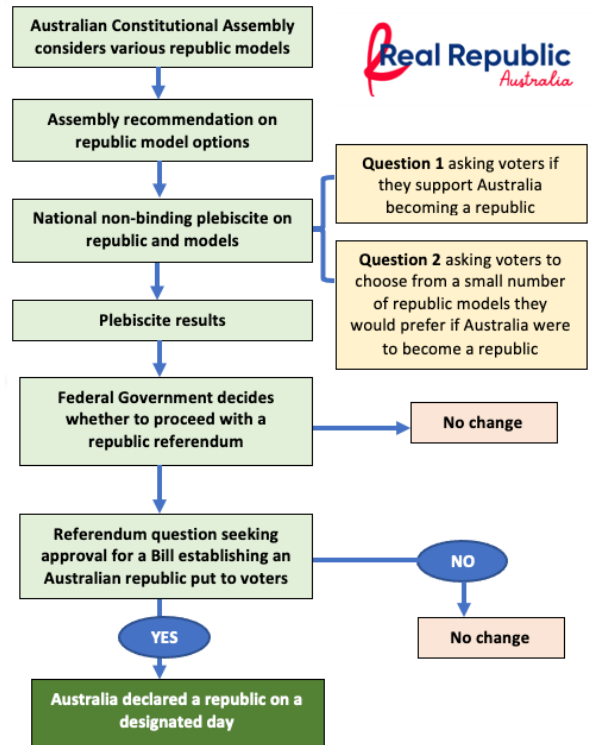
We stress that the plebiscite must include two questions:

- a threshold question asking if voters support Australia becoming a republic, and
- a second question asking for their preference for a specific republic model.

There is a real risk that unless a range of models is also included in any plebiscite, the threshold question would face certain defeat at the hands of a campaign by those opposing a republic who would advise voters "don't sign a blank cheque" in the absence of adequate details of a republic model.

But if our suggested inclusive and consultative approach was taken utilising the Australian Constitutional Assembly concept, and once a plebiscite identified a preferred model – which we firmly believe will be a direct election model – it would be very difficult for any federal government not to proceed with a referendum.

FROM OUR 'ROADMAP' FOR REFORM:



In addition, the model put to voters at that referendum would belong to Australians, not to any particular pro-republic group, and not to politicians.

Through a simple, inclusive, and non-partisan process we can achieve a republic instead of standing by and watching as good ideas are dealt with in a piecemeal fashion and fail at referendums because of politicking.

We believe our recommendations for assessing constitutional reform issues through the Australian Constitutional Assembly process would remove partisan politics from the process.

New book recalls early direct-election advocate

Julianne Schultz, former publisher of Griffith Review and chair of the not-for-profit news analysis website The Conversation, has authored a new book examining the Australian identity.

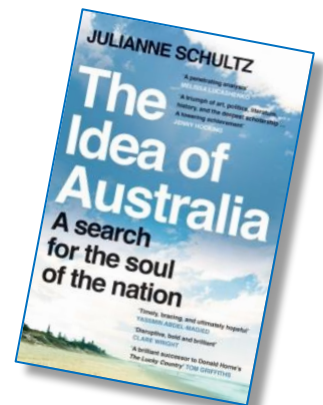
In *The Idea of Australia* she touches upon those who drove the agenda for Federation including the often-overlooked Sir George Grey who at 78 was the oldest yet perhaps the most experienced delegate at the meetings that resulted in the drafting of the Australian Constitution.

Sir George was a soldier, explorer, adventurer, administrator, and politician who had a colourful and controversial career as governor of South Australia and later the Cape Colony in South Africa

as well as serving twice as governor of New Zealand and later being elected to the NZ parliament and forming a short-lived government.

In her book Schultz writes of Grey as a man who had grown more radical with age and who argued for "one vote one value" to ensure landowners would not receive an electoral and political advantage. He also stressed that the constitution should not be set in stone and restrict future generations.

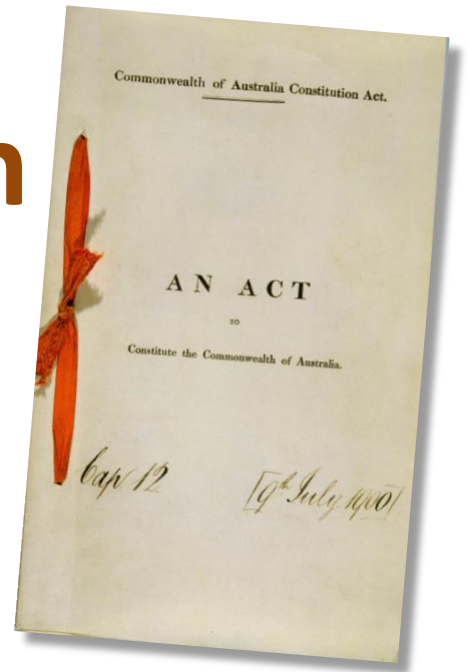
Grey also proposed that the constitution provide for a governor-general elected by Australians rather than having someone imposed on them from London.



The Idea of Australia
By Julianne Schultz
Publisher: Allen & Unwin
472 pages
\$34.99 paperback

Let's scrap it and start from scratch

Following the release by the Australian Republic Movement of its model for having federal and state politicians choose a shortlist of candidates for an Australian Head of State, author and retired political scientist KLAAS WOLDRING, argues for drafting an entirely new Constitution. While recognising that the Real Republic Australia's advocacy for a republic and range of other constitutional reforms do not involve starting with a blank sheet, he suggests the current documents is so out of date that it must be replaced.



The failure to put the Uluru Statement's objectives to a referendum for inclusion in the archaic Australian Constitution reinforces the need to seriously amend or rewrite the entire document.

Indigenous people had no say in the 1901 Constitution. However, the 1992 Mabo decision of the High Court of Australia made it obvious that their exclusion rested on a colonial misinterpretation of realities.

Attempts to facilitate amending the existing Constitution, as Prime Minister Gough Whitlam tried in 1974 with a proposal to change Section 128, have failed. (*See next page*)

The Senate Inquiry of 2005 on the republic referendum failure of 1999 made it clear that the lack of education on governance systems was a major cause.

The issue really has now become: What kind of republic? Surely, there is much more to be fixed than a directly or indirectly elected Head of State.

Even the recent new proposal by the ARM still deals with that issue alone.

In contrast the Real Republic Australia, in its document Roadmap to Reform, does not start with a clean (constitutional) sheet but argues for significant ongoing reform by means of popular Australian Constitutional Assemblies.

An example is provided by the Constitutional change process in Ireland used in 2012.

The Real Republic Australia has said: "We propose that Australia adopts a process similar to one employed successfully in the Republic of Ireland for assessing constitutional reforms.

"Ireland has operated a series of Citizen's Assemblies that consider issues of public policy and proposed constitutional changes"

The Real Republic Australia proposes that each Australian Constitutional Assembly be required to report to the Speaker of the House of Representatives who would also be administratively responsible for their operation through the Department of the House of Representatives.

Each Australian Constitutional Assembly would comprise:

- a chair designated by the Speaker of Federal Parliament would be an Australian citizen but not a member of any legislative body, and
- 99 other Australian citizens entitled to vote at a referendum and recruited at national level and randomly selected in accordance with best recruitment practice so as to be broadly representative of Australian society.

The Real Republic Australia proposes some major constitutional changes of its own:

- constitutional recognition of First Nations' peoples,
- fixed four-year terms for both houses of parliament,
- synchronised terms for both houses of parliament,
- addressing the nexus between the upper and lower house and cutting Senate numbers,
- a casual vacancy system for the House of Representatives,
- constitutional recognition of local government,
- a fairer process for changing Australia's Constitution.



Gough Whitlam 1974 referendum failure

However, the Irish Parliament is elected on the basis of Proportional Representation similar to the Australian Senate.

Thus, smaller parties achieve a proportional voice quite unlike in the Australian House of

'Any form of piecemeal tinkering within the existing two-party culture could well be a terrible waste of time'

Representatives which is elected on the Single Member District electoral system productive of Australia's combative, adversarial two-party system.

Unless this changes one must expect that constitutional amendment proposals from a popular Australian Constitutional Assembly (as recommended) will tend be treated in the context of that adversarial political culture.

The idea that constitutional change needs to proceed from the existing colonial document, hardly amended since 1901, is highly problematic.

It is assumed that members of Assemblies would rapidly be acquainted with the existing document and be able to develop and agree on sensible amendments and updates, in a democratic fashion, and

then present amendment proposals to the voters.

CONTINUED OVER:

ALSO SEE: More Assemblies Page 3

The need to rewrite our Constitution

FROM PREVIOUS PAGE:

This would require, first of all, a major reform of the amendment procedure of Section 128 which has been basically impossible to be achieved in the past.

Even the sensible proposal to reduce the number of states to approve an amendment to three, instead of four (a majority), was put by Mr Whitlam in 1974 and rejected.

Any form of piecemeal tinkering within the existing two-party culture could well be a terrible waste of time.

The history of serious attempts, in particular in 1988, suggests that.

Further piecemeal tinkering, within the context of the existing Constitution, is in my view, a long and difficult process, likely to be discarded after a while.

Australians needs to face up to the reality that the country needs a new Constitution, to be written afresh.

Those existing clauses that remain of value can be included of course but all the deadwood can go and, particularly, many new values can/must be included.

The shortcomings of the existing Constitution are truly immense.

We need a process to rectify this, urgently.

The suggested Australian Constitutional Assemblies could discuss such a proposal or proposals of course.

However, alternatively, instead a small group of progressive, eminent constitutional lawyers, political scientists and economists can be selected by the government to work on this.

Together with the Australian Law Reform Commission, instructed by the Attorney-General, they can deliver a democratic document that can be presented for a vote by the Australian people.

Klaas Woldring is the author of *Yes, we canrewrite the Australian Constitution and How to improve Australia's Democracy – Breaking the Vicious Cycle!* both published by BookPod, Melbourne.

A RECORD OF REFERENDUM FAILURES:

At a referendum voters are asked to say “yes” or “no” to a question outlining a proposed federal law to alter the Australian Constitution.


But history shows that few referendum questions are approved by Australian voters.


Since Federation in 1901 Australians have been asked to vote “yes” or “no” on 44 referendum questions but only eight of those met the requirement for a “double majority” mandated by [Section 128 of our Constitution](#) – a majority of votes nationwide (including votes in the territories) as well as in a majority of states (excluding the territories).

Below are referendum posed in the past 50 years. All but three did not achieve a “double majority” including the November 1999 republic referendum question.

8 December 1973


Prime Minister Gough Whitlam – Labor Party Government


Prices — to give powers to the Commonwealth to control prices. 


Incomes — to give powers to the Commonwealth to legislate on incomes. 


18 May 1974

Prime Minister Gough Whitlam – Labor Party Government

Simultaneous elections — to hold elections for the Senate and the House of Representatives on the same day. 


Mode of altering the Constitution — to give a vote in referendums to electors in the ACT and the Northern Territory, and to enable amendments to be made to the Constitution if approved by a majority of voters and a majority of voters in half the States. 


Democratic elections — to make population instead of electors, as at present, the basis of determining the average size of electorates in each State. 


Local government bodies — to give the Commonwealth powers to borrow money for, and to make financial assistance grants directly to, any local government body. 


21 May 1977

Prime Minister Malcolm Fraser – Liberal/National Coalition Government

Simultaneous elections — to ensure that Senate elections are held at the same time as House of Representatives elections. 


Senate casual vacancies — to ensure, as far as practicable, that a casual vacancy in the Senate is filled by a person of the same political party as the Senator chosen by the people, and that the person shall hold the seat for the balance of the term. 


Referendums/Territories — to allow electors in Territories, as well as in the States, to vote in constitutional referendums. 

Retirement of judges — to provide for retiring ages for judges of federal courts. 

1 December 1984


Prime Minister Bob Hawke – Labor Party Government


Terms of Senators — to change the terms of Senators so that they are no longer fixed, and to provide that the election for both Houses are always on the same day. 


Interchange of powers — enabling the Commonwealth and States voluntarily to refer powers to each other. 


3 September 1988

Prime Minister Bob Hawke – Labor Party Government

Parliamentary terms — to provide for 4 year maximum terms for members of both Houses of the Commonwealth Parliament. 


Fair elections — to provide for fair and democratic parliamentary elections throughout Australia. 


Local government — to recognise local government in the Constitution. 

Rights and freedoms — to extend the right to trial by jury, to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any government. 

6 November 1999

Prime Minister John Howard – Liberal/National Coalition Government

Australian republic — to alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament. 

Preamble — to alter the Constitution to insert a preamble. 

Why not cut out the president?

Some republic supporters wish to see Australia with a US-style president who is both head of state and head of government. Others favour a European-style system with a president as head of state but who still plays an executive role in tandem with a prime minister. But Melbourne-based research scientist and engineer GRAEME HEALD proposes a different approach by keeping the Westminster-style Australian prime minister but vesting them with head of state powers and responsibilities.

In 1999, the Australian republic referendum showed that a greater majority of Australians supported a republic, albeit the vote was split between direct and parliamentary election of the president, the former pre-pollled at 55% of the vote.

The final result – a loss – given as a total of 45% support could even be viewed as a success for republicanism, showing support for the most unpopular model of the Australian republic.

According to a 2002 analysis by John Higley of the University of Texas and Ian McAllister of the Australian National University, the simple divide-and-rule choice created the impression that the majority of Australians supported the monarchy in 1999, when it could not be further from the truth.

In September 2017, a [Guardian newspaper headline](#) read “Australian republican poll shows that Charles unpopular even at Home”. This polling result suggested that the monarchy was not popular in Australia and a republic would be the favoured choice in 2017.

In 2022, as Australia moves inevitably towards a republic, what should be the ideal structure of the republic?

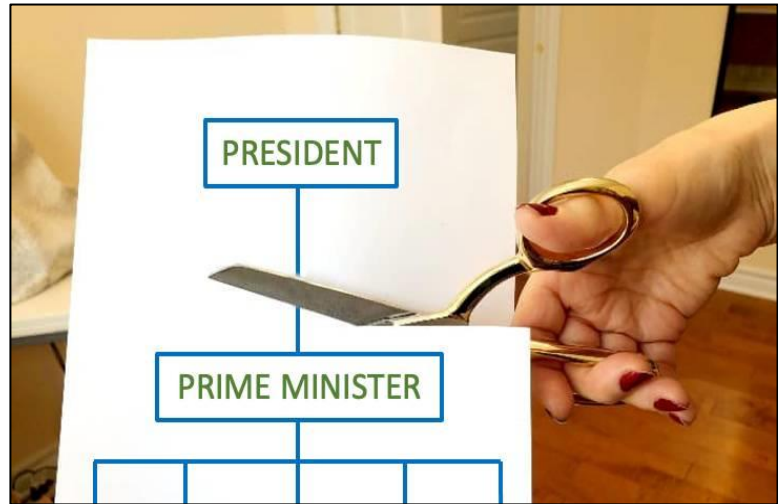
Given the divisiveness of the presidential models in the failed 1999 republic referendum, and better than having a ceremonial figurehead akin to the Governor-General, a parliament with the Prime Minister as the republic’s head of state is proposed.

The present republican models for a president involve direct or parliamentary election of the head of state.

However, both of these models are highly controversial even within the republican section of the Australian public and consensus may never be reached.

A plebiscite should be enacted to decide whether the majority of Australians would prefer to retain the monarchy or become a republic.

The deciding vote will be greater than a 50% majority.



If the republican vote is a majority and we change from a constitutional monarchy by referendum, then the following potential reforms would also be possible:

- The status quo of the lower and upper houses of parliament for state and federal governments would be maintained in a future Australian republic.
- The Prime Minister could effectively be the “president” of the republic.
- The constitutional crisis caused by the dismissal of the Whitlam Government in 1975 would be permanently avoided if there is no president.
- The no-president innovation could make federal and state governors-general and governors redundant thus producing a huge cost saving for the states and the Commonwealth.
- The Australian Constitution could be redrafted in line with 21st century Australian human rights and cultural values.
- An Australian Charter of Human Rights could be established based upon the 1948 UN Declaration of Human Rights.
- A Bill of Rights could provide a basis and reference for future law-making in Australia.

The Prime Minister as head of state in a future Australian republic provides a solution to the problematic president models highlighted in the failed 1999 republic referendum.

It should be noted that this is the modus operandi and status quo of democratic government in Australia at present, because the Governor-General acts at most times as a ceremonial head of state.

Making the Governor-General and state

governors redundant will be an enormous cost saving benefiting the people of Australia. In addition, the administration of government will be unencumbered.

A streamlined simple model for an Australian republic is presented with a Prime Minister as head of state, acting as the president, offers the best solution.

This is an edited version of an article by Dr Graeme Heald that appeared originally on the [Tasmanian Times website](#).



OUR SAY:

The Real Republic Australia believes in fostering debate about the various models on offer for an Australian republic and its Head of State.

That is why we publish ideas like Graeme Heald’s even though we always advocate for our preferred model – a directly elected Head of State with codified powers whose roles and responsibilities do not conflict with an elected Prime Minister leading the nation’s executive government.

Our strong recommendation is for a non-binding national plebiscite to put to voters a shortlist of workable republic models. The plebiscite should ask two questions of voters – do they back a republic and, if so, what model they prefer.

Once that result is known a referendum could proceed and place before voters a question to transition to a republic based on a model that will have widespread public support or maintain the status quo of a constitutional monarchy.

A history lesson in

anti-royal rhetoric

The British royal family has always had its critics, and always will have them.

Today we are free to express negative views about the royal family, although the Real Republic Australia puts the bulk of its efforts towards mounting the solid, logical, and positive arguments for a republic rather than push negative smears against royalty.

Nevertheless we do recognise the rights of others to criticise the monarchy based, of course, on facts and not just slurs. In the past such rights were not always easy to exercise.

Take for example Timothy William McCristal, president of the Wharf Labourers' Union.

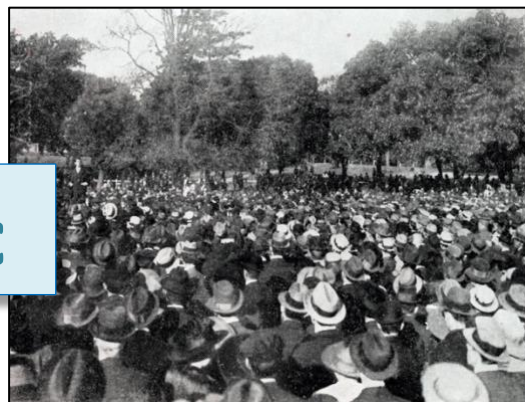
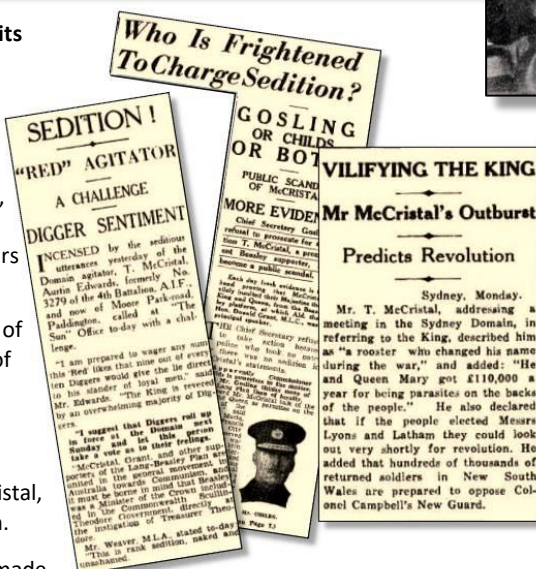
On Sunday 6 December 1931 McCristal made an impassioned speech in the Sydney Domain which was reported as a seditious attack on then British monarch and Australian head of state King George V and his wife Queen Mary.

Since the late 19th century Speaker's Corner, an area within the Domain adjacent to the city's Botanic Gardens, had become a popular venue for people to exercise free speech.

Anyone could try to attract an audience by airing their personal or political grievances, ideas, or theories no matter how crackpot they may be.

Newspapers of the day would report on many of those who took to their soapboxes – both literally and metaphorically.

McCristal's fiery speech found its way into a number of newspapers in the following days including the *Daily Telegraph* which levelled allegations of sedition against him.



A big crowd listens at Speaker's Corner in 1918
Photo: Dictionary of Sydney, State Library of NSW

the huge sum of 5,000 pounds. In the early 1930s the minimum weekly wage was only around three pounds.

When the defamation action reached court in October 1932 the newspaper sought to defend itself on the grounds of truth and public benefit.

McCristal claimed he had suffered from the story because since its publication he had allegedly been unable to work as a wharfie.

Evidence was given from the *Daily Telegraph's* reporter on site at the Domain that he had heard McCristal utter the words as reported, although police officers on duty claimed they had not heard the words.

McCristal's effort to challenge the allegation of sedition was not helped when the Sun Newspaper's lawyer revealed that McCristal and another man had been convicted and served time in jail for sedition in 1917 during World War I.

McCristal admitted that in 1917 he had been against the monarchy but had since changed his mind. He perhaps did not help his case when he added: "In fact I change my views hourly if it suits me to do so."

When the jury hearing the case retired it took just 30 minutes to dismiss McCristal's claim.

Lindsay Marshall

Our newsletter

Constitutional Conversation is published quarterly by the Real Republic Australia to foster public debate about potential changes to the Australian Constitution including a republic with a head of state elected directly by Australians.

The Real Republic Australia was founded by Brisbane's longest-serving Lord Mayor, the late Clem Jones (1918-2007) who led a team of Queensland delegates to the Constitutional Convention in Canberra in February 1998.

They and delegates from other states believed that only a model for a directly elected Head of State would be approved by voters at a republic referendum.

Unfortunately the failed 1999 republic referendum proved them correct.

In line with his wishes, the Real Republic Australia continues to campaign for a republic based on the direct-election model with support from the Clem Jones Group.



Clem Jones



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