

# Australia to hold “Republic” referendum but no public discussion about the details

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Recent weeks have seen a considerable crisis in Australia's political establishment over the question to be put to voters in the referendum being held on November 6 about replacing the monarchy with a republic. The exact wording was only finalised in a last-minute parliamentary deal on August 12, following five months of contortions and manoeuvres.

The dispute over the question reflected a series of rifts. Prime Minister John Howard's government is badly split over scrapping Australia's connection to the British royalty. While Howard himself is an avowed monarchist, together with a handful of establishment figures, many others in his cabinet are actively campaigning for a republic, including Howard's deputy party leader, Treasurer Peter Costello.

The monarchists' motto is: “if it's not broken, don't fix it”. Their concern is with the destabilising consequences of disrupting a form of rule that has served the ruling elite well for almost a century—since Australia was formed as a Federation in 1901.

But prominent corporate figures, while sharing these reservations, regard the old British ties as a millstone around their necks as they pursue their business operations in Asia and globally. They wish to project an unequivocal Australian identity on world markets and, at the same time, to engender a renewed national sentiment at home, where the monarchy has lost much of its credibility. The semi-official Australian Republican Movement, a business-financed organisation led by millionaire investment banker Malcolm Turnbull, represents their interests.

Howard's initial proposal for the referendum question on March 8 failed to mention the only aspect of the republic that has garnered any significant public support—the replacement of the Queen and her representative, the Governor-General, with a President. Instead, his question focussed on the most unpopular and distrusted feature—the appointment of the President by a two-thirds majority in parliament, rather than by a popular vote.

The republicans immediately objected. They accused Howard of seeking to ensure the referendum's defeat by not mentioning the abolition of the monarchy and emphasising the parliamentary selection of the President. Media opinion polls have shown support for the republic—never overwhelming—falling away as people have learned more of the details, with widespread opposition to the notion of an appointed president. A poll conducted by the Murdoch organisation in July indicated that support for a republic rose from 41 percent to 46 percent if Howard's question were replaced by one referring to the Queen being replaced by a president nominated by members of the public and then selected by a two-thirds Parliamentary majority.

On August 10, the Australian Labor Party and Australian Democrats in the Senate rejected Howard's proposition, and the impasse threatened to abort the referendum. In the end, a 'compromise' formula was adopted on August 12, but only after reports of cabinet clashes between monarchists and republicans, followed by an eleventh-hour deal with the nine Australian Democrats Senators.

The final concoction mentions both the axing of the monarchy and the

parliamentary appointment of the President. All the parliamentary parties—Liberal, National, Labor, Australian Democrats and Greens—endorsed it. One lone independent MP in the House of Representatives recorded a dissenting vote.

News outlets presented the outcome as a political milestone. “Vote for historic choice,” was the banner headline of the *Australian*, Rupert Murdoch's national newspaper, one of the most fervent promoters of the republic. Yet public disinterest in the process was symbolised when the Senate rubber-stamped the formula unanimously, 70 to 0. In the public gallery a solitary spectator moved through empty seats and departed before the vote was taken.

## “Reserve powers” entrenched

What has not been mentioned is that by agreeing on the referendum question, the MPs also voted for an entire Act to amend the Constitution—the *Constitution Alteration (Establishment of Republic) Act 1999*. It is this legislation that the voters will be asked to accept or reject on November 6, without any knowledge of its contents.

The Act enshrines the scheme adopted by the Howard government's February 1998 Constitutional Convention—a so-called minimalist plan to simply transfer the ancient, vague and unspecified powers of the English Crown to a handpicked President. The Act retains all the potentially dictatorial powers of the British monarchy that were embedded in the Constitution in 1901. The Queen and her representative, the Governor-General, can dissolve or prorogue parliament (Section 5) and reject legislation passed by parliament (Section 58). The Governor-General is the commander-in-chief of the military forces (Section 68).

The *Establishment of Republic Act* places these powers in the hands of the President. Moreover, the new Section 59 of the Constitution says the President holds “the executive power of the Commonwealth”. He shall act on the advice of the Federal Executive Council, the Prime Minister or another Minister of State but: “The President may exercise a power that was a reserve power of the Governor-General in accordance with the constitutional conventions relating to the exercise of that power.”

This is the first time that the “reserve powers” have been mentioned in the Constitution. Until now, their existence has been based on obscure “constitutional conventions” that date back to the English civil war and Cromwellian republic of the mid-1600s and the so-called Glorious Revolution of 1688, when parliament installed the House of Orange on the English throne. By explicitly referring to these powers, the Constitution will legally and politically strengthen the hand of the President to exercise them.

The Constitutional amendments avoid defining the reserve powers. Last year's Constitutional Convention dismissed any attempt to fix the limits of, let alone abolish, the reserve powers for fear of opening up a public discussion on their existence and purpose. These powers identify the fundamental function of the state—to maintain the present economic and social order and suppress threatening unrest. Whoever holds the reserve powers, whether it be the Crown or a President, can dismiss governments,

shut down parliaments, mobilise the military and take control of the country in periods of political crisis.

Despite the claim that “constitutional conventions” prevent the reserve powers being used without the advice of the government of the day, the reserve powers have been used twice this century in Australia to sack an elected government. In 1931 the Governor of the state of New South Wales dismissed the Labor Party government of Premier Jack Lang at the height of the Great Depression. More recently, in 1975, Governor-General Sir John Kerr ousted the Labor government of Gough Whitlam. Kerr’s coup somewhat exposed and discredited the Governor-General’s ability to utilise the reserve powers. One aim of the republic is to shift those powers to a more credible figure.

The amended Constitution will bolster the reserve powers in another way. Tucked away in Schedule 3 of the Establishment of Republic Act is a clause 8 that states that the Act “does not prevent the evolution of the constitutional conventions relating to the exercise of the reserve powers”. This is an extraordinary and open-ended clause. It literally means that the constitutional conventions can be altered to meet the changing requirements of the ruling elite, particularly in times of political breakdown and emergency.

#### **Other royal powers**

The *Establishment of Republic Act* also retains the regal power to block legislation passed by parliament. The amended Section 58 of the Constitution specifies that the President can assent or withhold assent from a law “at the President’s discretion”. This discretion is “subject to this Constitution” but, as we have seen, the Constitution provides for the President to override and dismiss the government. The official argument goes that the royal power to reject legislation has not been formally exercised in Australia this century, so it is unlikely to be utilised in the future. Yet, if the power is not intended for use, why keep it in the Constitution?

Other provisions in the Act raise similar questions. Section 64, as amended, says that Ministers of State “shall hold office during the pleasure of the President”. The President can appoint deputy Presidents, also to hold office during his “pleasure”. The prerogative powers of the Crown (which theoretically include declaring war, signing treaties, appointing judges, initiating prosecutions) “shall be enjoyed by the President”. The language, drafted a century ago, may sound quaint by today’s standards, but there is a dangerous content—taken together these powers provide the legal armoury for dictatorship.

At last year’s Constitutional Convention some tactical disagreements arose over allowing the Prime Minister to remove the President. The amended Section 62 of the Constitution will empower the Prime Minister to dismiss the President, with effect immediately, subject to ratification by the House of Representatives within 30 days. But far from providing an element of democratic control, this clause is designed to overcome concerns expressed by political and media commentators that the creation of a Presidency could lead to two competing centres of power during a political crisis—one based on the Prime Minister and the other based on the President.

It is still not clear, however, which of the two would prevail constitutionally, because the President, if acting suddenly, could legally oust the government and shut down the parliament before being dismissed. This is what happened in 1975 when Kerr sacked Whitlam without warning, effectively preventing Whitlam from asking the Queen to dismiss Kerr. In any case, whichever way such a dispute would be resolved in the future, the end result would be either the Prime Minister or the President resorting to undemocratic means, without recourse to any election. In effect, whether the Prime Minister sacks the President or vice-versa, the legal mechanism is there to overturn the results of an earlier general election.

By strengthening the royal powers in the hands of an appointed

President, today’s parliamentary politicians are acting in the anti-democratic traditions of their forerunners. At the end of last century, at various Constitutional Conventions during the 1890s, the delegates deliberately retained the powers of the monarchy for use in political emergencies. The spectre of “revolution” was mentioned a number of times in the course of debate. The Conventions were held against the backdrop of the continent-wide sheep shearers’ and maritime strikes of the early 1890s. Indeed, one of the spurs to Federation was the need for a unified military capacity, partly to face the rising working class at home and partly to assert Australia’s colonial interests in New Guinea and the South Pacific.

While establishing their own national state, the Founding Fathers definitely did not want to encourage democratic notions, or prematurely break from the apron strings of Britain. A People’s Federal Convention held at Bathurst in 1896, attended by the chambers of commerce and manufacturers, declared: “By an almost unanimous vote a resolution taking the appointment of the Governor General out of the hands of the Queen and providing for his choice by popular ballot was negated. In many other ways the delegates assembled took care to show their appreciation of the benefits which Australia receives through being under the protecting aegis of the greatest Empire of the world.”

One hundred years on, Britain’s empire is a distant memory. Nor can today’s business leaders rely on the protection of the US alliance as they did during the Cold War. Australian capitalism has been cast adrift by the disintegration of the post-World War II order. Increasingly in conflict with their former protectors, Australian corporate interests are seeking to assert their own independent claims for markets and spheres of influence, particularly in the Asia-Pacific region. This is especially the case for those sections most dependent on international finance and trade. The relics of the British Crown are a hindrance in this quest.

And among the mass of ordinary people, the monarchy no longer commands support. In several speeches, Treasurer Costello—one of the leading parliamentary representatives of finance capital—has repeated the theme he adopted at last year’s Convention, where he stated: “The symbols which underlie the current system are running out of believability and this gnaws at legitimacy.”

This is a crucial concern in ruling circles. For the better part of a decade, leading business and political figures have promoted the republic as a major national project, endeavouring to restore some kind of support for the present political structure. No matter how great the constitutional power at their disposal, they cannot impose their will against the population indefinitely unless their system retains legitimacy in the eyes of broad layers, or at least significant sections of the population.

Today’s political leaders are no less aware than the Founding Fathers of Federation 100 years ago, that they face emerging social unrest. The declining opinion polls on the republic are only a pale reflection of the alienation and dissatisfaction that has built up over the past two decades with the entire political set-up. Over this period the living conditions of the vast majority of people have declined for the first time since the Great Depression of the 1930s, while a small privileged elite has accumulated immense wealth.

Ultimately, this increasingly glaring social inequality is incompatible with democratic forms of rule. More totalitarian methods will be required to suppress opposition. That is why such attention is being paid to restructuring the state—and to keeping the details hidden—while trying to manufacture a new “national identity” and enthusiasm for the current social and economic order.





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