

A REPUBLICAN CONSTITUTION FOR AUSTRALIA?

by Mark Sneddon

While Canadians are taking a constitutional breather between the demise of the Charlottetown accord and the next engagement with the issue of Quebec sovereignty, Australians are preoccupied with a very different proposal for constitutional change: replacing the queen and governor-general with an indigenuous president.

Abolition of the monarchy has been a sleeping issue in Australia for many years. Support for a republic has been growing slowly over the last 20 years but, until recently, abolition has been a minority view. In 1992 the prime minister, Paul Keating, put abolition of the monarchy high on the political agenda with strong statements that the change to a republic was necessary for Australians to develop a self-identity as an independent and confident nation and to project that identity to the rest of the world, especially the Asia-Pacific region. His call for a republic sharply divided public opinion but some opinion polls have shown, for the first time, majority support ranging from 51 to 65 percent for a republic. The debate is strong and public opinion is volatile — the polls swung the other way when the prime minister sought to accelerate the issue and link it to sports nationalism by declaring it inappropriate for the queen to represent Australians at the Sydney Olympics in 2000.

The prime minister established a republic advisory committee to report on possible options for a "minimalist" republic in which a president would take on the role and legal powers of the monarch and governor-general but exercise them on the advice of the prime minister and ministry (with the possible ex-

ception of the reserve powers). In other words, a non-executive president would substitute for the monarch and her viceroy in a system of responsible government. A detailed proposal has not yet been finalized, but the most discussed version is as follows. The president would be elected for a five-year term by the federal House of Representatives and the Senate (an elected body in Australia) sitting separately. To ensure a

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candidate with a wide range of political support, a two-thirds majority would be required in each chamber. Removal would be by the same method — a two-thirds majority in both houses without any need to show cause.

In general, the president would have the same powers as the governor-general but it will be made explicit that in the exercise of those powers the president acts on the advice of ministers. This leaves the reserve powers, such as appointment and dismissal of the prime minister and dissolution of the houses of parliament, where the governor-general can, in some cases, act without or contrary to ministerial advice. Provision could be made in the constitution for the

same conventions that regulate the governor-general's reserve powers to apply to the president, without defining the powers or conventions. Alternatively, these powers and conventions could be codified in the constitution, or Parliament could be given the power to codify some or all of them in statute. Another unresolved issue is what to do about state governors if a national majority votes to become a republic but a state doesn't vote for a national republic and doesn't wish to remove the monarch from its political system. Probably an amendment to the federal constitution would override inconsistent provisions in a state's constitution, but the opposing view, which has respectable support, is that such a scenario is likely to prove divisive.

One fly in the ointment for this proposal is the indirect election of the president. Polls show that Australians overwhelmingly want to popularly elect their head of state. Parliamentary leaders fear that a president with a national electoral mandate and all the legal powers of a monarch or a governor-general will be an alternative political power base to the prime minister and cabinet. Either the Australian public will have to be sold on the dangers of a popularly elected president, or the minimalist premise of the reforms will have to be rethought and some executive power given to the president.

The level of public support for the proposals is crucial because the necessary constitutional amendments must be approved at a referendum by a majority of electors na-

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tionwide and by majorities in four of the six states. Very few constitutional amendments in Australia have been accepted at referendum (only 8 out of 42 proposals have succeeded since 1901). Opinion poll majorities can vanish in a referendum campaign. Conventional wisdom is that bipartisan political support is needed for success and the opposition conservative parties are currently opposing a republic. The prospects of referendum success in the short to medium term do not look good.

WHY IS A REPUBLIC AN ISSUE IN AUSTRALIA NOW?

Originally, the republic issue may have been raised as a political distraction by the prime minister. But the level of support for a republic and the strength of the debate suggest a nation genuinely struggling to articulate its evolving national identity. The debate about the monarchy is a debate about an important symbol and its meaning for national identity. What does the retention or rejection of the monarchy or the embrace of an alternative say about Australians' self-conception at the end of the 20th century?

Demographic changes through substantial non-Anglo immigration since World War II and an associated flowering of non-Anglo cultures in Australia, as well as the influence of U.S. culture, have produced a decline in the relevance and veneration of British culture and symbols in Australia. The economic importance of Britain to Australia has declined dramatically since Britain entered the EC and the economic focus is now more on Asia and North America. If these trends continue, Australia will eventually abandon the monarchy. But it is questionable whether at this time these trends have changed the na-

tion's identity sufficiently to persuade a majority of Australians to jettison the symbols that speak of their British heritage.

One of the problems with the debate thus far is that there has been no clear vision of what a republican Australia stands for. Proponents of the republic want to retire the British heritage into the historical background, but beyond a raw nationalism demanding an Australian head

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of state for Australia, little has been said about the content of Australia's new identity, which will be symbolized by an indigenous head of state. There is no equivalent of Charlottetown's Canada clause seeking to declare the values of the nation. The minimalist republic proposal plays it safe in avoiding extras that people might vote against, but it articulates no new self-conception that people can vote for.

A CANADIAN REPUBLIC?

In 1978 the Committee on the Constitution of the Canadian Bar Association recommended a minimalist republic with a Canadian as head of state for the same national identity reasons Keating espouses. That recommendation was sunk in a storm of protest. That was 15 years ago and since then the demographic, cultural, and economic trends that have undermined support for the monarchy in Australia have also been at work in Canada.

Why is a republic currently a non-issue in Canada?

Part of the answer must be that Canada's constitutional energies are consumed by more pressing issues. There is the serious continuing constitutional problem in the relationship of Quebec to the rest of the country. Other federalism issues, native people's self-government, and Senate reform also press for attention. The monarchy is a 10th-order issue in comparison to these. Although Australia also has more important constitutional reforms it could address, none is so serious or pressing as to demand a prior claim on public attention or the political agenda.

If the monarchy did reach the top of the constitutional agenda in Canada, would Canadians want to change? I would expect Canadians to be divided over this issue as Australians are. Some Canadians have a deep-seated loyalty to the monarchy, and for some it is an important symbol of the difference between Canada and the United States and worthy of support for that reason; for others it is irrelevant or outmoded. It may be that resolving the more pressing issues of Canadian constitutional reform, such as Quebec's place in Canada, will lead to a constitutional articulation of Canadian identity and values and, if so, Canadians will then find themselves with a clearer view whether the monarchy should remain a part of their national identity. If not, a republican debate will force Canadians, as it has Australians, to wrestle with their national self-conception and choose appropriate symbols, old or new, to express their national identity.

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