



PRIME MINISTER

CHECK AGAINST DELIVERY

**SPEECH BY THE PRIME MINISTER, THE HON P.J. KEATING, MP
AN AUSTRALIAN REPUBLIC - THE WAY FORWARD
HOUSE OF REPRESENTATIVES
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It is the Government's view that Australia's Head of State should be an Australian - that Australia should become a republic by the year 2001. Tonight I shall describe the means by which we believe this ought to be done.

Honourable members will recall that to fulfil an undertaking given during the last election campaign, on April 28 1993 the Government established a Republic Advisory Committee to prepare an options paper which would describe the minimum constitutional changes necessary to create a federal republic of Australia.

The Republic Advisory Committee was chaired by Mr Malcolm Turnbull and comprised Dr Glyn Davis, Miss Namoi Dougall, the Hon Nick Greiner, Dr John Hirst, Ms Mary Kostakidis, Miss Lois O'Donoghue, the Hon Susan Ryan and Professor George Winterton.

I take this opportunity to thank them. They consulted widely throughout Australia, carried out their work with dedication and energy and delivered to the Government and to posterity a most valuable document.

In the eighteen months which have passed since the release of the Report, the idea of an Australian republic has come to occupy a central place in our national political debate: not only in this Parliament but within the political parties, in major representative and community bodies, in schools and universities, communities at large and, I daresay, around countless Australian dinner tables.

In the process many Australians have come to favour a Republic. Just as many, perhaps, now believe it is inevitable.

Many may regret the prospect of change and be unsure about the means by which it can be achieved, but recognise that sooner or later we must have an Australian as our Head of State. That one small step would make Australia a republic.

Governments can wait for opinion to force their hand, or they can lead. They can wait for the world to change and respond as necessity demands, or they can see the way the world is going and point the way.

We are approaching the 21st century and the centenary of our nationhood. As never before we are making our own way in our region and the world. For us the world is going - and we are going - in a way which makes our having the British monarch as our Head of State increasingly anomalous.

The fact is that if the plans for our nationhood were being drawn up now, by this generation of Australians and not those of a century ago, it is beyond question that we would make our Head of State an Australian. Any suggestion that the British monarch should fill the role would not be entertained. This is not because our generation lacks respect for the British monarchy, or the British people, or our British heritage, or the British institutions we have made our own, or our long friendship with the British in peace and war. On the contrary, Australians everywhere respect them, as they respect The Queen. But they are not Australian. It is so obvious, that if we were just now drawing up our constitution, we probably would not even feel the need to say that the Australian Head of State will be Australian - it would go *without* saying.

That it does not go without saying today is an accident of history. We are attached to Great Britain by long threads of kinship and affection which, to a considerable extent, are embodied in the warmth of our regard for Queen Elizabeth. Many Australians may well feel that to substitute an Australian for the monarchy constitutes in some way a rejection of these ties. I think all of us can understand these feelings.

But the creation of an Australian republic is not an act of rejection. It is one of *recognition*: in making the change we will recognise that our deepest respect is for our *Australian* heritage, our deepest affection is for *Australia*, and our deepest responsibility is to *Australia's* future.

Nothing in the creation of an Australian republic will alter the facts of our heritage and our affections. Indeed our relationship with Britain may well become the more thoroughly "modern relationship" which the British Prime Minister expressed a desire for two years ago. The development of a mature and modern relationship will certainly not be inhibited by recognition of the truth. We are friends with separate destinies to carve out in the world. We are not as we once were, in a parent-child relationship.

The people of modern Australia are drawn from virtually every country in the world. It is no reflection on the loyalty of a great many of them to say that the British monarchy is a remote and inadequate symbol of their affections for Australia. And we can be equally sure that in the 21st century the British monarchy will become even *more* remote from even *more* Australians.

Australia occupies a unique place in the world and makes a unique contribution to it. Our destiny is in no-one else's hands but our own: we alone bear the responsibility for deciding what the nature of our government and society will be, what advantage we will take of our human and material resources, what kind of place our children will inherit.

It is not a radical undertaking that we propose.

In proposing that our Head of State should be an Australian we are proposing nothing more than the obvious. Our Head of State should embody and represent Australia's values and traditions, Australia's experience and aspirations. We need not apologise for the nationalism in these sentiments, but in truth they contain as much commonsense as patriotism.

This is a point worth making: this republican initiative is not an exercise in jingoism; it is not accompanied by the beat of drums - or chests. It asserts nothing more than our unique identity. It expresses nothing more than our desire to have a Head of State who is truly one of us. It changes nothing more than what is required to make clear and unambiguous our independence and responsibility for our own affairs.

It is a small step, but a highly significant one. The government believes that at this stage of our history it is a logical and *essential* one. And it can reflect that stage in our history. An Australian Head of State can embody our *modern* aspirations - our cultural diversity, our evolving partnerships with Asia and the Pacific, our quest for reconciliation with Aboriginal Australians, our ambition to create a society in which women have equal opportunity, equal representation and equal rights. In this decade we have a chance which few other countries have; in declaring ourselves for an Australian republic, we can give expression to both our best traditions and our *current* sensibilities and ambitions.

At present, under the Constitution, Australia's Head of State is The Queen and her "heirs and successors in the sovereignty of the United Kingdom". Anyone reading the Australian Constitution who is unfamiliar with the practical realities of Australian government would assume that the role of the monarch was central.

In fact, the involvement of the British monarch in Australia's affairs is now very limited. The Queen's role as Head of State is in most respects carried out by the Governor-General. Of the responsibilities The Queen retains, the most notable is her appointment of the Governor-General which, by convention, she does on the advice of the Prime Minister.

We are not quite alone among the countries of the world in having as our Head of State someone who is not one of our own citizens, but we are in a very small minority - and a majority of the countries in the Commonwealth of Nations are republics with their own Head of State. Of the 185 members of the United Nations, only 15 do not have their own Heads of State - and 14 of those 15 are former British Dominions.

The Queen of Australia is also Queen of the United Kingdom and 14 other countries in the United Nations.

Notwithstanding that The Queen is Australia's Head of State and fulfils that duty conscientiously, when she travels overseas she represents only the United Kingdom. Her visits abroad often tend to promote British trade and British interests - they do not promote Australia's trade and interests.

This is, of course, right and proper for the Head of State of the United Kingdom. But it is not right for Australia. The right Head of State for Australia is one of us, embodying the things for which we stand, reminding us of those things at home and representing them abroad. We number among those things fairness, tolerance and love of *this* country. It is a role only an Australian can fill.

Each and every Australian should be able to aspire to be our Head of State. Every Australian should know that the office will always be filled by a citizen of high standing who has made an outstanding contribution to Australia and who, in making it, has enlarged our view of what it is to be Australian.

In these and other ways, the creation of an Australian republic can actually deliver a heightened sense of unity, it can enliven our national spirit and, in our own minds and those of our neighbours, answer beyond doubt the perennial question of Australian identity - the question of who we are and what we stand for. The answer is not what having a foreign Head of State suggests. We are not a political or cultural appendage to another country's past. We are simply and unambiguously Australian.

If only by a small degree an Australian republic fulfilled these ideals it would be worth it.

Measured against other stages of our development it is a relatively simple and modest undertaking. A hundred years ago, despite their rivalries and the enormous distances which separated them, the Australian colonies came together and created a nation. In the course of a century we have evolved from a collection of British colonies; to a single nation of limited independence; to a Dominion in the British Empire; to a sovereign nation in all respects bar one. In the same century we have come through great trials of our collective courage and ingenuity.

As Australian democracy and society have evolved and developed, the practical character of Australian government has dramatically changed. For example, in the 1930s the Governor-General ceased to be the representative of the British government in Australia and became the representative of the British monarch alone. In the same decade it was accepted that the British monarch would act solely on the advice of the Australian government - not the British government - in relation to Australian matters; and Australia assumed responsibility for its own external affairs which had been previously the responsibility of the British government. In 1930 for the first time, an Australian became Governor-General.

With the abolition of all remaining rights of appeal to the Privy Council in London, in the 1980s Australian courts became the ultimate arbiters of Australian law. Also with the passage of the Australia Act, the Parliament of the United Kingdom relinquished the last vestiges of its power to make laws applying to Australia.

In every instance, there was controversy. Today it is hard to imagine why the changes were opposed.

And we are better for the changes. In the 1990s we are stronger, richer and better placed in the world than ever before. At every stage in our development there have been hesitations, but in the end we have always recognised necessity and where our interests lie. If at times we have been cautious about taking large steps forward, it cannot be said that we have taken any backwards.

That is what we seek with the republic: a small but important step forward - the last step in a process which began one hundred years ago. We think it is time to embrace the necessary change.

We therefore intend to ask the Australian people if they want an Australian republic with an Australian Head of State.

The change we propose has very limited implications for the design of Australia's democracy. It is the so-called "minimalist" option. All the essential Constitutional principles and practices which have worked well and evolved constructively over the last hundred years will remain in place.

I stress that these proposals represent the Government's *preferred* position. We do not suggest that it is the only position and not open to change. But it is a position reached after careful consideration of the Advisory Committee's report, and we believe it to be a wise position that will stand the test of time.

"Commonwealth" is a word of ancient lineage which reflects both our popular tradition and our Federal system, and we propose that the Australian republic retain the name "Commonwealth of Australia".

Under the proposals the role of the House of Representatives and the Senate will remain unchanged, as will the role and powers of the States. We will still be a Federation. In virtually every respect, our governmental arrangements will be exactly the same as they are now: the day to day handling of national government will remain with Ministers led by the Prime Minister; the Cabinet will continue to deal with the major issues; and Ministers will continue to be responsible to Parliament and the Australian people.

Our membership of the Commonwealth of Nations headed by The Queen will not be affected.

None of these things will change, but we will have an Australian as our Head of State, and we propose that he or she be described by the term "President of the Commonwealth of Australia".

The President will perform essentially the same functions as the Governor-General. As with the Governor-General, except in the most exceptional circumstances, these functions will be carried out on the advice of the Government of the day.

A former Australian Governor-General, Sir Zelman Cowen, made some remarks last week which I think bear repeating. They echoed those of a predecessor of his, Sir Paul Hasluck; and in fact I should think they contain a sentiment common to every Governor-General since Federation. Sir Zelman described the Governor-General's role as "the highest single expression in the Australian governmental structure of the idea that all Australians from all parties and all walks of life belong to the same nation".

An Australian Head of State would perform precisely this unifying role; and, it follows, would need to be of the same stature and integrity as we seek in our Governors-General.

A significant element of the Head of State's role is symbolic; performing ceremonial duties around the nation and abroad. This is the public aspect of the office: the means by which the Head of State represents Australia and, by his or her example and encouragement, provides national leadership.

The Head of State will also continue to perform the formal administrative duties given to the Governor-General by legislation and which are undertaken on the advice of the Federal Executive Council. The Head of State's duties here include formalising government regulations and appointing public officials.

The Head of State will assume the Governor-General's constitutional duties, most of which are, by convention, performed in accordance with the advice of the government of the day. These include summoning and dissolving the House of Representatives and the Parliament as a whole and issuing writs for Federal elections. The Head of State will also take over the Governor-General's role as titular Commander-in-Chief of the armed forces.

In line with actual practice, we propose that the Constitution be amended to make clear that the Head of State will exercise these constitutional duties on the advice of the government of the day.

Finally, the Head of State will retain those very few powers now held by the Governor-General which, in the most exceptional circumstances, may be exercised without, or possibly contrary to, Ministerial advice.

These are the so-called reserve powers. The Republic Advisory Committee identified these powers as: the power to appoint the Prime Minister; the power to dismiss the Prime Minister and therefore the government; and the power to refuse a request by the Prime Minister to dissolve one or both Houses of the Parliament.

The Committee made the point that there are a number of principles or conventions underpinning our Westminster style of government and the practical operation of our Constitution. These principles, which are not currently set out in the Constitution, determine whether the circumstances exist for the Governor-General to exercise a reserve power and what action would be appropriate.

Theoretically, it would be possible to fully codify or write down these conventions, assuming one could foresee all the contingencies they might be required to meet. I have no doubt that a great many people would like to see the Head of State's discretionary, or reserve, powers tightly defined - as they are, for example, in the Irish Constitution - so as to oblige the Head of State to act in accordance with express rules in the Constitution, or Ministerial advice, in all circumstances.

The question is, then: should the reserve powers - which are imprecise and governed by precedent and convention - be codified? Should they be delineated, cut down or specified precisely in our Constitution, or should they remain as they apply now, by unwritten convention?

The advantage of codifying the conventions, whether in whole or in part, would be to bring a degree of clarity and certainty to the options open to a Head of State in different situations.

However, after careful consideration, the Government has formed the view that it is probably impossible to write down or codify these powers in a way that would both find general community acceptance *and* cover every possible contingency. As the system evolves there needs to be some capacity to respond to circumstances quite unforeseen today. Tightly defined rules can themselves have unforeseen consequences.

Were we to try, by Constitutional amendment, to set down precisely how the reserve powers should be exercised by the Head of State, those amendments, even if intended to be otherwise, could well become justiciable - that is capable of being adjudicated by the High Court of Australia and required to be adjudicated by the High Court.

Hence, codification would be likely to result in fundamental change to our system of government and alter the status of the High Court in relation to the Executive and the Parliament. Over time, Justices of the Court could well be drawn into arbitrating purely political disputes whose resolution should ultimately be in the hands of the electorate. The Court would thus be exposed to public pressure and, in the inevitable event that a party to a dispute was unhappy with its resolution, the standing and impartiality of the Court could be called into question.

For these reasons the Government believes that, on balance, whatever the immediate attraction of this course might be, it would not be desirable to attempt to codify the reserve powers; and that the design, processes and conventions at present governing their exercise by the Governor-General should be transferred to the Australian Head of State without alteration.

We are aware that with this option, there is a risk that Australian governments may occasionally find themselves in conflict with a Head of State who exercises political judgment without regard to the conventions. We are also, of course, conscious of the possibility of a repetition of the events of 1975, when a government possessing the confidence of the House of Representatives was denied supply by the Senate. But the question of the Senate's powers over supply is a very different issue from that of establishing an Australian Head of State. It is an issue that deserves to be addressed, but it doesn't *need* to be addressed at the same time.

If these reserve powers are to be given to a new Head of State, it is critically important that the authority and source of the Head of State's power is consistent with the national interest and the continued effective operation of our political system.

There has been considerable debate in the community about how the Head of State should be chosen. As things now stand, the Governor-General is appointed by The Queen acting on the sole advice of the Prime Minister.

It is clear that most people believe the Prime Minister should not have such exclusive power in appointing an Australian Head of State. The debate is principally between those who support popular election and those who favour election by the Parliament.

The desire for a popular election stems from the democratic sentiment which all Australians - including all of us in this place - share. However, the Government has come to the view that if a new Australian Head of State were to be elected by popular mandate, he or she would inherit a basis of power that would prove to be fundamentally at odds with our Westminster-style system of government.

It should be recognised that a Head of State, whose powers derived from a general election, would be the *only* person in the political system so elected. His or her powers would be nominally much greater than those of all other Commonwealth office holders, including the Prime Minister and the Cabinet, who are, without exception, *indirectly* elected via large elected parties. With a popularly elected President, potential would exist for the representative and democratically elected parliamentary chambers, the repositories of the diffuse power of Australian democracy, to be gradually diminished, while the embodiment of the nation *and* great powers were vested in one person. That would constitute a very dramatic - and undesirable - change to a system which all of us agree has served us well.

Whatever differences of opinion may presently exist about the most desirable mode of his or her election, I think there is a consensus that the Head of State should be, in some sense, "above politics".

With this the Government agrees. The Head of State should be an eminent Australian, a widely respected figure who can represent the nation as a whole. This in fact has been the character of the role of the Governor-General and it should be protected and retained in the role of a Head of State.

Popular election guarantees that the Head of State will *not be* above politics - indeed it guarantees that the Head of State will be a politician. As Sir Zelman Cowen pointed out in his speech last week, a "direct election of a President would ensure political outcomes"; and he went on to say that people like himself and another former Governor-General, Sir Ninian Stephen, "would not have the resources or inclination to contest such an election". We cannot have a Head of State who is "above politics" if we subject candidates to popular elections - we will get instead politicians, political parties and political campaigns. And we will get a Head of State with an authority unheard of in our political system and discordant with some of the basic principles on which that system rests.

We therefore propose, as the Republic Advisory Committee suggested, that the Head of State be elected by a two-thirds majority vote in a joint sitting of both Houses of the Commonwealth Parliament on the nomination of the Prime Minister and the Cabinet. Such a joint sitting would be a unique occasion, bringing together all the political parties, and both Houses of the Parliament, in a spirit of bi-partisanship and cooperation. Obviously, before the vote was taken the non-government parties would have to be consulted to ensure that the candidate had their support.

It would be impossible for any government to dictate the outcome of this process. A two-thirds majority vote of both Houses would require bi-partisan support and ensure that the Head of State had the blessing of all the major parties. The RAC report makes the point that a two-thirds majority in the present parliament would require the votes of 40 more members than the Government presently has. In fact, no government since World War II has enjoyed a two-thirds majority.

A Head of State appointed by both Houses would be subject to *removal* by both Houses if it was the opinion of a two-thirds majority that his or her conduct was inappropriate. This is why, given the difficulties of codification I have described, and given that we believe the conventions governing the reserve powers will in large measure need to remain with the Head of State, it is imperative that his or her mandate does not flow from popular election, but from the representative power of the House of Representatives and the proportional power of the Senate.

The other brake on any wilful or misguided behaviour by a Head of State is that the process of removal should not be contingent on a specified set of facts or circumstances or conditions. The joint sitting would be unconstrained in its actions or in its decision by being able to consider squarely the behaviour of any incumbent.

A further inhibition to misguided or inappropriate behaviour is the proposal that either House may, by simple majority, initiate a joint sitting to remove or censure a Head of State.

The Government believes that, taken together - the authority and source of the Head of State's powers coming from the Parliament, removal by the same means as appointment, and the capacity to censure - these elements provide effective counter-weights to the substantial authority vested in the Head of State through the reserve powers.

In addition, in the light of the events of 1975, any Head of State determined upon a controversial course of action would do so in the knowledge that he or she would be confronted with the weight of public opprobrium, and will be at pains to ensure that every course of action is both warranted and capable of being defended.

The Government proposes that, consistent with the convention for Governors-General, the term of office for the Head of State be five years, and that Heads of State be permitted to serve one term only.

To prevent any attempt to influence Heads of State by offers of subsequent employment, we propose that outgoing Heads of State not be permitted to accept remuneration from the Commonwealth in addition to their pension until five years have passed since their departure from the office.

As an additional step to ensure that the office of Head of State is not politicised, the Government proposes that serving and former parliamentarians - Commonwealth, State and Territory - be excluded from candidature until five years have passed since their departure from parliament.

There are other detailed issues that will also need to be addressed. For example, arrangements for unexpected vacancies would broadly mirror those currently in place.

It is not our intention that the Government's proposals should affect the Constitutions of the Australian States. It would be up to each State to decide how in future they would appoint their respective Heads of State. It is reasonable to expect that if the Australian people opt for an Australian Head of State, the States would follow suit. But the question would be for each State to decide.

In this regard, we were interested that a committee commissioned to examine the issue by the West Australian government concluded that, if the minimalist approach proposed by the Republic Advisory Committee were to be adopted, the position of the States within the federation would not be substantially affected.

The Government is ready to have senior Commonwealth Ministers brief State governments on the proposals and we sincerely hope that all State Premiers will make constructive contributions to the public debate.

The Government puts forward these proposals to provide a basis for considered public discussion. The Australian Constitution cannot be changed in any way without a referendum, and to succeed at a referendum a proposed change must win the agreement of a majority of voters in a majority of States and a majority of voters overall.

The Government proposes to put the question of a republic to the Australian people some time in 1998 or 1999. Acceptance at the referendum will mean that Australia can be a republic by the year of the centenary of Federation, 2001.

Before the referendum, there will be extensive consultation with the people of Australia. But it should be clearly understood that nothing we can devise in addition to the due democratic processes will match those processes in the information they provide, the debate they stimulate or the power they give the people. The passage of the Referendum Bill through both Houses of the Commonwealth Parliament will be followed by an extensive campaign in which arguments for and against a republic will be put. And the people's vote - and the people's vote alone - will decide the issue.

In short, the Constitution requires that the Parliament, the nation's representative and deliberative body, alone can formally determine the proposals to be put to the people in a referendum. I stress this point. The Parliament *alone* can formally decide what is put in a referendum. At most, any suggested convention can only be a consultative device and, in obvious ways, an elitist one.

There have been calls for a constitutional convention, but the limitations of that procedure should be understood.

There were six Constitutional Conventions between 1973 and 1985 followed by a Constitutional Commission. It is not unfair to say that they were unproductive. And any future convention not limited to the issue of the republic and the Head of State, would be a convention going over the same old ground as all the others before it.

Some people have drawn comparisons with the constitutional conventions of the 1890s, but there is an essential difference between those and any current proposals. Here, we are attempting a modest *change* to the Constitution - in the 1890s they were attempting to *write* it. And among the things they wrote was the requirement that any change to the Constitution must be submitted to a referendum. That is the democratic obligation we are under today.

The 1890s conventions were proponents of change - they were concerned with one question - how to create from the separate Australian colonies one indissoluble Commonwealth of Australia. So would any convention on the republic need to be a proponent of the republic, and concerned only with one issue - the best means by which the people of the Commonwealth of Australia can have an Australian as their Head of State.

The detail of the changes we propose may at first glance obscure the meaning of them.

The meaning is simple and, we believe, irresistible - as simple and irresistible as the idea of a Commonwealth of Australia was to the Australians of a century ago.

The meaning then was a nation united in common cause for the common good. A nation which gave expression to the lives we lead together on this continent, the experience and hopes we share as Australians.

The meaning now is still a product of that founding sentiment - it is that we are all Australians. We share a continent. We share a past, a present and a future. And our Head of State should be one of us.