

SENIOR REPUBLICAN OF INTEGRITY CRITICISES THE 'MODEL'

Republican Mr Harry Evans, Clerk of the Senate and Australia's most senior Parliamentary officer lists his adverse comments on the proposed 'Republic Model'. He describes the 'Model' as being *"the most ridiculous Constitutional alteration proposal I have ever heard of" - "NO other republic has such an arrangement" - NO other country has been so misguided as to adopt such an obviously unbalanced arrangement"*

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COMMENTS ON CONSTITUTION ALTERATION (ESTABLISHMENT OF REPUBLIC) 1999

(1) The long title (at the very beginning of the bill) is what the electors are asked to approve when they vote (the question put to them is: Do you approve this proposed alteration?). The long title is misleading in that it mentions that the President would be chosen by a two-thirds majority of the members of the Commonwealth Parliament, but does not mention that the President would be liable to be dismissed by the Prime Minister at any time and could be kept in office indefinitely at the Prime Minister's discretion (see (4) below).

(2) The unspecified reserve powers of the Governor-General (s59, p. 3), hitherto matters only of convention, would be fixed in the Constitution, unalterable except by a further referendum, and presumably justiciable. In the event of any dispute, the High Court could be called upon to engage in an exploration of British history to determine what the reserve powers were in 1901 and prior to the alteration of the Constitution, only to find that there was no agreement as to what the reserve powers were. The consolation is that a President dismissible by the Prime Minister is unlikely ever to exercise the reserve powers, however justified their exercise might be. The provision for the reserve powers to "evolve" (schedule 3, s8, p. 16) would only confuse the issue.

(3) If the Prime Minister's motion for the appointment of a President were not approved, no President would be appointed (s60, pp 3-4). It could well suit a Prime Minister to leave the office vacant, or to threaten to do so to ensure agreement to the nomination.

(4) The President would not have a fixed term, but an indefinite term ending only on death, resignation or dismissal by the Prime Minister (s61, p. 4). A Prime Minister could keep a compliant President in office indefinitely, and ensure that compliance by offers of continuation of the presidential term.

(5) No grounds are specified for the Prime Minister to remove a President (s62, p. 5). A Prime Minister, in dismissing a President who had offended the prime ministerial ego, could claim that there were undisclosable grounds of a scandalous nature for the removal, and neither the dismissed President nor the public would be able to test such a claim.

(6) There is no requirement for the Prime Minister's notice dismissing a President to be made public at any time (s62, p. 5). There would therefore be no opportunity for the public to attempt to ascertain, for example, whether the Prime Minister had been carrying around with him an undated or backdated dismissal notice.

(7) No provision is made (s62, p. 5) for the situation of the Parliament being prorogued at a time when a dismissal of a President occurs. A Prime Minister could prorogue the Parliament for several months, dismiss the President and then claim that there was no obligation to consult the House because it could not meet. There should be provision for both Houses to be recalled in case of a dismissal. If there were a dissolution before or in conjunction with a dismissal, the Prime Minister would be a dictator during the election period.

(8) There would be no consequences arising from a lack of House of Representatives approval of a dismissal of a President (s62, p. 5). In the unlikely event that the House, controlled by the Prime Minister, disapproved of the Prime Minister's action, nothing would follow, thereby demonstrating the impotence of the House and the total power of the Prime Minister.

(9) The Prime Minister could dismiss all of the persons specified as acting Presidents by serial dismissal notices (s63, pp 5-6). Any acting President unacceptable to the Prime Minister could be passed over by a dismissal notice.

(10) The Prime Minister would be the sole judge of any incapacity on the part of a President (s63, p. 5), and so could suspend a President at will.

(11) A Prime Minister could keep a President who offended the prime ministerial ego out of the way (for example, by overseas trips) and ensure a more compliant holder of the presidential office by exercising the power to appoint deputies (s63, pp 5-6).

(12) The royal prerogative would be fixed in the Constitution and could be altered only by legislation requiring the Prime Minister's approval (s70A, p. 6). Monarchical powers, in reality held by the Prime Minister, would be perpetuated, not altered.

PRESIDENTIAL NOMINATIONS COMMITTEE BILL

(13) The Prime Minister would have exclusive control over appointments to the Nominations Committee (cl 8-12, pp 5-6); the only limitation would be that party and state parliamentary appointees would have to be the nominees of the party or parliament concerned. The Prime Minister would "have the numbers" on the committee, even without his own party supporters, by appointing the non-politician members who would make up half the membership, and by appointing the Convenor, who would have a casting vote (cl 6, 11, 12, pp 3, 6).

(14) The Prime Minister would determine the terms and conditions of members of the Nominations Committee, other than those determined by the Remuneration Tribunal or by regulation (cl 14, p. 7). By not making any regulations, the Prime Minister would have virtually complete control over the terms and conditions.

(15) The Prime Minister could dispose of any unfavourable members of the Nominations Committee by arranging for them to be nominated as president (cl 15, p. 7).

(16) The Prime Minister could allow the Nominations Committee to function with up to 16 vacancies (cl 17, p. 8). By manipulating vacancies, the

Prime Minister could doubly ensure that he “has the numbers” on the committee.

(17) The nomination process would be entirely secret (part 5, pp 11-12). The public would have no way of judging whether the Prime Minister has picked the best nominee or, indeed, whether the Prime Minister’s choice was nominated at all. There would seem to be no good reason why the names of all nominees should not be made public.