

Appendix II

Addresses Launching *Upholding the Australian Constitution*, Volume 4

1. *Geoffrey Blainey, AO*

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I pay tribute to Volume 4 of *Upholding the Australian Constitution*, the latest of the published Proceedings of The Samuel Griffith Society. Its 340 pages contain many observations that will be illuminating to those interested in Australian history, as well as those absorbed in the state of the Constitution and the state of the nation. Indeed I never thought the day would come when the health or ill-health of the Constitution and the ill-health of the nation would be so closely linked. At least five of the authors of commentaries in Volume 4 - John Stone, S.E.K. Hulme, QC, Dr Colin Howard, Ray Evans and Sir Harry Gibbs - are here tonight.

For more than two years Mr Keating's policy has been to undermine Australia's Constitution, especially the role of the monarch, without saying what he wants in the monarch's place. Against Australia's flag he wages the same guerrilla war.

In a democracy, every institution and symbol can be legitimately criticised. But when the nation's leader directs the attack and offers no alternative, he begins to resemble the leader of a gang which breaks the street lights and then, in the darkness, moves on.

I do not think there is any parallel in the history of the Commonwealth for such behaviour by a leader. Symbols and institutions are more easily destroyed than created. Mr Keating should think twice about his tactics.

Presumably the Prime Minister hopes that he can further undermine the Australian monarchy and then thrust his own solution on the Australian people. And yet as soon as the serious debate begins on the question - what replaces the monarch? - the republicans will begin to fight amongst themselves.

While opinion polls increasingly favour the republicans, the polls are not sound forecasters of the people's final attitudes to major constitutional changes. It is a mistake to think that the Australian people now want a republic, at any price, and that therefore a republic is just around the corner.

If, next Sunday, Mr Keating outlined exactly the kind of republic he wanted, and speedily sold it to the Dark Greens and Democrats who hold the reins in the Senate, he would still be unsure of victory. If he then put his proposals, as required, to a nation-wide referendum, they probably would be defeated.

The Heir

One event could perhaps rescue Mr Keating's proposal from defeat: another royal blunder or scandal. Such an event, by chance occurring just before the day of the referendum, would boost the republican hopes. The real danger is that such a royal scandal or blunder might persuade Australians to accept, almost on the spur of the moment, what proved to be the worst kind of republic.

Royal behaviour is now a stick of gelignite, perhaps capable of largely determining whether or when a republic will come.

It is therefore unwise for those who favour the existing system to wait patiently until Mr Keating proposes an alternative. Thereby they become bystanders instead of participants. It is legitimate

to support the present system until there is a better one, but also to take the strongest interest in alternatives, especially dangerous alternatives.

Prince Charles might prove impeccable as monarch. But this year he has harmed the cause of the monarchy in Australia. In a normal year his televised reminiscences might not matter; but to talk as he did when the future of the monarchy here was under intense scrutiny was to climb high up the Beaufort Scale of folly.

Prince Charles was indiscreet in disclosing that he had been offered the post of Governor-General - if he really was offered it - sometime before 1988. To claim that he was offered the Governor-Generalship, apparently without Mr Hawke as Prime Minister knowing anything about it, is to show weak understanding of that part of Australian politics and constitutional practices which he, of all people, should have understood.

Prince Charles was also a dash out of touch in thinking he could usefully accept the post of Governor-General. The day of the Briton arriving as Governor-General, whether a British Prince or a British miss, has quietly passed; and Prince Charles should have known that reality.

The role of the monarchy in Australia is even more sensitive than in the United Kingdom. It calls for long silences, for unfailing discretion. Here the monarchy is on trial, more so than in the United Kingdom.

The Queen has been impeccable in her dealings with Australia, always respecting its independence and sovereignty. She has always treated Australian leaders with respect, and I imagine they have done likewise. I include Mr Keating in that category, despite public criticism of him for touching the Queen: patently he did it as an intended courtesy.

Prince Charles, however, does not seem to realise that in Australia he is required, even as heir, to walk a more difficult tightrope than in Britain. If his various remarks about Australia, made on television this June, had been made about Britain there would have been outrage amongst large sections of the British public. Incidentally, I am not talking about his private life: that is primarily his own affair, though with public implications.

In essence, Australia's decision on the monarchy and the republic is now being influenced by events outside its control. The decision should be debated in terms of Australia's long-term interests rather than the excitable headlines from London or the strong but sometimes inarticulate passions from Canberra.

A Puppet President

There is a widespread feeling in Australia that Mr Keating wants a puppet President. The perception might be exaggerated but it is there.

At present he alone can appoint a Governor-General. Few people, however, want him to appoint the President, if there is to be one.

It is astonishing to see that at least 80 per cent of Australian voters at present favour the idea of an elected President. While Mr Keating was playing cat and mouse and refusing to declare what kind of President he wanted, the public made its choice. They want a people's President : they want to elect the President.

As sensibly pointed out by Sir Zelman Cowen, the former Governor-General, we now run the danger of tumbling into an entirely new and unfamiliar political system.

Most Australians appear to think that, if we become a republic, the new President in Canberra will be an Australian version of the President of the United States. But it is impossible to impose that very different American system on top of our Australian system. Such an American-Australian sandwich would quickly prove unpalatable. That combined system of government would be unworkable.

Mr Keating on 3 November, 1994 denounced the idea of an elected President. His argument was not very coherent, but left no doubt that he did not want the people to interfere. Inspected closely, his argument against an elected President was more applicable as an argument against the present attitudes of the High Court : "I think", said Mr Keating, "this is a terribly strong thing from our democracies that you don't have figures who are walking around hearing voices saying, I've been anointed by the gods: I'm wearing a national mandate; I have some position of authority about the Parliament ... "

It should be added that if there were to be a President, and if on rare occasions they had to find a way of resolving a parliamentary deadlock like that of 1975, their authority, in that sense, must be above that of the Prime Minister and Parliament. Mr Keating's comment suggests he will try not to confer on the hypothetical President the powers which Sir John Kerr exercised in November, 1975.

In any case, I think Mr Keating's recent denunciation of the concept of the people electing the President in Australia could well be too late. The dog is out of the kennel and running. Public support for an elected President is actually much stronger at present than support for a republic itself.

Australia is one of the oldest continuous democracies in the world. Therefore to elect a President does not necessarily mean taking a hazardous step into the unknown.

If Australians were to elect a President, they would have to limit severely his or her powers. Otherwise the President and the Prime Minister would become competitors, elbowing each other for power. The idea of electing a non-executive President is not original. Austria, Ireland and Iceland do it.

If we should become a republic - and that probably lies years away - I too would prefer an elected President rather than a puppet President. But a President's powers must be severely limited.

To try to incorporate in the Constitution strict limits on the Presidential powers is in itself a delicate and controversial task : that task was tackled by Malcolm Turnbull's Republic Advisory Committee. Whether you or Mr Keating accept the committee's conclusions is another matter.

A virtue of our present system of government is that in Canberra, unlike Washington, the ceremonial and symbolic functions are kept separate from the executive and law-making powers. The Governor-General is intended mostly to unite and even inspire the nation, whereas the far more powerful Prime Minister, in the course of his duties, sometimes has to divide the nation.

Mr Keating probably thinks he and his cronies should personally appoint a President. The idea already makes most people squirm. If Australia becomes a republic, most Australians hope that the office of President quickly acquires a higher prestige than the present office of Governor-General.

The first two Presidents, so long as they are not political stooges, are likely to confer unmatched prestige on the position. The President will represent the nation abroad in a distinct way, and receive the kind of honour a Governor-General could not receive. The President will speak for the nation on special commemorative occasions.

Ceremonially the President will stand high above the Prime Minister. Accordingly, Mr Keating, if by chance he ushers in a republic, might well do his best to cut the President down to size. If Mr Keating cannot tolerate the competition from Sir Robert Menzies, a dead Prime Minister, he is not likely to tolerate the competition from a living President.

Long after Mr Keating has gone to his reward, other Keatings, Labor or Liberal, will arrive at The Lodge; and some will arrive with delusions of grandeur and try to cut the President down and so grasp more prestige as well as power for themselves.

Therefore it is essential that as Prime Minister they do not have the crucial say in appointing the President. It is also essential that the President's powers over the Prime Minister are strictly defined, though they must include the power to solve parliamentary deadlocks. The Whitlam-Fraser deadlock of 1975 will assuredly arise again, in different form.

Mr Malcolm Turnbull, the civilian leader of the republican movement, proposes a way of ensuring that neither Prime Minister nor Parliament installs a puppet as President. The proposed way consists of bringing the two federal Houses of Parliament together and insisting that the favoured candidate must gain two-thirds of the total votes. Mr Turnbull argues that, with the stipulation of such a sweeping majority, the favoured candidate for President will never be elected unless a certain number of Opposition votes as well as all Government votes are on side.

The idea, contrary to Turnbull's assumption, does not permanently prevent a prime-ministerial puppet from being elected as President. It is true that in the last 50 years no government - not even the Fraser government elected at the end of 1975 - has had a two-thirds majority of the combined Chambers. But Mr Turnbull forgets that if the Commonwealth abolished or amended proportional representation for elections to the Senate, a government could sometimes control more than two thirds of the combined seats in the upper and lower Houses.

In the old days some governments or coalitions actually gained a two-thirds majority in the combined Houses. For example, as recently as 1947 Labor had 69 per cent of the combined Members and Senators. In short, the Turnbull proposal is not quite as secure as it seems.

Who owns the Constitution?

The Commonwealth Constitution, and this point is central to this debate, belongs to the Australian people. More perhaps than any Constitution in the world, Australia's Constitution was created, step by step, by the people. Indeed, many Australians of that era were proud of that fact, and one of my grandfathers used to display on a wall his ornamental certificate stating that in Victoria he voted in the federal referenda of the 1890s. He was so interested in the well-being of the Commonwealth that, when the search for a federal capital site was under way in the Edwardian years, he rode his push bike along the hilly gravel roads to Cooma, Dalgety, Bombala and the other competing sites.

A quiet propaganda campaign has been under way in recent years. It subtly claims that the Commonwealth Constitution really belongs to the federal Government, to Canberra. It is implied that the people have proved unworthy of their Constitution and must be made to stand red-faced in the corner of the national schoolroom.

We hear often the complaint that the Constitution is an early T Model Ford and is striving to keep going in the 1990s against the nippy Hondas and fast Commodores. And who is to blame for this anachronism? Why, the Australian people are said to be to blame. The centralists complain that the Australian people are too frightened of change - and not too bright into the bargain, too.

On 42 separate occasions the Australian voters were asked to vote for a new version of the Constitution and yet on all but 8 occasions they voted "no". As a result the Australian people are said by some commentators to be amongst the most conservative people in the world. This allegation misses the mark.

The voters in Australia had had an intimate say in shaping the Constitution in the 1890s but since then have never been given the same say. The federal Government of the day decides when an

attempt should be made to change the Constitution, and it usually tries to impose changes that are more in its party's interests than in Australia's interests.

There is another reason for the Australian people's reluctance to obey Canberra and to vote for changes to the Constitution. Most of the proposed changes tried to centralise power in Canberra. Mr Keating, not well-informed about Australian history, has made it perfectly clear that *in his opinion* he controls the Constitution and will determine the agendas for abolishing the monarchy in Australia.

So far he has tried to exclude supporters of the present system from any serious say in discussing his republic. The federation of the six Australian colonies, however, was not achieved in 1901 by bullying, but rather by cultivating a spirit of compromise.

The same is true today. The monarchy in Australia cannot be touched, if the people in three of the six States say "no". Compromise is vital if the monarch is to be removed from Australia's Constitution.

What kind of compromise would give Mr Keating a chance of victory? He will have a far stronger chance of victory by adopting several of these compromises:

1. By reserving a minor or nominal role for the British monarch: perhaps the Queen could be patron of Australia but not Head of State.
2. By locking the present flag into the Constitution, thus preserving the flag until such time as the Australian people decree otherwise.
3. By rewriting the controversial "external affairs" clause in the Constitution. At present section 51 (xxix) enables a collection of foreign dictatorships, banana republics, and Third World satraps to exert far more control over Australia's internal affairs than any British monarch has exercised here during the last sixty years.
4. By agreeing that the President be elected, with the powers of the President being strictly controlled.
5. By re-asserting the core principle of the original Australian constitution - a principle increasingly violated - that the States are vital in the governance of Australia, and will remain so.

Some millions of Australians would like even more concessions but they must also, like Mr Keating, be willing to compromise.

Such concessions would perhaps enable Mr Keating to achieve a republic. But to do so will be far, far more difficult than recent opinion polls suggest.

Melbourne

17 November, 1994
