

A Republic needs major political system change.

The Australian Republic Movement has been totally silent on the need for major constitutional renewal. Its managers have just resigned. Minimalism is in fact the major problem. Proposing major change is considered too difficult given the many failed constitutional amendments. However, who wants a Republic with a dated, essentially colonial and barely amendable Constitution? Australia has moved on 25 years since the failure of 1999 Republic Referendum. Not only has the Constitution been stagnating, Australia's entire system of governance is also increasingly being questioned by the voters, especially the polarising two-party system. Neither of the major parties actually represent a majority. This was again well demonstrated in 2022. The case for system renewal is overwhelming. The Single Member District electoral system is a major cause of the problem. Remarkably, post WWII migrants appear to see this more clearly than the locals of earlier Anglo origin. What should be noted also is that major campaigns to change that electoral system are in fact happening both in the UK and in the US while New Zealand introduced a mixed-member proportional representation system in 1996.

The existing 1901 Australian Constitution has proven to be practically almost unamendable. It is also not well known. The failed Voice Referendum provided a telling demonstration of that. Forty-five proposals have resulted in just 8 successful changes. This is partly due to Section 128, requiring an additional federal states majority. Attempts to change this section have also failed. *Therefore, updating, piecemeal tinkering with the existing set of rules, is not the way to go. In particular, a Republic with this Constitution simply makes no sense.* What Australia needs is a real Republic, not a minimalist Republic with a rigid colonial Constitution.

Above all a new draft needs to be approved by an **ordinary** majority of citizens. Conservatives may still argue that it should also be approved by a majority of states (Section 128) which has been a major stumbling block in the past. Of course, today's citizens reflect the values and interests of today's multi-cultural society, but the federal structure has remained. Possibly, some would wish to maintain the federal structure, at least for the time being. Therefore, voters should be given the opportunity to vote for an entirely new Constitution while agreeing that the special conditions of Section 128 should be disregarded. However, a separate vote on this particular issue could be required, at the same time. This could achieve a perfectly democratic outcome.

Regrettably, very few people are familiar with the Constitution. Today's citizens are vastly different from those of the late 1890s. Australia is an independent diverse country comprising a huge number of migrants and their offspring, from countries other than Britain. And those who are of British origin are also very different from the citizens of the six colonies in 1901. The British Empire is history, but the Australian

Constitution does not reflect that. There is separate legislation that established Australia has an independent state (1986) but the ambition for a Republic surely requires a new modern Constitution. There are several governance issues now that didn't exist in 1901, which developed during the 20th century. They won't be fixed by establishing a Republic based on the existing Constitution.

The result of the failed Voice Referendum particularly demonstrated the polarised nature of the Australian Parliament, essentially the result of the Single Member District electoral system. We should remember that the 1967 Constitutional amendment to include Indigenous people as Australian citizens in the Constitution was NOT opposed by the Opposition party. On the Australian Institute of Aborigines and Islander Studies (aiabis) website one reads:

"On 27 May 1967, Australians voted to change the Constitution so that like all other Australians, Aboriginal and Torres Strait Islander peoples would be counted as part of the population and the Commonwealth would be able to make laws for them. A resounding 90.77 per cent said 'Yes' and every single state and territory had a majority result for the 'Yes' vote. It was one of the most successful national campaigns in Australia's history. Thousands of people worked on the campaign and achieving the 'yes' was a huge victory, signalling a change in the mindset of Australia's majority. It opened the door to First Nations Australian agency, bringing to light many strong leaders and organisations, and the expectation that things could be different. Change was possible, and they were willing to fight for it."

The Australia Act 1986 was passed to terminate the power of Parliament of the UK to legislate for Australia. A similar Act was passed in the UK. In reality this ended the colonial status of Australia but it did not change one word in the Australian Constitution. However, logically a serious attempt to review the Constitution was made by a highly qualified Government appointed Commission in 1988.

This was a very extensive examination and the need for it was not in doubt whatever. Economic management, distribution of powers and human rights were given much attention and quite detailed recommendations followed. In the end, the question of what could be put to the people in a Referendum as another serious attempt to "update" the Constitution, with some hope of success, was a vexed question. **Considerable debate occurred as to the legal capacity to change the Constitution altogether, outside Section 128, as the Constitution was still "encased" in British constitutional law and practices.**

The role of the (British) Australia Act (s) of 1986 gave rise to much discussion among constitutional lawyers but it was inconclusive. The following four questions were finally put to the voters in 1988.

1. Constitution Alteration (Parliamentary Terms) 1988 proposed to alter the Australian constitution such that Senate terms be reduced from six to four years, and House of Representative terms be increased from three years to four years. It also proposed for the fourth time that Senate and House elections occur simultaneously.
2. Constitution Alteration (Fair Elections) 1988 proposed to enshrine in the constitution a guarantee that all Commonwealth, State and Territory elections would be conducted democratically.
3. Constitution Alteration (Local Government) 1988 proposed to alter the constitution so as to recognise local government (*actually contrary to federal theory and practice*).
4. The Constitution Alteration (Rights and Freedoms) 1988 proposed legislation that sought to enshrine in the Australian constitution various civil rights, including freedom of religion, rights in relation to trials, and rights regarding the compulsory acquisition of property. Initially, three of the proposals, put by the Hawke Government, had tentative bi-party support for these proposals, but this was withdrawn altogether during the campaign. In the end, the Coalition parties opposed all four proposals.

The highest national vote was 37.6 % for the "Fair Elections" question. Once again it was the polarised Opposition, a result of the Single Member District electoral system, that stopped significant long-overdue reform.

However, following this failure a number of academics and a few political journalists started making various cases for rewriting the Constitution altogether. Journalist David Solomon, as well as academics George Williams and Helen Irving attempted to move away from piecemeal tinkering. That is now 36 years ago. Nothing has happened since.

The shortcomings of the Constitution are many and require a bold and comprehensive approach to change. Eminent professionals are available to immediately start on this task. As constitutional Professor George Williams explained: "*The symbols provided by this Constitution are those of a Monarchy of another country of which Australia is a sub-ordinate overseas dominion*".

The failure of constitutional renewal, the rejection of a republic and the need for a democratic electoral system suggest that more recent migrants from European countries familiar with other political systems should become involved in this process. Also, that the media and particularly the ABC should become engaged in objective political education that is primarily involved with renewal rather than merely analysing and criticising existing systems. In addition, instead of reducing

Australian political education in the universities, as has happened as a result of the commercialisation of universities, obligatory first courses on political system renewal should be on the agenda. Several European countries other than Britain have much to teach Australia and it is high time that this is recognised.

1358 words.

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