

# THE COPERNICAN Gazette

Issue #1

Autumn 2006

[www.copernican.info](http://www.copernican.info)

## WELCOME ...

Welcome to the first edition of the digest of the Copernican republican paradigm. It may seem incredible that this concept requires its own journal, yet many future issues will be needed to explore the paradigm in-depth and chronicle its effect on Australian constitutional reform.

For republicans, these pages are full of good news. This is no introspective review of the movement or what it must do next. No rehash of the tired arguments over direct-election verses minimalism. You've already read about this hundreds of times.

Instead you will read about real solutions, interesting perspectives and honest debate. We tackle theory and the very practical. We treat republicanism as an endeavour not an adventure.

The Copernican paradigm was discovered independently by at least five contributors to republican debate – perhaps there are more? The five agreed to collaborate and draw strength from their different backgrounds and interests.

As you will read, there is a full spectrum of designs, ideas, drafts and models already developed, and the project is just beginning. From this grand exposition it is you who'll judge what will be incorporated into the constitution of our great nation.

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Left: Copernicans meet with other republican groups at the last years Republican Gathering held at the ACT Legislative Assembly in August 2005

# The News Page



Above: David Latimer attending the Parramatta hearing of the 2004 Senate Inquiry, presenting the Honorary President Model

## Senate Republican Inquiry

Instigated by the Labor Party and the Democrats, in 2004 the Senate Legal and Constitutional Committee commenced its inquiry to investigate the best way to work towards Australia becoming a republic.

The inquiry received more than 700 submissions including five which independently referred to what we now call the Copernican paradigm.

The committee chairman, Senator Nick Bolkus, noted to the media that there were a few new faces attending the hearings. He was referring to David Latimer presenting his Honorary President Model.

It was thanks to the inquiry that the Copernican Group was formed and collaborative efforts could begin.

The final report, called *Road to a Republic*, presented the paradigm in chapter 7 under the sub-heading *Models with both a President and a Governor-General*. The concept was treated as a hybrid of direct-election and minimalism; the authors of the report offered some critical comment

but it was not mentioned in the final recommendations.

Nevertheless, the report was a landmark in that it gave serious consideration to a new class of republican model. This put the five submissions in the same league as the McGarvie model and the Executive President model.

## New Directions Seminar

In June 2004, David O'Brien and David Latimer teamed up with ARM Deputy Chair, Jason Yat Sen Li to deliver the New Directions Seminar in Marrickville, NSW.

Very few local residents attended despite an extensive leaflet drop, but with several ARM members and NSW parliamentarian Arthur Chesterfield-Evans, the first efforts to discuss the paradigm were friendly, constructive and most encouraging.

## University of Melbourne Seminar

In May 2005, John Power delivered an address on *An Irish-Style Presidency for Australia?* at the University of Melbourne's Contemporary Europe Research Centre. The seminar was well-attended, and the discussion that followed the presentation of the paper provided many insights.

## Wanted! Your thoughts

Please send us your opinion and reaction to anything printed in the Copernican Gazette. We hope to present a balance of views, even from the most sceptical. Our thanks to **Professor George Winterton** for starting us off on page 5. Contact details are on the front page.

## First Republican Gathering

In August 2005, the ACT branch of the ARM invited representatives of all republican groups to Canberra for a Republican Gathering. It was the first such opportunity for many years and had the risk of reopening the wounds of the 1999 referendum.

In contrast, the sessions which began on Friday evening and concluded Saturday were overwhelming positive. The aim was to "share and understand the various republican views that give strength and diversity to the republican cause."

A prominent topic was sovereignty and its role in both guiding the process towards a republic and in defining its eventual character.

The Copernican Group, was represented by Peter Carden, David Latimer and Robert Vose. All made positive contributions on the floor.

The attendees agreed to hold a second gathering, which is now planned for April 2006. David Latimer volunteered to help on the organising committee and has been active since.

Congratulations to Terry Fewtrell and the ACT republicans, for hosting this most successful weekend.

## The Venetian Gazet

In many Commonwealth Countries the Gazette is the official newspaper of the Government. Readers may know that the first Australian newspaper was the Sydney Gazette.

But what is a Gazette? A gazet was a coin used in the Venetian Republic, one of the first republics of the modern age. Some newspapers were priced simply as one gazet.

The name stuck and eventually was borrowed into English. It is believed that Copernicus first considered his theory of the Solar System while in the Venetian city of Padua. He may have paid one gazet for a gazette!

# Becoming Sovereign



**David O'Brien explains how a directly-elected Head of State to replace the Queen alone yet keeping our current constitutional system would separate Australia from the Monarchy in the simplest and safest manner possible.**

Since the defeat of the bi-partisan appointment model in 1999, I have been advocating a model for the creation of an Australian Republic in its most basic form retaining the Governor-General and state Governors and simply replacing the Queen with that of an Australian Sovereign with purely ceremonial powers and a codified power to appoint and dismiss governors with limited discretion.

Other republican proposals implicitly merge the roles of the Governor-General and the Head of State, however this is superfluous to the critical step for the achievement of an Australian republic, namely our separation from the English Monarchy. This merging of these roles gives monarchists a platform of defending the constitutional integrity of Australia, while for republicans it creates more difficulties and obstacles than it solves.

The new *Sovereignty Model* proposes only as much change as is necessary. It preserves the roles of the Governor-General and the State Governors. The established constitutional checks on power between the executive, the Governor-General and the Head of State would maintain the integrity and practicality of the Australian system of government.

Accordingly, a model that changes the least and generates almost no constitutional concerns is best model to put to the Australian people.

## **Cutting the cord**

It is ironic that Australia's continual stability and our long established independence in virtually all respects bar one means that the seemingly simple task of cutting the umbilical cord to Britain has become an increasingly difficult operation.

The don't-fix-it brigade are quick to point out that the dangers and risks associated with republicanism could be greater than the benefits of obtaining complete independence from the English Monarchy. Australians are against a more politicised head of state and it is unrealistic to expect political agreement on a codification of the reserve powers.

Under the present constitution it is clear that the Queen is distinct from the Governor-General. Accordingly an independent and hence sovereign republic could be achieved by the simple replacement of the word *Queen* in the constitution and establishing a Head of State within its provisions.

The desire of Australians to elect their Head of State was firmly established by the defeat in 1999, however nothing has changed for those direct-election models presented at the constitutional convention. The concern about the politicisation of the Head of State remains just as valid.

The good news is that such problems would not arise under a model where the office of Governor-General was retained. As with the State Governors, these representatives of sovereign power would be subject to the same conventions, yet able to exercise reserve powers if absolutely necessary.

The primary remaining constitutional power of the Queen is the appointment and removal of the Governor-General on the advice of the Prime Minister. The codification of these powers would be uncontentious, as the convention involved is well understood. For those wanting maximum assurance that the Prime Minister's advice would be followed, I propose a *bee-sting provision*, where the Head of State can only avoid this duty by resigning.

## **A Sovereign role**

The role of the Head of State would be primarily ceremonial and it is anticipated that some of the ceremonial duties currently undertaken by the Governor-General would be transferred to the Head of State. For this reason, I find that the title *President*, with its connotations of executive power, is not appropriate.

Given that we are replacing the Queen and maintaining our existing systems, it is accurate to use a new title of *Sovereign*. The title readily implies the intended function, namely a predominantly ceremonial role with limited constitutional functions. Although associated with royalty, it actually refers to independence.

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*“[It] would maintain the integrity and practicality of the Australian system...”*

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The name is not essential to the model and since deciding upon this name other like-minded republicans have proposed alternatives. Nevertheless, in presenting the *Sovereignty Model* it emphasises the importance of having a safe direct-election proposal and also the creation of a democratic institution from what was once a closed hereditary system.

## **Making the best choice**

Given the recent revival of interest inspired by the 2004 Senate Inquiry, those dedicated to achieving an Australian Head of State must begin resolving which model is best for Australia's unique circumstances. We can now do this without being immediately stalled by the direct-election/appointment dilemma which has afflicted the Republican Movement for far too long.

The Sovereignty Model (or one of the variants) provides a recognisable and workable solution that resolves this dilemma. It offers a directly elected Head of State and is the simplest and safest way to achieve an Australian Republic in our lifetime.

**David O'Brien is a Melbourne barrister. This is an edited version of submission 126 to the 2004 Senate Inquiry into an Australian Republic.**

# The New Copernicans



**David Latimer takes us on a journey from the start of the modern age to current efforts to forge a better constitution. He introduces us to the new Copernicans and the paradigm that shall remake our nation.**

When Captain Cook from Albion sailed, his primary mission was to observe the Transit of Venus, predicted to be visible over the Pacific on 3rd June 1769. The Endeavour went on to chart the east coast of Australia, successfully claiming half the continent for King George.

It is an interesting footnote to our history that our journey to nationhood begins with an astronomical expedition. More profoundly, the origin of modern Western society – the scientific revolution and the Age of Reason, begins with the astronomical revolution of Copernicus, who overturned centuries of assumption and doctrine to allow us to observe the universe as it really is, not as we wanted it to be.

It is time to employ this legacy in the polarised republican debate to overturn the presumptions that have created a three-cornered contest between monarchists, minimalist republicans and direct election advocates. The latter two hold to an unconscious understanding that a future republic must involve “the Queen and Governor-General replaced by a president”. While it may make intuitive sense to follow this formula, attempts to re-engineer the Governor-General into a president under Australian conditions must inevitably resolve a range of tangential issues. In the years since the 1998 Constitutional Convention, these issues have split the republican movement and made the purported objective of making Australia independent of the Queen evermore distant.

As Copernicus demonstrated conclusively, intuitive sense sometimes fails us. He challenged the age-old assumptions and took a new interpretation of the heavens beyond the imagination of his fellows. Likewise, republicans will find a solution when they move their technical focus from the Governor-General to the Queen. After all, the Queen is the fulcrum of the whole debate.

At the 2004 Inquiry into an Australian Republic, senators received not less than five independent and detailed submissions with a fundamentally new perspective. They all described how the Queen alone could be replaced by a head of state directly elected by the people.

These correspondents are the new Copernicans. They have developed a constitutional paradigm, similar to the status quo but resolving the apparently irreconcilable expectations of republican advocates and reflecting the strong apolitical sentiment of the electorate.

In concentrating their efforts on the Governor-General, republicans often fail to consider the Australian federation as a whole system. Executive power, federally and in each state, is officially vested in the one monarchy and exercised by the representative governor.

The Governor-General may be one rank higher than the rest, however in terms of our federal compact all the Queen’s representatives are peers of each other. The

entire system can now be seen through Copernican eyes, where each jurisdiction is independent but formally part of one system and tied to one central authority. Given the similarities across jurisdictions, an Australian republican model should work regardless of whether we are examining state or federal constitutional arrangements. When republicans ignore the states they reveal an inability to propose comprehensive solutions that work for the whole federation.

Copernicus did not postulate a more complex view of the universe but a simpler and more elegant one. For an Australian republic, this should be as simple as codifying the one actual duty left to the Queen – the appointment of the representative governor on the advice of the prime minister or premier.

To complete the codification, the constitution would vest executive authority in the head of state, but reserve the actual exercise of power in the Governor-General or state governor as required. This would allow the relationship between the Governor-General and prime minister, including the exercise of reserve powers, to continue to be guided by unwritten convention.

Absent of real executive power, the new head of state may be directly elected and yet above politics. Separate from the business of government, they cannot implement policy and thus any electoral campaign cannot be based upon promises or establishing a mandate.

Furthermore, in creating a repatriated position we are starting with a blank slate. We can propose a range of anti-political devices without unwinding the checks and balances of the existing constitution.

For instance, we could allow the head of state one term, so that no incumbent faces an electoral campaign at the end of his or her service. We could use “approval voting” to reduce negative campaigning and eliminate preference deals. We would give the head of state the resources so they could travel across Australia demonstrating community leadership, rather than the political leadership we expect from our parliamentary representatives.

The above is not a list of “nice ideas” but a demonstration of how every aspect of the head of state’s election and tenure can be tailored to establish the office as a fundamentally apolitical institution. It follows that a republican model promoting a president with all or a subset of the reserve powers cannot compete with the Copernican paradigm on the key issue of politicisation.

In the final Senate Inquiry Report – Road to a Republic, the five independent submissions were reviewed in a section titled “Models with both a President and Governor-General”. The title immediately suggests, as was explained in the report that “potential for duplication and possible confusion over the roles” may exist.

The practical upshot is that the paradigm appears to result in two ceremonial figureheads instead of just one. The truth is that nothing changes. We would have the same nine ceremonial positions – one head of state,

seven representative governors and one NT administrator. There exists a fundamental similarity between the Copernican paradigm and current arrangements.

Based upon an analysis of costs of our state governors, maintaining a non-executive head of state, replete with staff, offices and transportation is estimated to cost two million dollars per year.

This expense is dwarfed by the hidden costs of other direct-election models. These exist primarily at the state level, in either establishing six republican systems of government or in holding up to six gubernatorial elections. We can only conclude the new Copernicans have developing the least expensive direct-election proposals to date. The full long-term costs are about half that of implementing "Elect-the-GG" models.

At the inquiry hearings, senators asked specifically about the relationship between the head of state and the Governor-General. In response, I anticipated that the ceremonial role would reflect the constitutional role. The Governor-General would remain in Canberra performing duties associated with the federal and territory government, in addition to existing executive council, parliamentary, diplomatic and military functions. This would leave, in the broadest terms, the rest of the Australian community waiting to be appreciated, inspired, listened to and congratulated by their elected head of state.

One of the great opportunities here is renewed public engagement. It is astonishing how one-sided a conversation can get when the fascinating subject of constitutional law is raised. On the other hand, what the leader of the nation should do for and within the community is of interest to every citizen. Some may know little about the constitution, but all understand the importance of a cohesive and meritocratic society.

The paradigm presented here is no mere compromise between direct election and minimalism, although it satisfies the expectations of both republican camps. It is a more accurate observation of the Australian system of government that identifies the exact element of that system which ties us to the monarchy – the Queen.

It proposes the solution of replacing that element with an elected yet apolitical Australia head of state, symbolic of the sovereignty of the people. It leaves governors in their existing constitutional role, subject to the same conventions and constraints that are the great strengths of Australian democracy.

The Copernican system went on to be further refined and it is likewise for a Copernican republic. Effort is needed on the regulations for presidential elections and campaign financing. Then, as mentioned previously, there will be the broader community dialogue on our expectations for a ceremonial head of state. It is our ability to listen concerning this issue that will decide the result of the next federal referendum on an Australian republic.

**This is an abridged version of an article in Quadrant Magazine June 2005. David Latimer is a Sydney computer consultant.**

# The Mailroom

Dear David,

I commend you and your "Copernican" colleagues on the Gazette and thank you for the opportunity to contribute a letter to your inaugural issue. I thought I would take the opportunity to note some of the advantages and disadvantages of the "Copernican" model (used generically for a whole range of varying models).

The model appears to have three **advantages**:

1. It satisfies the public's wish for a directly elected head of state;
2. It enables the office of Governor-General to be retained more-or-less intact; viz. appointed by the head of state on Prime Ministerial advice and retaining the powers of the office in their present, uncodified, form.
3. Most importantly (and unlike virtually all other proposed models) it would enable us to retain a nationally-unifying aspect of the present system: a head of state who is head of state of *Australia* – both of the Commonwealth and the States and Territories.

I realize that some Copernican models may have the GG as head of state, with the directly elected officer's sole function being to appoint the GG. Such a model would lose the first and third benefits, retaining only the second.

The **disadvantages** all flow from the fact that, notwithstanding their superficial similarity, there is *no practical analogy* between a hereditary absentee monarch and a locally-resident directly elected public officer, even if they have exactly the same formal powers.

Instead of the "bicephalous" problem raised by a directly elected President (PM and President), the Copernicans offer a "tricephalous" system (PM, GG and head of state) with even greater opportunities for dissension and instability. It is fanciful to imagine that the GG could exercise his/her powers and functions (including, especially, the reserve powers) without interference from the directly elected officer, even if the GG and not the latter is formally denominated the "head of state".

The challenge to the Copernicans is to devise a model in which the directly elected officer is *truly* analogous to the monarch – with the realization that, if that officer is not the head of state, the Copernicans lose most of their advantages.

**George Winterton**

Professor of Constitutional Law  
University of Sydney

## **Agree or disagree...**

the important thing is that you be heard. We are looking forward to your emails and letters about the Copernican paradigm and anything else you read in the Gazette.

Contact details are on the front page.

# The Copernican Model and the states



**Peter Carden investigates the implications of republicanism for the States and discovers how the Copernican paradigm is not only respectful of state independence; it could give states a major role in defining the Presidency.**

My aim is to give the Copernican model a legislative framework that is both practical and generally acceptable by the States and the electorate. The model simply requires the replacement of the Queen with an

*“Certainly they could provide candidates for the election of President...”*

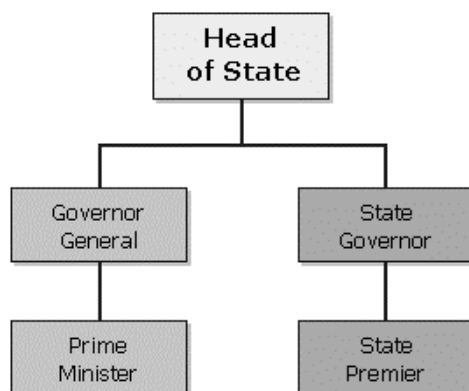
elected President. This is an elegant concept if for no other reason than it would allow the States to continue to share with the Commonwealth the one head of state.

The fact that the Queen is presently head of state of all the States as well as the Commonwealth is a valuable feature of the present system,

worthy of preservation but often overlooked, as it was in the model presented in the 1999 referendum. Perhaps the reason was the perceived difficulty in preserving this feature in the context of the candidate republic models then available.

None of them could be said to be sympathetic to State sensitivities. For example a Presidency defined in the Commonwealth Constitution carries overtones of ‘ownership’ of the President by the Commonwealth. This does not go down well where the independence of the States is still an issue.

Each State cherishes what independence it still possesses having been created independently long before the Commonwealth was ever thought of. Opinion among prominent constitutional lawyers as to whether the States would ever overcome such prejudice includes the extreme of ‘never’.



*Above: The Queen is head of state for all the states as well as the Commonwealth. Our nation could be united under the one President of Australia in the same way.*

All this presents a challenge that I have been happy to take up. It would be a sad day indeed if the States rejected the Copernican model simply because it was not State-friendly. And it would be a sad day if the nation missed the opportunity to unify all its legal parts under the one true ‘President of Australia’.

It is worthy of note that an outcome of the Queensland Constitutional Convention held at Gladstone in June 1999 was general agreement that the States would keep their Governors upon a change to a republic. So although the Copernican model requires the Governors to be kept, it is in fact merely building on the status quo.

In favour at the Convention was a proposal to mimic the republic model about to be put to the people i.e. the governors were to be turned into mini non-elected presidents. The only thing to be decided was the method of appointing the Governor in the absence of a Queen or President to do the job (on advice of the Premier). But the referendum failed. This of course means that the whole debate about an appropriate republic model needs to be rerun for each State because the issue for a State is virtually the same as it is now for the Commonwealth.

*“Each State must be given the option of dealing with the Republic as it so determines...”*

The Copernican paradigm neatly sidesteps all this by providing a ready replacement for the Queen enabling existing arrangements with the Governor to continue.

In addition the States would stand to gain other advantages. Provided the constitutional changes were appropriately drafted the States would be able to take part in decision-making that affected the Presidency. Certainly they could provide candidates for the election of President and participate in their review

However it has to be accepted that the only place the Presidency can be defined is within the Commonwealth Constitution. So we must find a way to make this acceptable to the States despite the misgivings described above.

One problem is the amendment rule section 128 of the present Constitution. Under this section any individual State can be over-ruled on an issue that may vitally concern it. Such an issue could be its relationship with its own head of state the President.

My solution is to amend the Constitution (by referendum of course) so that a new ‘book’ is added with its own amendment rule. The sections of the new book, entitled ‘the Constitution of the Presidency’ could only be amended in future by a referendum in which a majority of voters in each State agreed.

In the spirit of section 128 of the present constitution this would be more than enough for Commonwealth

# Integrity and Assurance

... continued from page 8

approval so this amendment rule would effectively give each State and the Commonwealth the power of veto on any proposed measure that it did not want.

On the other hand changes that were unanimously agreed upon could be adopted, even cases where a polity wanted a specific change to its arrangements with the President that did not affect other polities, although admittedly to do this might be arduous, involving, as it would, referenda in States that had no interest in the question being put. All the provisions of the Constitution of the Presidency need to be written in the context of equality between each State and the Commonwealth.

Section 128 would continue to apply to the 'old book' but only to the old book, which would in fact be the present Constitution of the Commonwealth with references to the Queen replaced by references to the President.

This should hopefully provide a degree of certainty to the Presidency that would satisfy the States. But it also means that the powers of the Presidency once defined would be difficult to alter. The powers therefore need to be defined unambiguously in the first place. I suggest that the President's powers and functions be simply defined as those enjoyed by the Queen just prior to the date on which the amended constitution becomes law.

A very important consideration is that a Copernican model should be so constructed that the States would be released from any immediate obligation to share the Presidency should the model be adopted by referendum. Each State must be given the option of dealing with the Republic as it determines and without pressure to meet a dead line. A State may decide to continue with the monarchy or become a republic independent of the Constitution of the Presidency. Thus, while the Copernican amendment to the present Constitution would provide a defined Presidency, there ready and waiting, it would not assume that it would be accepted. Each State could take it or leave it. Other provisions would take care of matters arising from a late entry.

Because the Presidency is to be shared among the participating polities it is possible that disputes among these polities may arise at some time. Such disputes are currently settled by the High Court and it is proposed that this practice should continue. The High Court may also be relied upon to deal with misdemeanours of the President.

In summary then the Copernican concept offers advantages to Australia as a whole and to the States. To Australia it offers real unity of all polities under one truly Australian President. It offers maximum propensity to win approval in a referendum because it proposes essentially no practical change to the existing system, maintains tried and proved safeguards and gives sovereignty to the people. For the States it respects their rights and independence, allows participation in the one all-embracing Republic and provides easy entry at minimum cost.

**Peter Carden is a retired ANU physicist.**

One of the most marked weaknesses of the modern republican movement has been its excessive legalistic formalism. Few republican reformers have stopped to inquire into the substantive functions that the office of head of state should perform. We can now see that integrity assurance is an important function – arguably the most important – that should be the responsibility of the office of our head of state. Furthermore, an elected President could work on integrity assurance without in any way improperly infringing the rights and responsibilities of the head of government.

While it would be possible for the monarch to discharge this responsibility, at least in the short term, serious commitment to the cause of integrity assurance will ultimately deliver a genuine republic. The critical question is this: Is the coordination of the work of the numerous integrity assurance institutions primarily a non-political, technical task, concerned mainly with fighting corruption? If we answer this question in the affirmative, we shall be satisfied with the Governance Review Councils proposed by the Australian National Integrity Systems Assessment Research Project. If, however, we believe that the assurance of integrity in governance goes well beyond such technical concerns, we shall seek to involve the heads of all three of our branches of government in a new, high-level Council of State whose politics, while transcending the partisan style, will be explicit and republican in nature.

**John Power is Professor Emeritus in the Dept of Political Science, University of Melbourne.**

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## Footnotes

- 1 Ackerman, Bruce, 'The New Separation of Powers', *Harvard Law Review*, vol. 113, no. 3, January, 2000, pp.633- 729.
- 2 Spigelman, Jim, 'Judicial Review and the Integrity Branch of Government Address, paper delivered to the World Jurist Association Congress, Shanghai, September, 2005.
- 3 This important project, based on a partnership between Griffith University's Institute for Ethics, Governance and Law and Transparency International, has focused primarily on integrity as corruption fighting (the central concern of Transparency International). See its report – *Chaos or Coherence: Strengths, Opportunities and Challenges for Australia's Integrity Systems*, launched last December by the Commonwealth Ombudsman, Prof. John McMillan.
- 4 McGarvie, Richard E., *Democracy: choosing Australia's republic*, Melbourne University Press, Carlton South, 1999.
- 5 The Irish Council of State is composed of the Prime Minister, Deputy Prime Minister, Chief Justice, President of High Court, Presiding Officers of the Two Houses of Parliament, Attorney-General, any former President, Prime Minister or Chief Justice willing to serve and up to seven Presidential nominees. Any Governance Review Council, such as that proposed by the Australian National Integrity Systems Assessment Research Project, could be constituted as a committee of the Council of State.

# Integrity and Assurance



**At the apex of our constitutional structures John Power proposes a Council of State to provide integrity and assurance that our governments are working for the people.**

Constitutional reformers around the world have in recent years been concerning themselves with the ways in which integrity in governance may be assured. Indeed, some, like Bruce Ackerman of Yale, have argued for the recognition of a separate 'integrity branch' of government<sup>1</sup>, and this call has now been echoed in Australia by the Chief Justice of New South Wales, Hon. Jim Spigelman<sup>2</sup>. However, neither of these writers has yet gone on to investigate the best institutional design for this proposed new branch. And those few writers who have, such as some of the participants in the Australian National Integrity Systems Assessment Research Project, have not focused on the ways in which the office of head of state could contribute to the work of integrity assurance<sup>3</sup>. Thus, there is no mention in the Project's reports to date of a possible gubernatorial role in the coordinating Governance Review Councils that it has recommended for each of the Australian jurisdictions. It has yet to be recognised that concerns for integrity assurance can greatly strengthen the republican movement in Australia.

Any responsible head of state must have a strong interest in assuring the integrity of the system of governance of which s/he is the titular chief. Heads of state will however differ in the ways in which they go about this vital task. Monarchs tend to rely most heavily on the character and sense of ethical responsibility of individuals exercising public authority. In contrast, republican heads of state place greater emphasis on public dimensions, requiring those in authority to be able to demonstrate that they are performing effectively. In republican regimes, those in authority need to be able regularly to satisfy interested publics that integrity is being protected.

For much of its history, Australia was well served by the monarchical approach. 'The Crown' acted as a potent symbol of the public interest. In their assumptive worlds, those in authority saw it as their duty to protect that public interest so strongly symbolised by the monarch. And they were for the most part accorded the independence to do so.

As the monarchy began its irreversible decline in Australia, mechanisms of integrity began to proliferate, seemingly in compensation. In all the governments in our federal system, the following relevant institutions are now concerning themselves with governmental integrity:

- Governors
- Cabinet offices
- Executive branch law officers (eg attorneys-general, solicitors-general)
- Public service commissioners
- Court and tribunals (AAT etc)
- Parliamentary committees
- Statutory officers (ombudsmen, auditors-general)
- Independent standing commissions (ICAC, ARC, HREEOC etc)

- Official inquiries (HIH, AWC etc)
- Internal public service units (office of police integrity etc)
- Non-government organisations (IPAA, Transparency International)

So publicly prominent have these mechanisms become that some monarchists are able to claim – with a measure of plausibility – that we are now effectively a republic. However, such a claim assumes a most important consideration, for proliferation of mechanisms does not in itself deliver assurance that integrity is being effectively protected in a coordinated way. In each of our nine governmental jurisdictions, the pattern of mechanisms is distinctively different, and publics have no way of knowing whether any pattern is performing better than any other. To take just one example – consider the gubernatorial role of constitutional counselling that was pioneered by Governor-General Hasluck, and more recently championed by former Victorian Governor McGarvie<sup>4</sup>. We just do not know the extent to which this integrity-relevant role is being performed by our current batch of Governors (although I have had reliable information that in at least one state the Governor does not undertake any constitutional counselling – work that in that State is left to the Cabinet Office).

What would be needed to enable us to be satisfied that a particular pattern was delivering the goods? Surely the best way would be through a high-level collegial body, with a membership similar to that of the Irish Council of State, on which the principal institutions would be represented<sup>5</sup>. (All our governments currently possess executive councils, but these are so dominated by ruling parties it is difficult to see how they could perform the role of integrity assurance). In each Council of State, the Governor would be expected to play a leading role in fostering the adoption of good practice and comprehensive coverage in integrity assurance.

Much of the work of the Council of State would of necessity be of a confidential nature, so how could interested publics be assured that integrity was being protected? Only if one of us – an elected President – was able to tell us that she had satisfied herself that the system was working well. I, for one, would be content with such an assurance; it would certainly be much more than we are receiving at present. The Governors would be the workhorses of the Councils of State – the managing directors, as it were – while the President would, as a member of each Council of State, be the one responsible for certifying to interested publics that the necessary work was being effectively done – a function not unlike that of the chairman of the board.

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*“As the monarchy began its irreversible decline, mechanisms of integrity began to proliferate, seemingly in compensation.”*

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