



OUR ROADMAP

REAL

FOR

REFORM



By **DAVID MUIR AM**
Chair
Real Republic Australia

Recently the Real Republic Australia released its "roadmap" for achieving an Australian republic and other beneficial reforms to our Constitution.

A republic with a directly elected head of state has always been a central goal for us and our roadmap delivers a process to achieve just that.

But we also want to see the same process employed to engage Australians in long-term constitutional reforms to deliver better and more efficient and more effective government.

Our roadmap gives Australians a chance to be involved in a process that has the potential to reshape our Constitution and to deliver benefits for them and for future generations.

Our roadmap is based around the concept of a series of Australian Constitutional Assemblies – an idea modelled on the [Citizens' Assembly](#) process used in Ireland to consider constitutional reforms.

No member of any legislative body would be entitled to join an Assembly – a feature that reinforces the fact that the Constitution is not the property of politicians but belongs to the people of Australia.

We believe the Australian Constitutional Assembly idea would work and would be an effective way to involve Australians in considering and potentially achieving real constitutional change because it will help extract from the current process the politically partisan approach that has been largely responsible for having only eight out of 44 referendum questions

approved since the first was voted upon in 1906 just a few years after Federation.

The Assembly approach would allow for the ongoing updating of our Constitution as needed.

But its first task could be to consider any necessary constitutional reforms arising from the coronavirus pandemic.

The pandemic has prompted a public debate and political arguments about the relative responsibilities of the different levels of government in Australia.



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HOW IT WORKS.....

PRELIMINARY WORK

- Resolution of parliament establishing an Australian Constitutional Assembly
- Appointment of Assembly chair, secretariat, expert panel
- Selection of 99 members of an Australian Constitutional Assembly



ASSEMBLY AT WORK

- Initial meeting of the Assembly – either a physical or virtual meeting or a combination of both – and discussion and finalisation of a work plan devised by the secretariat
- Circulation of a discussion paper and call for submissions
- A series of meetings of members of the ACA – either physical or virtual meetings or a combination of both
- Receipt and analysis of public submissions
- Public hearings – either physical or virtual or a combination of both
- Preparation of a report of the Assembly's work and recommendations
- Tabling of the Assembly's report in Federal Parliament and its release to state and territory parliaments.



AFTER AN ASSEMBLY

Actions required within three months of the Assembly's report:

- responses to the Assembly report and recommendations by federal and state governments
- a debate on the report and its recommendations to be scheduled in Federal Parliament
- decision by the federal government on whether a referendum or referendums will be held to implement Assembly recommendations.

Further actions:

- if a referendum is to be held, the federal government would need to draft and put to the Federal Parliament a Bill to initiate a referendum question or questions for consideration by voters.

We propose that each Australian Constitutional Assembly would:

- have 99 members sourced by professional market research techniques in a bid to broadly represent the make-up of the wider Australian community.
- have an independent expert chair appointed by the Federal Parliament.
- have 12 months to examine a proposed constitutional reform and make recommendations which a federal government would need to address and explain why a particular issue would be put to a referendum or why no reform would be attempted.

Assembly helps choose the model

The Real Republic Australia believes the Australian Constitutional Assembly process, if adopted by a federal government, could play a key role in achieving a republic.

It could help distil a shortlist of republic models for voters to consider at a non-binding plebiscite as one of the steps leading up to a referendum at which the republic question would be settled.

The Real Republic Australia has always embraced the model of an Australian republic with a directly elected head of state.

We are confident that any objective assessment of republic models will determine that one with a directly elected head of state is the only one that will be acceptable to voters – like the system used successfully in the Republic of Ireland where a directly elected president works well within a Westminster system of parliamentary government in which a prime minister and cabinet are in charge of the executive arm.

But regardless of our view or the views of other pro-republic groups, we also recognise that the final decision on a model is one for voters to make.

That is why we advocate a national non-binding plebiscite with a threshold question on a republic as well as a shortlist of models emerging from an Australian Constitutional Assembly could be put to voters.

Their preferred model could then go forward at a later referendum.

We believe this process would ensure that all pro-republic groups and individuals could unite behind the preferred model chosen by Australians.

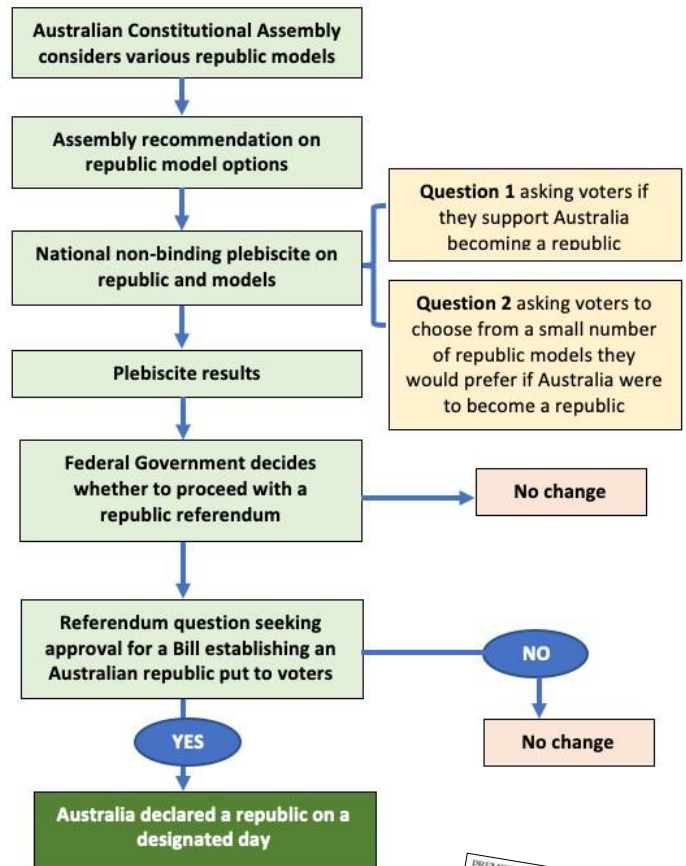
This process would ensure the best chance of success of any referendum on an Australian republic. It would help eliminate partisan politicking that has seen so many referendum questions torpedoed in the past because it would be very difficult for any political party to campaign against a model for a republic which was clearly the preference of Australian voters.

That is also why we need a plebiscite on a model as part of the process leading up to a referendum. Heading to a referendum without identifying voters' preferred model is a recipe for repeating the 1999 disaster.

DAVID MUIR

OUR ROAD MAP TO A REPUBLIC

How an Australian Constitutional Assembly could ensure the success of a future republic referendum.....



If you want a copy of our roadmap email admin@clenjonesgroup.com.au

A process for involvement and lasting benefits

FROM FRONT PAGE:

We suggest the possibility of a repeat pandemic or some other biological threat in the future should trigger an immediate review of current constitutional arrangements to determine if they are adequate to deliver a suitable and effective response.

Other beneficial reforms could also be considered through the Australian Constitutional Assembly.

In addition to a republic with a directly elected head of state, the Real Republic Australia advocates a list of potential reforms to the Constitution that would mean more efficient

government as well as potential savings for taxpayers.

Our proposed reforms include:

- fixed and synchronised four-year terms for both Houses of the Federal Parliament,
- the elimination of costly by-elections for the House of Representatives by adopting a Senate-style casual vacancy system,
- breaking the current nexus that dictates the relative sizes of both Houses,
- cutting the number of Senators; and
- constitutional recognition of local government.

A separate Assembly could be



formed by resolution of the Federal Parliament for each constitutional reform or related issues, to be considered.

The Real Republic Australia backs constitutional recognition of First Nations' people. But we do not propose using the Australian Constitutional Assembly process to achieve it.

The Uluru Statement from the Heart in 2017 initiated the latest public debate on the issue and its resolution should not be deferred or delayed.

We believe that the matter should be resolved by the government elected at the next federal poll.

Barbados unveils its republic model



BARBADOS IN BRIEF:

The Prime Minister of Barbados, Mia Mottle, has outlined the type of republic her country plans to become later this year.

In September last year the government announced the Caribbean island nation would abandon the constitutional monarchy with Queen Elizabeth II as head of state and move to become a republic by the 55th anniversary of its independence from Britain on 1 November.

Ms Mottle [recently announced](#) Barbados would become a parliamentary republic with a non-executive president.

She said the president would be elected by an "electoral college" comprising both of Barbados's Houses of Parliament.



Mia Mottle

Ms Mottle also announced the creation of a [Republican Status Transition Advisory Committee](#) to help in the move to a republic.

The Committee would receive submissions and ideas from citizens of Barbados and its meetings would be open to the public.

The government's terms of reference for the RSTAC also ask for it to review previous work done on the subject of a republic, including the Report of the Constitution Review Commission, 1998, and the draft Constitution Bill, 2004.

The Committee is required to deliver a medium term report by 30 June and a final report by the end of September.

Ms Mottle said the work to develop the new provisions in the Constitution of Barbados to take effect from 1 December would be "the subject of extensive consultation and communication with the people of this nation".

- **Capital** — Bridgetown
- **Population** — 300,000
- **Area** — 430 sq km
- **Independence from UK** — 30 November 1966
- **A parliamentary democracy under a constitutional monarchy**
- **Head of State** — Queen Elizabeth II represented by the Governor-General of Barbados
- **Commonwealth of Nations member**
- **Bi-cameral Parliament of Barbados with five-year terms.**
- **House of Assembly (lower house)** — 30 elected members in single-seat constituencies
- **Senate (upper house)** — 21 members appointed by the Prime Minister (12), the Governor-General (7), and Leader of the Opposition (2)

Finnish system – a good place to start



The Real Republic Australia's priority is to see our nation become a republic under a head of state elected directly by Australian voters.

We go further by suggesting that our head of state should have powers to appoint the key personnel of federal anti-corruption and integrity bodies.

Under existing arrangements, politicians appoint those with oversight responsibilities – a clear case of "Caesar judging Caesar". Our proposal draws a distinct line between the two and would ensure a higher level of public confidence.

Some who object to such a plan say a head of state should not have what could be seen as executive powers but we believe people would have greater confidence in a system whose key players are not given their jobs by the very politicians they police.

It is not unheard of for a directly elected head of state to hold responsibilities which may not be invested in a constitutional monarch.

The President of Finland for example is directly elected



[President of Finland](#)
Sauli Niinisto

- **Inaugurated March 2012 and re-elected for another six-year term in January 2018.**
- **Lawyer and investment banker before entering politics.**
- **Member of Parliament, National Coalition Party 1987–2003, 2007–2011.**
- **Speaker of the Finnish Parliament 2007–2011.**
- **Deputy Prime Minister 1995–2001.**
- **Minister of Finance 1996–2003.**
- **Minister of Justice 1995–1996.**

and, like the Irish President, is part of a system that includes a parliament in which sits a prime minister heading a cabinet in charge of the executive arm.

But unlike the Irish President, the Finnish head of state plays a lead role in foreign affairs.

Section 93 of the [Constitution of Finland](#) says: "The foreign policy of Finland is directed by the President of the Republic in co-operation with the Government."

It also outlines other roles in foreign affairs for both the head of state and the executive but makes it clear that the President is obliged to work with or consult the government or parliament.

This type of codification of powers means a head of state in an Australian republic could be invested with duties such as being responsible for appointments to or the oversight of federal anti-corruption agencies.

Codification of powers can also address and allay any fears that a directly elected Australian head of state would be an alternative source of power or rival to any government.

FAST FACTS:

- Capital: Helsinki
- Population: 5.5 million
- Finland is a parliamentary democracy with a republican constitution.
- The President is elected for a six-year term.
- Most executive power lies in the Cabinet headed by the Prime Minister.
- The President handles Finland's foreign affairs in cooperation with the Cabinet, except for some international agreements and decisions of peace or war, which must be submitted to Parliament.
- The President must approve laws and is also Commander-in-Chief of the armed forces.
- The single-house parliament has 200 members elected from 13 multi-member seats every four years.
- Parliament can override presidential vetoes.

Royals in our pocket? No way!

In the years preceding Australia's conversion to decimal currency in February 1966 the Menzies Government considered what name would be used for the new cash system.

In June 1963 it [was announced](#) that the new basic currency unit would be the "royal".

The then Treasurer Harold Holt said the name would emphasise the nation's links to the British monarchy and was also "a dignified word with a pleasing sound".

In following months the Royal Australian Mint developed a number of possible designs for the new "royal" banknotes. (pictured)

Meanwhile Australians had other ideas for a name for their new currency and had previously put forward ideas such as the Austral, the dinkum, the kwid, the roo, the emu, the koala,

the digger, or the zac. There was even a suggestion of the Ming which was Prime Minister Menzies' nickname.

None of these made it and in the end neither did the royal.

After the widespread unpopularity of the proposed name became obvious, the government made a second announcement just three months later.

It declared that the basic unit of the new decimal currency would be the dollar comprising 100 cents.



Coin of the realm.....

The image of Queen Elizabeth is on the "heads" side of all Australian coins as mandated by regulations made under the *Currency Act 1965*. Since assuming the throne almost 70 years ago [six versions of her image](#) have appeared with the latest update (left) by [Welsh designer Jody Clark](#) appearing from 2019.

The pros and cons of kings and queens

Melbourne-based academic [Dennis Altman](#) has released a new book that examines constitutional monarchies around the world.

In [God Save the Queen – the strange persistence of monarchies](#) the pro-republic Altman looks at the survival, durability of monarchies in the 21st century.

The book examines the role of the British monarchy in the independent countries of the Commonwealth of Nations that have retained the Queen as head of state including Australia.

Writing recently for [The Conversation](#) website Altman referenced some of those countries.

"The old dominions of the British Empire – Canada, New Zealand, Australia – basically accepted the British sovereign as head of state,

with a governor-general acting as effective head of state. This is a very peculiar constitutional arrangement.

"Australian passports are issued by the governor-general as 'the representative of Her Majesty', but on arrival at Heathrow Airport we queue in the same line as other foreign nationals."

Altman said for the British, the monarchy symbolised "a sense of greatness that has long passed, but allows for largely harmless nostalgia".

"Thinking of Australia as part of the imperial family might have made sense when the predominantly Anglo colonies federated in 1901. It is patently absurd today," he said.

"Since John Kerr's dismissal of Whitlam in 1975, it is difficult to imagine a governor-general, whether with or without the

support of Buckingham Palace, doing anything similar.

"The larger problem is the prime minister is nominally accountable to a governor-general whom he or she has appointed.

"The British prime minister has no such power, although the constitutional conventions would require the monarch to stand down should parliament so decree."

He said the simplest solution would be to retain our current system but elect the governor-general. However, resistance to constitutional change acted to perpetuate the status quo.

"Most politicians fear direct election would create a powerful challenge to parliamentary authority. Many populists are unwilling to trust politicians to choose a head of state," Altman said.



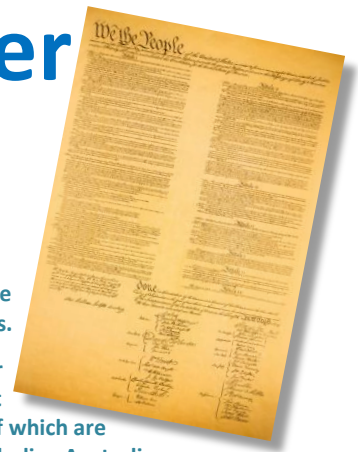
God Save the Queen – the strange persistence of monarchies

By **Dennis Altman**
[Scribe Publications](#)
160 pages

RRP \$27.99 paperback



Americans ponder new ideas for their Constitution



The [Constitution of the United States of America](#), like our own was designed to bring together a number of states or colonies to form a federated nation.

amendments to the document they believe are needed for it to meet today's demands.

Recently the *New York Times* began publishing [a series of articles](#) written by legal and constitutional academics, commentators, or activists who all set out their ideas for

Here we present just three of the ideas for new provisions in the US Constitution that address social and political issues, some of which are common to many nations of the world including Australia.

SUBJECT: Labour and union rights

PROPOSED AMENDMENT WORDING:

Section 1. All workers shall have the rights to engage in concerted action for purposes of mutual aid or protection; to form and join labour unions; to engage in collective bargaining, including at the work site, firm and sector levels; to picket, strike and boycott, including against secondary employers; and to exercise those rights free from coercion, discrimination or retaliation.

Section 2. Laws or contracts that restrict or impair the rights protected in this article shall be null and void.

Section 3. Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

PROPOSER: [Professor Kate Andrias](#), Professor of Law, at Columbia Law School, New York NY



ARGUMENT:

US federal law purports to protect the right to unionise, but it does so weakly and only for some workers, excluding the millions who are classified as independent contractors, domestic and agricultural workers and many others, disproportionately women and people of colour.

Moreover, the law has been eroded by hostile court decisions and federal and state anti-union legislation. The consequences are: income inequality has soared, many workers can barely make ends meet; even more have little control over their everyday lives, with employers able to change schedules at any time and without explanation, to monitor workers' every move using new technologies and to terminate workers for no reason at all.

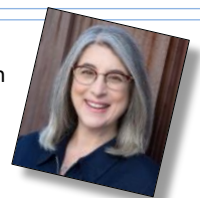
The absence of strong unions harms not only the workplace and the economy but also American democracy. Without countervailing organisations of workers, big corporations and the wealthy exercise vastly more influence in politics at every level of government. Protecting labour rights is key to fixing these problems, and that protection should start with the Constitution.

SUBJECT: Privacy rights in the digital age

PROPOSED AMENDMENT WORDING:

The right of the people to have privacy and be secure against searches and seizures of their persons, houses, papers and effects, including their data and the metadata created by their actions, shall exist regardless of where located and shall not be violated except through processes that are necessary and proportionate, including by a warrant issued by a judge upon probable cause and supported by oath or affirmation and particularly describing the person or place to be searched and the persons or things to be seized.

PROPOSER: Cindy Cohn, executive director of the San Francisco-based digital rights organisation [Electronic Frontier Foundation](#)



ARGUMENT:

The [Fourth Amendment of the US Constitution](#), which prohibits "unreasonable searches and seizures," was written when letters were delivered on horseback and communications, whether stored at home (protected as one's "castle") or sent through the mail, had to be searched by hand, one at a time. The contents sealed inside physical letters could reveal much more about a person than the address printed on the outside (the "metadata"), and so only the content received full Fourth Amendment protection.

In our digital age, this amendment has been interpreted in ways that shrink our rights. Today, our most important documents and communications are not typically transmitted by the public postal service or held by us in our homes but are handled by companies like AT&T, Google, Facebook and Slack. These companies also hold our metadata — including not only whom we talk to but also where we are and what we watch and read — which, alone or in aggregation, can reveal information as sensitive as the content of the messages themselves. Police officers no longer need to search our homes and documents one by one; they can go straight to those companies, generally getting content with a warrant but also often doing dragnet digital searches through metadata without a warrant.

Ideally, these privacy violations would be addressed through a fair reading of the current Fourth Amendment, including realigning what's reasonable with both modern life and international law. But seeking clarification from the US Supreme Court is slow, at best. A few tweaks could do a lot to retrofit the Fourth Amendment for our times — and for many years to come.

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Ideas for change (continued):

SUBJECT: Stopping laws that restrict or prevent people's movement

PROPOSED AMENDMENT WORDING:

No state or political subdivision of a state shall pass any laws, regulations or binding judicial decisions that, on their own or in their cumulative effect, substantially limit the capacity of residents of other states, localities or territories — individually, in aggregate or as members of groups or professions or trades — to enter, reside within or work within their borders unless those laws are found to further a substantial government interest other than population control by means that are tailored to achieve that interest.

PROPOSER: [David Schleicher](#), Professor of Law at Yale University Law School, Connecticut



ARGUMENT:

America needs to get moving again. Over the past 40 years, Americans have moved from one state or city to another less and less frequently. This lack of mobility — and the lack of population growth in highly productive cities and regions — substantially harms the economy.

Once, local economic booms created boomtowns, but they no longer do. Chicago grew from a city of 30,000 people in 1850 to 1 million in 1890 to 3.3 million in 1930; Silicon Valley's population has increased only slightly since the rise of the tech sector in the 1980s. Low population mobility makes economic redistribution less effective, since poor people are less likely to be in the same states and cities as rich taxpayers. It also makes the job of the Federal Reserve harder, since setting interest rates is challenging when there are varied levels of unemployment and inflation.

While there are several explanations for declining mobility, one is that state and local laws clearly make it harder for people to move toward opportunity. Zoning regulations limit housing construction in many wealthy cities and regions, raising housing costs and limiting immigration for those who don't already have high salaries to take advantage of those strong economies. Land use regulations in the most productive regions have reduced economic output by 36% between 1964 and 2009. Occupational licensing regulations cover 25% of workers and limit the ability of people to move between states because their licenses do not travel.

The US Constitution, through the dormant commerce clause, already bars state laws that discriminate against interstate trade. A new constitutional amendment could bar state and local laws that have the effect of limiting interstate population mobility, freeing the national economy from protectionist and not-in-my-backyard state and local legislation. Such an amendment could be used to invalidate unreasonable land use regulations — such as excessive minimum lot size rules and unjustified density limits — and labour regulations that discriminate in their effects against out-of-state workers.

States play a big role in altering the US Constitution

Unlike the situation in Australia, elected US lawmakers and the states comprising the United States of America can play a key role in the process for amending the [American Constitution](#).

Here, a national referendum is required of eligible voters to change the Australian Constitution with a "double majority" required for the passage of a referendum question — a majority of votes nationally across all states and territories as well as a majority "yes" vote in a majority of states excluding the territories.

[Section 128](#) of our Constitution also essentially places power to initiate any referendum in the hands of the government and in practice the prime minister by



requiring the proposed law outlining an amendment to the Constitution to be passed by both house of Parliament, which is more likely to be achieved with a Bill backed by the government rather than a Private Member's Bill.

In the USA a [proposed amendment to the Constitution](#) must be passed by a two-thirds

majority vote in both the House of Representatives and the Senate or by a constitutional convention called for by two-thirds of state legislatures. In reality none of the 27 amendments to the US Constitution has arisen from a convention.

The joint resolution of both House of Congress does not go to the US President because he or she has no constitutional role in the amendment process.

Instead it is sent to all 50 state governor who submit it to state legislatures for consideration.

A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states or 38 of 50 states.

Our newsletter

Constitutional Conversation is published quarterly by the Real Republic Australia.

It aims to foster public debate about potential changes to the Australian Constitution including a republic with a head of state elected directly by the people of Australia.

The Real Republic Australia was founded by Brisbane's longest-

serving Lord Mayor, the late Clem Jones (1918-2007) and a number of other delegates to the 1998 Constitutional Convention held in Canberra and who advocated for an Australian republic with a head of state elected directly by Australian voters.



In line with his wishes, the Real Republic continues to campaign for a republic based on the direct-election model with support provided by the Clem Jones Group.

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