

Keeping the Australian Republic[†]

The most notable aspect of the current republican movement in Australia is its lack of a broad historical and theoretical base. There is a great deal of old-fashioned plebeian nationalism and anglophobia, which has been around since last century, but which has been given greater credence by British withdrawal from great power status and entry into the European Community, and the troubles of the royal family, with economic recession perhaps also giving a boost. There has been little or no attempt, however, to give the local republican movement roots in history or political theory, other than that which can be found here (Australian history according to Manning Clark and political theory according to Donald Horne). On the contrary, there is a certain contempt for any history and political science not of antipodean pedigree, and appeals to anything beyond that boundary are made mainly by the monarchists.

This instinctive hostility to historical and theoretical analysis is appropriate. The least attempt at such analysis reveals republicanism as a phenomenon and a concept inseparable from Western European civilisation, and our Australian nationalists are not anxious to remind us that we are a small and recent part of that civilisation. Further study exposes a content of republicanism which largely undermines the shallow

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notions currently being propounded here, and indicates that Australian republicanism actually seeks to cut out of the country's cultural heritage a large portion of the historical capital necessary to make genuine republicanism flourish on this continent.

The history and theory of republicanism, which does not begin with Henry Lawson, is highly instructive to us as we contemplate our future direction.

When European settlement in Australia was beginning just 200 years ago, the founders of the first modern republic were contemplating in Philadelphia whether republican government was possible as a long-term proposition. This was a very serious question for them. Could the people of the newly-independent thirteen states govern themselves? The greatest political analyst since Aristotle, the "celebrated Montesquieu", cast doubt on the viability of republics. A republic, he observed, is a state in which sovereign power is held and exercised according to law by all the citizens or a substantial number of them, rather than by a ruler, who may rule according to law or despotically. The continuance of republican government therefore depends upon the ability of the citizens to exercise the powers of government themselves or to control and supervise those to whom they entrust those powers. This can be done only in small states; when a state expands beyond a certain size, it becomes impossible for the citizenry to participate or to control, and power falls to the centre and to the strongest man at the centre. Republics can therefore only be small, but that puts them in perpetual danger of conquest by powerful neighbouring empires. Quite apart from the question of size, the citizenry of a republic are apt to lose the high degree of virtue which their active citizenship requires, and to depute their powers to professional rulers. Republics are therefore usually short-lived.¹

This theory was amply supported by history. The Greek city states, after short and turbulent lives, had been absorbed by monarchical empires. The Roman Republic, having long survived by the exceptional virtue of its aristocracy and people, collapsed into despotism when the city expanded into an empire. The centralised kingdoms of Europe had subsumed the self-governing towns of late medieval times. Those that kept some independence became closed oligarchies. The English Commonwealth had not outlived its military Lord Protector who

had actually overthrown it. The prognosis for the former colonies of America was therefore not conducive to optimism.

The thoughtful assemblymen of Philadelphia, however, were provided with a ray of hope by the "celebrated Montesquieu". There was a way in which republics might be permanent: by leaguings together into confederations, they could preserve the republican form of government in the component units while gaining the advantages of greater size. A confederation could also guard against the propensity of republics to revolution and the seizure of power by tyrants: if these occurred in one state, the others could come to its rescue. It would be more difficult for a demagogue or a faction to corrupt every government at once.² Ancient confederations and that of Switzerland provided evidence for these deductions.

The American founders further developed, in theory and in practice, this significant discovery, in framing and expounding their new constitution. The existence of the thirteen independent states unwilling to give up their separate sovereignties was seen, not as a drawback to a union, but as a positive advantage, because it provided the opportunity to gain the advantages of federation. The framers' exposition turned the supposedly iron law of the size of republics upside down: the extension of the republic over a large territory and many states would guarantee republican government by conferring greater stability and security against capture by factions or tyrants.³

To the conventional confederation, which was simply an alliance of states, they made two ingenious modifications. There would be a central legislature to legislate with direct effect upon the people within the spheres specifically delegated to it by the written constitution, and a central executive to execute its laws, while the states would continue to legislate and execute their laws for their people within their spheres. This was a great advance on a central council relying on the state governments to administer its decisions. Secondly, the states would be granted representation in proportion to population in one chamber of the central legislature and equal representation in the other chamber. Though emerging as the product of compromise, this device avoided the concentration of the law-making power in one house and reduced the consequent danger of rule by a faction, and provided a basis for an upper house without constituting some kind of aristocracy. These inventions

of modern federalism have been so widely copied and become so common that we have forgotten what great inventions they were.

With these innovations of their own the founders provided the separation of the executive, legislative and judicial powers between different offices, which Montesquieu had declared essential to liberty. It has become customary to mock them for adopting what is said to be Montesquieu's misunderstanding of the British constitution, and to deride his failure to detect the emergence of responsible government, whereby the executive power is entrusted to a ministry formed out of, and depending on the confidence of, the lower house of parliament. This conventional wisdom is entirely misplaced. The development of responsible government, after it flourished for no more than 50 years, into a system of executive tyranny whereby the ministry, through party discipline, completely controls the lower house, has vindicated the French sage and the American practitioners.

They considered that they had found the secret of making a sizeable republic last, and republican government feasible for the first time since the ancients:

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.⁴

In other words, federalism is essential to viable republicanism over large countries.

When the Australian founding fathers met in the 1890s to form a union for Australia, they had no reason to doubt the truth of that precept. A further hundred years' history had supported it. The United States was still the only stable large republic. The only other stable republic of any size, Switzerland, was a medieval confederation which had been refashioned after the American model in the middle of the century. The chronic instability of France and its numerous revolutions and dynastic changes provided a warning of the futility of highly centralised republics: with only one capital and one government to capture, a succession of Robespierres and Bonapartes was greatly facilitated.

It is not generally appreciated that our founders were republicans, in the sense that they desired that their union rest upon popular sovereignty and elected institutions. The federalist republican system provided them with a ready-made model for a such a government over an extensive country. There was never any doubt that they would adopt the method of delegating specific powers to a central legislature, and of providing the states with equal and proportional representation in the two chambers.⁵ There was some resistance, however, to the grafting of responsible government onto the federal structure; a minority of convention delegates urged that it not be adopted for the federal government on grounds of its new and untried character and its inconsistency with the federal system.⁶ The deterioration of responsible government since their time has vindicated them as well as Montesquieu and the Americans.

This is not to say that Australia's founders only copied foreign designs. Much of their work was their own. They were more republican than the Americans in submitting the constitution to referendums for approval and in providing the same method for amendment, rather than relying on representative conventions for those purposes. The special majority (in a majority of states as well as of the whole number of voters) is an ingenious means of ensuring that a majority is both representative of the country and geographically distributed.⁷ The direct election of senators anticipated the 17th amendment of the U.S. Constitution (1913). The provision for resolving deadlocks between the two houses of the Parliament by simultaneous dissolutions was unique. The integrated judicial structure was a distinct improvement. As well as being drawn up in Australia by Australians, the constitution contains much that is indigenous.

Events since 1901 have not refuted the decision of the founders to follow the federalist road. Republics have tended to prosper in accordance with their adoption of federalist principles; highly centralised republics have not proved enduring. That Australia has prospered may fairly be attributed in large part to federalism. The existence of state governments and the equal representation of the states in the Senate may well have prevented the extreme alienation of the outlying regions such as has occurred in Canada. Those institutions have certainly placed restraints, as has the written constitution, upon the power of the majority party at the centre. It is a useful

exercise to contemplate what Australia would have been like with no states, no written constitution amendable only by a special majority, a geographically distributed majority, of the electors, and no Senate. The country would then have been entirely controlled for long periods by the dominant faction in the party which gained forty-odd percent of the votes in Sydney and Melbourne in House of Representatives elections. It is not an inspiring prospect. It is to be doubted whether the country would have held together in such circumstances. As it is two states, Queensland and Western Australia, have provided cautions against entrusting absolute power to the majority party caucus and ministry. Federalism at least prevented those experiments in unlimited government being conducted over the whole country. (If our republicans want a sound republican agenda they could turn their attention to the excessive centralisation and lack of constitutional safeguards of the state governments.)

The current republican agitation in Australia appears to operate in blissful ignorance of, or deliberate blindness to, any such considerations. It believes, or pretends to believe, that federalism, the division of power between the central and state governments, the geographically distributed majority for changing the constitution, the constitutional restraints on the central government and the Senate are all, like the monarchy, archaic limitations on native democracy, imposed upon us by the wicked British colonialists. Our whole system of government is a consistently bad work, "an outmoded Constitution, outmoded Governor-General and cohorts of supporting knights" .⁸ Thus for our "shopping list" to achieve "better government", the states, the special majority for changing the constitution and a Senate with legislative powers have to go. The basis of this conclusion really lets the cat out of the bag:

Do we believe that our system is meaningfully representative when governments have been forced to compromise with the wishes of two or three members of an Upper House, representing the views of a relative handful of Australians? Surely representative government means that ultimately the Senate must yield to the wishes of the *executive* of the popularly elected *government*? (emphases added)⁹

This is a recipe for that absolutism of the controlling faction of the party with a simple majority of votes, from which we

have hitherto been partly shielded. The true republicans from whom we derived so much would say that these words propose the kind of "representation" and "democracy" which have brought so many republics down, and which constitution-makers should seek to avoid.

Hence the avoidance in the movement of any constitutional history which might throw light on the republican federalist basis and the indigenous ingredients of the constitutional structure.

At the same time our bunyip republicans adhere very closely to the one genuinely British element in the constitution, cabinet government, which tends to despotism by the rulers of the majority party. Thus Thomas Keneally, conceding that he writes "flat out", is able to assure us that "the parliamentary democracy which was our version of the Westminster system [sic] would remain in place", while in the same breath (because he writes flat out) declaring that "the whole process would be immensely more democratic than in the present system, where our Head of State is handed to us willy nilly by Westminster".¹⁰ That "our version of ... Westminster" is far more rigid, because of party discipline, than the original is not a matter with which to trouble him.

Discarding the monarchy thus becomes a cover for dismantling the very thing on which a successful republic would depend, the federal system, and removing the republican restraints on that ministerial power which, ironically, is derived from the crown and the royal prerogative.¹¹

It may be unfair so to characterise the whole tribe, but if there are any genuine federalist republicans in the movement, their voices have been muted. As with all revolutions, the extremists and authoritarians are likely to take over from the liberals unless the latter are resolute. A defence of the constitution involves saving Australia's truly republican federal institutions from the centralism which would actually be a repudiation of the republican ideal.

NOTES

- 1 *The Spirit of the Laws*, Book VIII, Chapters xvi to xx.
- 2 *ibid.*, Book IX, Chapter i, quoted in *The Federalist*, No. 9, para 7.
- 3 *The Federalist*, No. 10.
- 4 *ibid.*, last para.
- 5 This plan of federation was put to the 1891 Sydney convention by Sir Henry Parkes and never departed from: *National Australasian Convention Debates*, Sydney, 1891, p. 23.
- 6 See speech by Sir Richard Baker, later first President of the Senate, attacking responsible government as a "British sham" : *Australasian Federal Convention Debates*, Sydney, 1897, pp 782-9.
- 7 Federalism prevents governments from attempting to follow the false and destructive notion that there are simple majorities and minorities: Daniel Elazar, *Exploring Federalism*, 1987, pp 2, 19.
- 8 Patrick White, quoted in Thomas Keneally, *Our Republic*, 1993, p. 178.
- 9 Dr Elaine Thompson, "Giving Ourselves Better Government" , in Donald Horne, *The Coming Republic*, 1992, pp 148-60.
- 10 *Op.cit.*, pp 220-1.
- 11 For federalism as the essence of republicanism, and the monarchical origins of conventional "democracy" , see Andrew Fraser, *The Spirit of the Laws [sic]: Republicanism and the Unfinished Project of Modernity*, 1990, esp. at p. 17.2.