

AC PAPER NO. 17

The following abbreviated catalogue of 45 criticisms comes from *UNSW Law Journal Forum* Vol. 4, No. 2 (June 1998)

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**Criticism On Forum Criticism
Number Page No.**

Republican Prof. George Winterton, UNSW – the (late) widely respected republican leader and constitutional expert.

1	5	Cumbersome
2	5	Unsatisfactory
3	5	Too difficult
4	5	Lacking grounds for removal of President
5	5	Incompatible with status of Head of State
6	5	Vital structural weakness
7	5	No justification for reinstating a President
8	7	Presidential Dismissal (faulty)
9	7	Flawed
10	7	Disappointing re Presidential powers

Republican Prof. Cheryl Saunders, University of Melbourne

11	7	Not the way to go
12	10	Reveals defects in the process
13	11	Significantly flawed
14	11	Minimalism a mistake
15	11	Flawed and unworkable
16	11	Difficult to understand
17	11	Difficulty of how to proceed from here
18	11	Incomplete

Republican Dr. John Uhr, ANU

19	13	Scepticism about its enduring qualities
20	13	Leaves issues unattended

Sir Harry Gibbs, Former Chief Justice of the High Court of Australia

21	16	Futile unless acceptable model suggested
22	16	Patently defective
23	16	Lack of public consultation
24	16	Senate completely ignored
25	16	Fails to state President/PM balance
26	17	Unsatisfactory regarding States
27	17	Preamble proposal is out of place
28	17	Republic at any price
29	17	Defective and a disaster for Australia

Republican Prof. Greg Craven, University of Notre Dame

30	19	Doubt about 2/3rds majority
31	20	A weak model with serious deficiencies

Presidential Republican Prof. Linda Kirk, Lecturer in Law: U. Adelaide

32	21	Fails to prevent a politically motivated dismissal of a President
33	21	Incongruous
34	21	Shortcomings

Republican Prof. John Williams, Lecturer in Law: U. Adelaide

35	24	Hollow attempt to appease the electoral demands (in smaller states)
36	24	A smorgasboard “republic”
37	24	Institutionalises suspicion
38	24	No provision for Vice-President. States can “decline or accept” a State “republic”, with startling outcomes.
39	24	Genuine independence of President cannot be established

Alex Reilly, Lecturer in Law, University of Perth

40	25	Possible withdrawal of rights and freedom (which the) High Court has previously found to be constituted in the Constitution
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Republican Prof. Moira Rayner (Deakin University) – elected ‘real republic; Convention delegate

41	28	More power to (politicians) via political parties
42	28	If the referendum succeeds we’ll have cobbled amendments and a poetic meaningless Preamble
43	28	Crucial aspects picked up from Malcolm Turnbull at the urinal
44	30	Unsatisfactory and a compromise and voted by a minority

Republican Yat-Sen Li

45	33	Underrepresented groups (non-English speaking) not adequately considered.
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The *Forum* was launched by the then NSW Governor, and its patrons were 7* of Australia’s leading law-firms. Its editor stated “The aim of the publication is to analyse the convention and its outcome rigorously and analytically, not to advocate a particular viewpoint. It is important to the integrity of our Law Journal that this is clarified.”
- Sharath Srinivasan
Editor – *Forum* and *General Issue* 21 (2), September 1998.

* Namely:-

- Allen Allen & Hemsley
- Clayton Utz
- Corrs Chambers Westgarth
- Freehill Hollingdale & Page
- Law Society of New South Wales
- Mallesons Stephen Jaques
- Phillips Fox

N.B. The serious criticisms of the 1999 model by Australia’s leading republicans was not published by the biased media. The criticisms of the 1999 model (by republicans) totalled 62. See AIDC’s Paper no. 16.

Important Note

The media refused to tell the electorate about these most serious criticisms by Australia’s leading republican constitutional experts (see also overleaf and see Harry Evans’ (republican clerk of the then Senate) 17 point criticisms as well. Send \$5 to AIDC for a mailed copy.

Hence Lord Deedes’ quote “I have rarely attended elections in any country, certainly not a democratic one, in which the newspapers have displayed more shameless bias. One and all, they determined that Australians should have a republic and they used every device towards that end.” (“The people of Australia send Blair’s Britain a useful message”, *The Daily Telegraph* (London), 8 November 1999.)

It is contended that had the media done so, the “Landslide” no vote would have been a “Tsunami”!

Plus 10 quotes from other informed respected republicans eminently well qualified to comment.

46. The Late Hon. Richard McGarvie AC (republican)

Labor Party Member 1949-70, former Victorian Supreme Court Judge and former Governor of Victoria appointed to the Constitutional Convention:

“By the time they vote, people will realise how the model would damage essential elements of our democratic system” and “How much would it strain our Federation to have the Commonwealth become a Republic whilst the States are left to defend themselves”- *Victorian Bar News* Winter 1998; and “The President would have a greater mandate from parliament than the Prime Minister”. – *The Age* 20.2.1998.

47. Senior Republican Dr Jon Hirst

Says of the model “an affront to republican principles” and “a blot on the scheme” – *Quadrant* June 1998.

48. Republican Sir Anthony Mason AC KBE CBE

Former Chief Justice of the High Court of Australia. He disagrees with the dismissal of a President “without prior notice and without even the need to state reasons.”

49. Republican and former NSW Governor and Head of State Hon. Gordon Samuels AC

“It sounds a warning to those who would place the responsibility for dismissing a President in the hands of a majority – any majority – of the Parliament without at least specifying the rules of procedure” – *UNSW Forum* launch, 23.05.1998.

50. Republican Professor Brian Galligan, Lecturer in Political Science, U. Melbourne

“It is not properly a republican model at all” – *Quadrant* April 1998.

51. Republican Pat O’Shane AM, Aboriginal Magistrate on the issue of the Model:

“A monster – an absolute monster” *SBS “Insight”* 22.04.1999

52. Republican Mr Harry Evans, then Clerk of the Senate and arguably Australia’s most senior Public Servant, said of the dismissal process “the most ridiculous Constitution alteration proposal I have ever heard of” and “No other country has been so misguided as to adopt such an obviously unbalanced arrangement.” – *Letter*, 10.06.1999.

53. Republican Sir Zelman Cowen PC AK GCMG GCVO KStJ KTcr “I am troubled root and branch by the notion expressed in the dismissal of a president” – Joint Select Committee Hansard p. 210, 6 July 1999. “I think that what is proposed is prima facie very disturbing” p.216

54. Republican Hon. Peter Costello “I do not believe this is an optimal model. I think it is a hybrid on a hybrid. It is a compromise.” 1998 Constitutional Convention, p. 975,

55. Republican Thomas Keneally AO “The biggest structural change since Federation” – Channel 9 Nightline, 18.1.1999.

Other quotes to remember:

“We already have a perfectly good functioning democracy... It’s a uniquely Australian system that works well.” (Malcolm Turnbull p.13 *The Australian* July 16, 2001).

“By the mid 1950s Australia was certainly an independent nation” (Malcolm Turnbull *The Reluctant Republic* – William Heinemann 1993, p. 56.)

For the 17 by the then Clerk of the Senate, Australia’s then leading Public Servant, Mr Harry Evans, send self addressed envelope to **AIDC / PO Box 1287 / Sydney South NSW 1235** marked “Harry Evans’ 17 criticisms.”

From respected republican Sir Gerard Brennan AC KBE, former Chief Justice of Australia... for 18 quotes from his 18 July 2001 paper to the Fourth Geoffrey Sawyer Lecture in ACT, all substantially demonstrating the benefits of our present Constitution and the disadvantages of an elected Presidency – send self addressed envelope to **AIDC / PO Box 1287 / Sydney South NSW 1235** marked “Brennan”.

Summary

Were you aware, if you voted YES, that you voted for a constitution model vastly inferior to our present one as shown above? And doesn’t this emphasise the urgent need for the electorate and in particular students (our present generation) to support the initiative of an **informed** vote? – i.e. Bipartisan Civics Education, supported by both sides of the discussion.
