

REFERENDUM

6 November 1999

Make sure you know the facts before you have your say.

REFERENDUM 1999

The essential facts

A referendum will be held on 6 November 1999 on two questions - whether or not Australia should become a republic and whether or not a preamble should be included in the Australian Constitution.

What is a referendum?

A referendum is a compulsory vote on proposed changes to the Australian Constitution. A proposed change to the Constitution must first be passed by Parliament. It becomes part of the Constitution if it is approved at a referendum.

What sort of majority is needed for a referendum to be carried?

A change to the Constitution can only be made if it is approved by a majority of voters in at least four of the six States and by a majority of voters in Australia overall. Voters in the ACT, the Northern Territory and the external territories (Norfolk Island and the Indian Ocean Territories) are included in the overall count.

The questions

The question about whether or not Australia should become a republic

A single republican model will be put forward. Voters will have a choice between that model and no change. The proposed model is the one that had the most support at the Constitutional Convention in 1998.

The question will be whether voters approve a "proposed law to alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the Members of the Commonwealth Parliament?"

The question about a preamble

There will be a second and separate question in the referendum about whether a preamble should be included in the Constitution.

How can I find out more?

More information about the issues will be available as the referendum gets closer. Look out for advertisements in newspapers and on television. Printed copies of this information are

available by calling 1800 641 117. This information is also available in alternative formats for the print disabled by calling 1800 644 885.

You could also email the Referendum Taskforce, Department of the Prime Minister and Cabinet, referendum@dpmc.gov.au

Shortly before the referendum each voter will receive a copy of the proposed changes to the Constitution and a copy of the official arguments for and against the referendum proposal. These official arguments will be prepared respectively by those Members of Parliament favouring one or the other view and will be mailed by the Australian Electoral Commission at least 14 days before the referendum date.

Which way do you want to go?

Take the time to think about it - the choice is yours at the referendum.

Information on this website is not intended to promote either the case for change or the case against change, but to help Australians understand the main issues before they vote in the referendum. It was prepared and issued by the Commonwealth Government. An expert panel consisting of Sir Ninian Stephen (Chairman), Professor Geoffrey Blainey, Professor Cheryl Saunders, Dr John Hirst and Dr Colin Howard reviewed the content to ensure it is fair and accurate.

Authorised by the Commonwealth Government, Capital Hill, Canberra. Written by D Williams and C. Ellison, Capital Hill, Canberra.

REPUBLIC – YES OR NO?

The existing system

How does our existing system of government work?

Australia is a fully independent nation with its own Constitution and a federal system of democratic government. The Constitution sets out the framework of government in Australia.

How did we get our Constitution?

Before 1901, Australia consisted of six self-governing British colonies. During the 1890s, two Constitutional Conventions were held. Their task was to draw up a Constitution to bring the colonies together in a federation, under a national government. The final draft of the Constitution was approved by voters in all the colonies and by the British Parliament. The new Commonwealth of Australia came into existence on 1 January 1901.

What is the federal system?

In Australia's federal system the powers and responsibilities are shared between a national parliament and state or territorial parliaments. The six States all have their own constitutions, with links to the Queen and roles for State governors as her representatives.

What is the Queen's role?

Australia is a 'constitutional monarchy'. The monarch is the Queen with the title Queen of Australia. The Constitution confers powers normally associated with a head of state on the Queen but provides that they are exercised by the Governor-General, who now is always an Australian citizen. In practice the Queen does not play a day to day role in the government of the Commonwealth. The primary function which the Queen performs is to appoint the Governor-General, strictly in accordance with the advice of the Prime Minister. The Queen would also dismiss a Governor-General if advised to do so by the Prime Minister.

What is the Governor-General's role?

The Governor-General's duties are mostly formal and ceremonial. In almost all cases the Governor-General exercises powers on the advice of the Prime Minister or other ministers. There are a few important powers, known as the 'reserve' powers, where the Governor-General must occasionally make decisions without advice. But in making those decisions, the Governor-General would act in accordance with those accepted rules of practice referred to as conventions.

Who is the Head of State?

This is an issue that will be debated during the referendum campaign. The term head of state is not mentioned in the present Constitution. Some people see the Queen as the head of state because formal powers are conferred on her by the Constitution and she appoints the Governor-General on the advice of the Prime Minister. Others see the Governor-General as now the head of state because he exercises those powers.

The proposed model for an Australian republic*What is a republic?*

There are many different forms of republic in the world. Their common feature is that the head of state is not a monarch. The proposed model is not copied from the particular form of republic adopted in any other country.

What would the changes be?

If the change to a republic is approved at the referendum, the President would become Australia's head of state, replacing the Queen and the Governor-General.

The President would have the same powers that the Governor-General now has. Like the Governor-General, the President would act on the advice of ministers and would not be an executive president as in the United States.

The name 'Commonwealth of Australia' would be retained.

When would any change take effect?

If endorsed at the referendum, the change to a republic would take effect on 1 January 2001.

If Australia becomes a republic can it remain part of the Commonwealth of Nations?

Yes. Within the Commonwealth there are republics and constitutional monarchies which all acknowledge the Queen as head of the Commonwealth of Nations.

How would the President be chosen?

The President would be appointed as follows:

- a broadly representative committee of 32 Australians would be established, with 16 members appointed from the community by the Prime Minister and 16 others drawn from the Commonwealth, State and Territory parliaments;
- the committee would invite public nominations for the office of President before preparing a report, including a shortlist, for the Prime Minister;
- after considering the report, the Prime Minister would present a single nomination, seconded by the leader of the Opposition, to a joint sitting of the Senate and House of Representatives (the two houses of the Commonwealth Parliament); and
- the nominated person would be appointed as President if the nomination is affirmed by a two-thirds majority of that joint sitting.

The Prime Minister, if nominating a person not shortlisted by the committee would need to inform the Commonwealth Parliament of the reasons for the alternative nomination.

What qualifications would the President need?

Only an Australian citizen who is eligible to seek election as a member of the Commonwealth Parliament could be put forward by the Prime Minister for the office of President. A person could not be put forward by the Prime Minister if that person is a member of a political party, the Commonwealth Parliament, a State Parliament or Territory legislature. A person nominated for the office of President who held dual nationality would have to take all reasonable steps to renounce that other nationality.

How long would the President hold office?

The term of office would be five years. A President could be nominated for additional terms.

How could the President be removed?

The Prime Minister may, by instrument signed by the Prime Minister, remove the President with effect immediately. If the Prime Minister took this action, he or she would then have to seek the approval of the House of Representatives within 30 days unless an election is called. If a majority of the House should refuse to approve the Prime Minister's action, there are likely to be political consequences for the Prime Minister, but the President would not be reinstated. The longest serving State Governor would act as President until a new President was appointed.

How was this model developed?

The model was developed by the Constitutional Convention held in February 1998. Half of the 152 delegates were appointed by the Government, including delegates from every State and Territory, community, government, indigenous and youth representatives. The other half were

elected by the Australian voters in a voluntary postal ballot conducted by the Australian Electoral Commission.

The Prime Minister asked the Convention to consider three questions:

- whether or not Australia should become a republic;
- which republic model should be put to voters to consider against the current system of government; and
- in what timeframe and under what circumstances might any change be considered.

A majority of the Convention voted for Australia becoming a republic. The Convention looked at several different models for choosing a head of state including direct election, appointment by a Constitutional Council, and appointment by Parliament. No model gained an absolute majority; the model with the greatest support was the 'bipartisan appointment of the President' model which involves appointment by a two-thirds majority of the Commonwealth Parliament.

What about the States?

In addition to the links at Commonwealth level, the six States also have links to the Queen, and the State Governors are her representatives in matters of state government. If the referendum is carried in November, the links at Commonwealth level would be severed from 1 January 2001. The referendum would not affect the links at State level, but all States have indicated they would consider whether to sever or maintain those links. In four States, a State referendum would be required if the State Constitution were to be altered.

PREAMBLE – YES OR NO?

The proposed preamble

There will be a second and separate question in the referendum about whether a preamble should be included in the Constitution.

What is a preamble?

The proposed preamble to our Constitution is intended to provide a statement of values of the Australian people.

What are the terms of the proposed preamble?

The proposed words are as follows.

"With hope in God, the Commonwealth of Australia is constituted as a democracy with a federal system of government to serve the common good.

We the Australian people commit ourselves to this Constitution:

proud that our national unity has been forged by Australians from many ancestries;

never forgetting the sacrifices of all who defended our country and our liberty in time of war;

upholding freedom, tolerance, individual dignity and the rule of law;

honouring Aborigines and Torres Strait Islanders, the nation's first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country;

recognising the nation-building contribution of generations of immigrants;

mindful of our responsibility to protect our unique natural environment;

supportive of achievement as well as equality of opportunity for all;

and valuing independence as dearly as the national spirit which binds us together in both adversity and success."

There is currently no preamble in the Australian Constitution itself.

What effect would a preamble have?

The preamble would not have any legal effect on the interpretation of the Constitution or other laws.