

# The case for voting ‘NO’

*A PROPOSED LAW: To alter the Constitution to insert a preamble.*

## If you don't know - VOTE NO!

If, by the time the referendum comes around, you aren't aware of the many arguments against the Preamble, a NO Vote is the only safe option for you to take.

But, if you take a few minutes to read this official NO case you will be aware of the important reasons for rejecting the proposed Preamble and be able to make an informed vote on November 6.

## What's wrong with the proposed Preamble?

- **It's Premature** - it is absurd to introduce a new Preamble until we know whether Australia will become a Republic;
- **It's a Rush Job** - we should not be tacking these words onto our Constitution without more work and much more public consultation;
- **It's a Politicians' Preamble** - the people haven't had a say on what should be included in their Preamble;
- **It's Part of a Political Game** - while the Labor Party voted against the Preamble in Parliament, they will not campaign against it;
- **It's a Deliberate Diversion** - the Preamble is an unnecessary diversion from the most important issue at stake - the Republic model;
- **It's Got Legal Problems** - the Preamble referendum question is misleading and there is much debate about what the legal effect of the Preamble will be;
- **Its Content is Defective** - the proposed Preamble is far more likely to divide rather than unite Australians.

**This is not a people's Preamble!**

**When you vote remember:**

**No say - NO WAY!**

continued overleaf

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## It’s Premature

It’s absurd that we must vote on a Preamble before knowing whether Australia will become a Republic.

**By including the Preamble question in this referendum the Prime Minister has put the cart before the horse.**

**Surely, the appropriate time to add a new Preamble to our Constitution is after we know whether Australia will become a Republic or not!**

The proposed Preamble makes no mention of the Republic or the President. This means that if both the Republic and Preamble questions are passed, we will have the ridiculous situation of being a Republic without any mention of that fact in our Constitution.

But, if the Preamble is approved and the Republic question fails, why do we need a new Preamble at all?

## It’s a Rush Job

The proposed Preamble has been included in the referendum with deliberate haste.

The Preamble Bill was not subjected to the scrutiny of a public inquiry as the Republic Bill was. This lack of public input also means you have not been given a chance to have your say on the preferred wording.

The Prime Minister did not consult widely with stakeholders such as the Opposition, other political parties, republicans, veterans, monarchists, indigenous leaders, immigrant and environment groups.

**The Bill putting the Preamble question to referendum was rushed through Federal Parliament in just over 24 hours, after the Prime Minister secured a deal from the Democrats in the Senate.**

**More time should have been provided for a proper community debate and discussion on the final wording of the Preamble. A properly elected Convention is the only democratic way to develop such an important Constitutional reform.**

The Opposition wanted to defer the vote on the Bill for one week but the Government rejected this offer, preferring to rush the Bill through without any scrutiny.

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## It's a Politicians' Preamble

The proposed Preamble is a politicians' Preamble when it should be a people's document.

**It is John Howard's Preamble (drafted with two Democrats) not the Preamble of the Australian people.**

We should not be asked to vote on a Preamble written behind closed doors by politicians and thrust upon the people in a 'take it or leave it' manner.

First, the Prime Minister wrote a Preamble with a poet - a convention of two! He wanted to include 'mateship' and other personal preferences, but many people objected. So he rewrote it with the help of two Democrat Senators - a convention of three!

**Preambles are people's documents. No single politician should have ownership of the drafting process for our new Preamble.**

## It's Part of a Political Game

The proposed Preamble is being used in a political game.

**The Labor Party doesn't support the proposed Preamble either.**

The Labor Party voted against the proposed Preamble in Parliament. They don't want it to succeed. But because they think the Republic has a better chance of getting over the line if they campaign for a YES, YES vote, they've decided to run dead on the issue of the Preamble. They've already said they'll rewrite it, but they won't speak out for a NO vote now!

Party 'solidarity' dictates their members stay silent. Labor is prepared to trade off a flawed Preamble in order to achieve a YES for the unpopular but big party Republic model.

This NO case was prepared after wide consultation by the only MP prepared to stand by his vote on the Bill in Parliament.

**So don't be conned. Just because the Labor Party isn't talking about the Preamble doesn't mean they support it.**

**No say - NO WAY!**

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## It's a Deliberate Diversion

Previous referendums show that multiple questions are more likely to lead to the proposed changes being voted down. You should not let the Preamble question influence the way you vote on the Republic issue.

**The proposed Preamble is designed to divert attention from the most important issue at stake - whether or not Australia should become a Republic under the terms of the proposed model.**

The Prime Minister does not want Australia to become any type of Republic. He has made it very clear he thinks our current Constitution has served us well. Why then would he want to change the Preamble?

At the urging of Monarchists, the Prime Minister has used his position to frustrate the Republican cause despite claiming he has given the people a choice.

For example, what happened to the Prime Minister's promise that a public vote would be held if no clear consensus on a preferred Republic model resulted from the 1998 Constitutional Convention?

After all, that half-appointed Convention delivered only 48% delegate support for the Republic model you will be voting on at the November 6 referendum.

Rather than have a vote on any particular Republic model forced upon you as it has been, you should first have been asked:

1. 'Do you want Australia to become a Republic?' If so,
2. 'Which of the following range of Republic models would you prefer?'

The Preamble is simply another step in this process of frustration. The question has been hurriedly added to this referendum (without public consultation) in the hope it will influence the vote on the Republic question.

**Whether you agree with the proposed Republic or not you should not let the Preamble question influence your thinking on that important issue.**

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## It's got Legal Problems

There are serious questions about the proposed Preamble's legal status.

**There is much debate among Constitutional experts about what the legal impact of the Preamble will be.**

The question is misleading. What you won't be told is that by voting YES you will automatically be agreeing to another Constitutional amendment which says the Preamble has no legal force and can't be used to interpret the Constitution or any law. This has no precedent.

The proposed Preamble will be 'tacked on' to the current Constitution in addition to the old Preamble.

Legal experts including the former Chief Justice of the High Court, Sir Harry Gibbs argue that regardless of the addition of a clause barring its use, the Preamble may have considerable legal force.

The fact that the Prime Minister has refused to include a reference to Aboriginal custodianship suggests the Government shares this view.

There are also divided opinions on whether the Preamble can, and will, be used by International Courts to rule on Australia's international obligations.

But George Williams, another Constitutional expert, has pointed out that judges only resort to preambles extremely sparingly and could not derive rights or other meanings from the Preamble.

**If the lawyers can't agree, how can we vote for this rushed and flawed Preamble?**

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## Its Content is Defective

Besides all the other problems the Preamble is flawed in content, meaning and style.

**The Preamble might read O.K, but it is not acceptable as an introduction to our Constitution.**

Just as the Constitution should be relevant for many generations, its Preamble should also be timeless. This Preamble tries to be ‘all things to all people’ and has been criticised for containing historical inaccuracies.

According to many Aboriginal leaders, the word ‘kinship’ does not truly reflect indigenous peoples’ connection with the land.

Many veterans believe the reference to ‘all who defended our country’ should say ‘in times of war and conflict’, to pay respect to those who made sacrifices in conflicts as well as officially declared wars.

By only supporting ‘achievement’ do we only include ‘winners’ but not ‘losers’ in our Constitution?

Migrant groups want a reference to our multicultural nation, one that respects the diversity of cultural traditions.

**The proposed Preamble will divide and alienate, not unite Australians.**

## Conclusion

- All the fine words so often associated with the American Constitution are actually in the declaration of Independence, not the Constitution’s Preamble. The US Preamble is just 52 words long and speaks in narrow terms about ‘domestic tranquility, common defence and general welfare’.
- The new Preamble proposed for our Constitution is 152 words long and will be tacked onto a Constitution that already has a Preamble. The proposed Preamble has been hastily cobbled together by the Prime Minister and two Democrats without PUBLIC INPUT.
- It is defective, its legal status is unclear, and it shouldn’t be RUSHED through, particularly BEFORE the Republic vote is resolved. But MOST IMPORTANTLY, this is a POLITICIANS’ PREAMBLE not a PEOPLE’S STATEMENT.

**For all these reasons ‘NO’ is the only way to GO.**

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THIS ARGUMENT CONCLUDED ON PAGE 37

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