

# CONSTITUTIONAL CONVENTION

[2nd to 13th FEBRUARY 1998]

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TRANSCRIPT OF PROCEEDINGS

**Friday, 6 February 1998**



Old Parliament House, Canberra

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# CONSTITUTIONAL CONVENTION

Old Parliament House, Canberra

**2nd to 13th February 1998**

*Chairman*—The Rt Hon. Ian McCahon Sinclair MP

*The Deputy Chairman*—The Hon. Barry Owen Jones AO, MP

## ELECTED DELEGATES

### **New South Wales**

Mr Malcolm Turnbull (Australian Republican Movement)  
Mr Doug Sutherland AM (No Republic—ACM)  
Mr Ted Mack (Ted Mack)  
Ms Wendy Machin (Australian Republican Movement)  
Mrs Kerry Jones (No Republic—ACM)  
Mr Ed Haber (Ted Mack)  
The Hon Neville Wran AC QC (Australian Republican Movement)  
Cr Julian Leeser (No Republic—ACM)  
Ms Karin Sowada (Australian Republican Movement)  
Mr Peter Grogan (Australian Republican Movement)  
Ms Jennie George (Australian Republican Movement)  
Ms Christine Ferguson (No Republic—ACM)  
Mr Alasdair P Webster (Christian Democratic Party (Fred Nile Group))  
Ms Glenda Hewitt (ungrouped—I Care About Australia's Future)  
Dr Pat O'Shane AM (A Just Republic)  
Brigadier Alf Garland AM (Australian Monarchist League)  
Mr Andrew Gunter (Ethos—Elect the Head of State)  
Ms Hazel Hawke (Australian Republican Movement)  
Mr Jason Yat-Sen Li (ungrouped—A Multi-Cultural Voice)  
Ms Catherine Moore (Greens, Bill of Rights, Indigenous Peoples)

### **Victoria**

Mr Eddie McGuire (Australian Republican Movement)  
The Hon Don Chipp AO (No Republic—ACM)  
The Reverend Tim Costello (Real Republic)  
Mr Bruce Ruxton AM, OBE (Safeguard the People)  
Ms Mary Delahunty (Australian Republican Movement)

Ms Sophie Panopoulos (No Republic—ACM)  
Mr Steve Vizard AM (Australian Republican Movement)  
Ms Poppy King (Australian Republican Movement)  
Mr Lindsay Fox AO (Australian Republican Movement)  
The Hon Vernon Wilcox CBE QC (Safeguard the People)  
Ms Moira Rayner (Real Republic)  
Ms Misha Schubert (Republic4U—The Youth Ticket)  
The Hon Jim Ramsay (No Republic—ACM)  
Mr Kenneth Gifford QC (Australian Monarchist League)  
Mr Phil Cleary (ungrouped—Phil Cleary—Independent Australia)  
Mr Eric G Bullmore (Shooters Party)

### **Queensland**

The Hon Sir James Killen KCMG (No Republic—ACM)  
Dr Clem Jones AO (Clem Jones Queensland Constitutional Republic Team)  
The Hon Michael Lavarch (Australian Republican Movement)  
Dr Glen Sheil (Constitutional Monarchists)  
Mr Neville Thomas Bonner AO (No Republic—ACM)  
Mr David Alexander Muir (Clem Jones Queensland Constitutional Republic Team)  
Ms Sallyanne Atkinson AO (Australian Republican Movement)  
Mr Thomas Bradley (No Republic—ACM)  
Lady Florence Isabel Bjelke-Petersen (Constitutional Monarchists)  
Ms Mary Kelly (Women for a Just Republic)  
Ms Sarina Russo (Australian Republican Movement)  
Cr Paul Gregory Tully (Queenslanders for a Republic)  
Cr Ann Bunnell (Clem Jones Queensland Constitutional Republic Team)

### **Western Australia**

Ms Janet Holmes a Court AO (Australian Republican Movement)  
The Rt Hon Reg Withers (No Republic—ACM)  
Professor Peter Tannock (Australian Republican Movement)  
Mr Geoff Hourn (No Republic—ACM)  
Mr Graham Edwards (Australian Republican Movement)  
Ms Clare Thompson (Australian Republican Movement)  
Ms Marylyn Rodgers (No Republic—ACM)  
Mr Liam Bartlett (ungrouped—An Open Mind for the Future)  
Professor Patrick O'Brien (Elect the President)

**South Australia**

Mr Kym Bonython (No Republic—ACM)  
Dr Baden Teague (Australian Republican Movement)  
The Right Reverend John Hepworth (No Republic—ACM)  
Ms Linda Kirk (Australian Republican Movement)  
Ms Victoria Manetta (No Republic—ACM)  
Dr Tony Cocchiaro (Australian Republican Movement)  
Father John Fleming (No Republic—ACM)  
Ms Kirsten Andrews (Australian Republican Movement)

**Tasmania**

Mr Edward O'Farrell CVO CBE (No Republic—ACM)  
Mr Julian Ormond Green (Australian Republican Movement)  
Mr Michael Anthony Castle (No Republic—ACM)  
Ms Marguerite Scott (Australian Republican Movement)  
Dr David Charles Mitchell (The Australian Monarchist League)  
Mr Eric Lockett (ungrouped—Voice of Ordinary, Fair-Minded, Thinking Citizens)

**Australian Capital Territory**

Ms Anne Witheford (Australian Republican Movement)  
Mr Frank Cassidy (Australian Republican Movement)

**Northern Territory**

Mr David Curtis (A Just Republic)  
Mr Michael John Kilgariff (ungrouped—Territory Republican)

## **APPOINTED DELEGATES—NON-PARLIAMENTARY**

Ms Andrea Ang (Western Australia)  
Ms Stella Axarlis (Victoria)  
Ms Dannalee Bell (Victoria)  
Ms Julie Bishop (Western Australia)  
Professor Geoffrey Blainey AO (Victoria)  
Professor Greg Craven (Western Australia)  
Ms Miranda Devine (New South Wales)  
Mr Gatjil Djerrkura OAM (Northern Territory)  
Ms Mia Handshin (South Australia)  
The Hon Bill Hayden AC (Queensland)  
The Most Reverend Peter Hollingworth AO, OBE (Queensland)  
Ms Mary Imlach (Tasmania)  
Major General James AC, MBE (Queensland)  
Mr Adam Johnston (New South Wales)  
Mrs Annette Knight AM (Western Australia)  
Dame Leonie Kramer AC (New South Wales)  
Ms Helen Lynch AM (New South Wales)  
The Hon Richard McGarvie AC (Victoria)  
Mr Donald McGauchie (Victoria)  
The Hon Dame Roma Mitchell AC (South Australia)  
Mr Carl Moller (Tasmania)  
Councillor Joan Moloney (Queensland)  
Mr George Mye MBE, AM (Queensland/TSI)  
Mr Ben Myers (Queensland)  
Ms Moira O'Brien (Northern Territory)  
Dr Lois O'Donoghue CBE, AM (South Australia)  
Sir Arvi Parbo AC (Victoria)  
The Most Reverend George Pell (Victoria)  
Ms Nova Peris-Kneebone OAM (Northern Territory/Western Australia)  
Mr Peter Sams (New South Wales)  
Professor Judith Sloan (South Australia)  
Sir David Smith KCVO, AO (Australian Capital Territory)  
Professor Trang Thomas AM (Victoria)  
Mr Lloyd Waddy RFD, QC (New South Wales)  
Professor George Winterton (New South Wales)  
Ms Heidi Zwar (Australian Capital Territory)

## **APPOINTED DELEGATES—PARLIAMENTARY**

### **Commonwealth**

#### *Government*

The Hon John Howard MP (Prime Minister)

The Hon Peter Costello MP (Treasurer)

The Hon Daryl Williams AM QC MP (Attorney-General)

Senator the Hon Robert Hill (Minister for the Environment)

Senator the Hon Jocelyn Newman (Minister for Social Security)

Mr Neil Andrew MP

Mrs Chris Gallus MP

Mr Kevin Andrews MP

Senator Alan Ferguson

The Hon Tim Fischer MP (Deputy Prime Minister)

The Hon John Anderson MP (Minister for Primary Industries and Energy)

Senator Ron Boswell (Leader of the National Party of Australia in the Senate)

#### *Australian Labor Party*

The Hon Kim Beazley MP (Leader of the Opposition)

The Hon Gareth Evans QC MP

Senator the Hon John Faulkner (Leader of the Opposition in the Senate)

Senator Sue West (Deputy President of the Senate)

Senator the Hon Nick Bolkus

Senator Kate Lundy

#### *Australian Democrats*

Senator Natasha Stott Despoja

#### *Independent/Green*

Mr Allan Rocher MP

### **State/Territory**

#### *New South Wales*

The Hon Bob Carr MP (Premier)

The Hon Peter Collins QC MP (Leader of the Opposition)

The Hon Jeff Shaw QC MLC (Attorney-General and Minister for Industrial Relations)

*Victoria*

The Hon Jeff Kennett MLA (Premier)

Mr John Brumby MLA (Leader of the Opposition)

The Hon Pat McNamara MLA (Deputy Premier and Minister for Agriculture)

*Queensland*

The Hon Rob Borbridge MLA (Premier)

Mr Peter Beattie MLA (Leader of the Opposition)

The Hon Denver Beanland MLA (Attorney-General and Minister for Justice)

*Western Australia*

The Hon Richard Court MLA (Premier)

Dr Geoffrey Gallop MLA (Leader of the Opposition)

The Hon Hendy Cowan MLA (Deputy Premier)

*South Australia*

The Hon John Olsen FNIA MP (Premier)

The Hon Michael Rann MP (Leader of the Opposition)

Mr Mike Elliott MLC (Leader of the Australian Democrats)

*Tasmania*

The Hon Tony Rundle MHA (Premier)

Mr Jim Bacon MHA (Leader of the Opposition)

Mrs Christine Milne MHA (Leader of the Tasmanian Greens)

*Territories*

Mrs Kate Carnell MLA (Chief Minister, Australian Capital Territory)

The Hon Shane Stone MLA QC (Chief Minister, Northern Territory)



## PROXIES TABLED BY THE CHAIRMAN

### PRINCIPAL

Mr Howard  
Mr Carr  
Mr Borbidge  
Mr Olsen  
Mr Rundle  
Mrs Carnell  
Mr Stone  
Mr Bacon  
Mr Collins  
Senator Alan Ferguson  
Mr Kennett  
Mr Beattie  
  
Mr Court  
Sir David Smith  
Mr Fox  
Mr Beazley  
  
Ms George  
Mr Kilgariff  
Sir James Killen  
Ms Imlach  
Senator Faulkner  
Reverend Costello  
Mr O'Farrell  
Mrs Rodgers  
Mr Green

### PROXY

Senator Minchin  
Mr Iemma  
Mr FitzGerald  
Mr Griffin  
Mr Hodgman  
Ms Webb  
Mr Burke  
Ms Jackson  
Mr Hannaford  
Mr Abbott  
Dr Dean  
Mr Foley (4-6 February)  
Mr Milliner (9-10 February)  
Mr Barnett  
Professor Flint  
Mr McGuire  
Mr McLeay—from 3pm 5 February to adjournment;  
6 February and 11 February  
Ms Doran  
Mr McCallum  
Mr Paul  
Mr Nockles  
Mr Melham  
Mr Castan (6 February)  
Professor Flint (6 February)  
Mr Mackerras (6 February)  
Ms Jackson

COMMONWEALTH OF AUSTRALIA

# CONSTITUTIONAL CONVENTION

Hansard

1998

OLD PARLIAMENT HOUSE, CANBERRA

2nd to 13th FEBRUARY 1998

*Friday, 6 February 1998*

**The CHAIRMAN (Rt Hon I. McC. Sinclair)** took the chair at 9.00 a.m., and read prayers.

**CHAIRMAN**—Delegates, today—

**Sir JAMES KILLEN**—Mr Chairman, I rise on a point of order, not by way of argument. In two of today's journals of record—I refer specifically to the *Daily Telegraph* and, alas, to the *Australian*—appear photographs of the Hon. Prime Minister. One has the comment, 'All alone on the Queen's bench.' I take leave to say that the photographs reflect absolutely no credit on the fourth estate. They reflect absolutely no credit on the great Australian cry 'fair go'.

**CHAIRMAN**—Thank you, Sir James. I think it might be worth noting that today is the 46th anniversary of accession of Her Majesty Queen Elizabeth of Australia to the throne. I thought it might be appropriate that on behalf of us all we send our congratulations to her and wish her well, given the nature of our deliberations and the purpose of this Convention.

**DELEGATES**—Hear, hear!

**CHAIRMAN**—I think it is also worth noting that today we adjourn at 4.45 p.m. Many delegates are intending to leave Canberra to return to their homes. Accordingly, I want to ensure that we are able to meet that 4.45 adjournment. I would therefore propose that we curtail our luncheon by 15 minutes so

that we might be able to resume at 2 o'clock instead of 2.15, and I intend that we start our voting procedures at 3.45 instead of 4 o'clock. Again, that will ensure that we will have an hour for voting and, hopefully, we can conclude and get away by 4.45. Unless any delegate feels otherwise, I so propose.

As the working groups did not have the normal time to meet last night, I asked that they give me a bit of preliminary guidance by 9 o'clock as to how they were going. Can I suggest that we ask the working groups to have their reports available by 11 o'clock this morning. That will mean that, if need be, they can meet while we are deliberating this morning and return with their reports to us at 11 o'clock. If they make their reports at 11 o'clock, I would intend that we resume our debate on the working group reports at 2 o'clock, immediately after lunch. You will recall that there are four working group reports to be considered. On that basis, hopefully we might be able to deliberate on those four working group reports and have a debate on them at 2 p.m. rather than this morning.

This morning's business, therefore, is the consideration of the Resolutions Group report. The Resolutions Group report is on that which has been laid down for today's task; that is, the consideration of the consequential amendments to the change. In order to present the working group recommendations, I will invite Gareth Evans to comment to the Convention.

**Mr GARETH EVANS**—Thank you, Chairman and delegates. I am speaking to this green document with its attachment of chapter

9 of the Republic Advisory Committee report entitled 'Other issues relevant to change to the republic'. It was always envisaged in the process for this Convention that the Resolutions Group would consider and bring forward recommendations as to how to handle these miscellaneous transitional and consequential matters so called. There is rather a long list of them. One very big such issue is the issue of the preamble. The Resolutions Group has not considered the preamble question because that of course is the subject of consideration by four specifically identified working groups. That issue of the preamble will be dealt with in the context in the usual way of those working group reports.

What we have recommended to the Convention are the three resolutions that you see before you, and let me track quickly through them. Resolution No. 1 is:

That the Convention resolve, in the event that a republican form of government is established:

- (a) the name "Commonwealth of Australia" be retained; and
- (b) Australia remain a member of the Commonwealth of Nations.

We put this forward in the form of a specifically, succinctly drafted resolution because it appeared to us that these were matters on which there was very little disagreement on the floor of the Convention and that they might, accordingly, be able to be quickly resolved with a minimum of debate and expeditiously voted upon when we come to the voting on all of this in the middle of the afternoon.

Resolution No. 2 raises the question of the title of the head of state but does not give the Convention any guidance as to how to handle it. We simply say here:

That the Convention express its preference on the title of the head of state, in the event that a republican form of government is established.

It would be a matter for proposals from the floor, in the form of a specific resolution and amendments to it, for this matter to be carried forward today, but it is a matter that Convention delegates will no doubt want to express views on. I think it is widely acknowledged that there is a choice to be made from three basic options: one is the retention of the

present title of Governor-General; the second option is the new title of President; a third option is to simply use the expression 'Head of State', hopefully not abbreviated to HoS.

There are, of course, other options. Lloyd Waddy reminded the Resolutions Group yesterday that at one stage Gough Whitlam had suggested that the title 'Lord Protector' might be an appropriate one to consider, consistent with the Commonwealth terminology that we have otherwise embraced. Malcolm Turnbull, in that spirit of consensus for which he is so well known, suggested that a bridge between delegates might be established by us all agreeing to call the head of state the 'McGarvie' with the further variation on that—that, in the event that both the Commonwealth and the states were eventually to adopt a republican form of government, the Commonwealth officer would be called the 'Greater McGarvie' and the state people the 'Lesser McGarvies'. These are all options, and there are no doubt others as well, which the Convention can consider. Resolution No. 2 is just an enabling resolution to get that issue up and running.

The third resolution before you goes to a whole miscellany of other transitional and consequential issues. There are two minor changes to the language of this resolution that appear before you that perhaps you might note for the purposes of clarity. In (3)(a) after the word 'Constitution' we would wish to add the phrase ', and issues otherwise addressed' so that the first paragraph reads:

there are a number of transitional and consequential amendments that would need to be made to the Constitution, and issues otherwise addressed . . .

The point being that there are some of these transitional matters which do not strictly require constitutional amendment—do not have to be spelt out—but which nonetheless have to be addressed in enabling legislation and things of that kind, and it is the intention to refer to those as well.

What we have done thereafter is not to purport to exhaustively list these matters but just simply to give an indicative list in that series of dot points. These are matters which could be obviously debated by the Convention. I think the Chairman originally envis-

aged that they would be. The Resolutions Group was of the view that they were basically technical in character, that it was really unnecessary for the Convention to address them and that the matters, as paragraph (b) said, are addressed in detail in the report of the Republican Advisory Committee, a copy of which is attached.

The general recommendation we are making to you, which of course you can cheerfully overturn if you want to debate any of these specific things—and there are again some minor changes in language here—is that:

These issues—

add the word ‘these’ in (c)—

should be referred to the government as—

not ‘on’, that is a typo—

matters which need to be identified and resolved before being presented at a referendum.

Consideration was given by the Resolutions Group to a parliamentary committee possibly having a role in this respect, and that is something that I and most delegates would naturally expect the government to have regard to in the course of dealing with this whole issue, without any particular need from the Convention to make specific reference to a parliamentary committee. I do not think anyone is envisaging that a parliamentary committee track over all the ground that we have been doing, but it may well be appropriate for a draft constitutional amendment, if one is forthcoming from the government, to be actually considered in the normal way by a standing or a select parliamentary committee before it is actually put to the people. In that context, these matters could be there addressed.

There is one particular matter I should just refer to because it was the subject of some discussion on the Resolutions Group—that is, the form of oath or affirmation of allegiance. Obviously, the present oath or its accompanying affirmation of allegiance would need to be changed to the extent that it refers to swearing allegiance to Her Majesty the Queen and her heirs and successors, et cetera. It is a question to be considered as to what the appropriate form of oath would be. One suggestion that has been made is that we adopt the form of

oath that is in the citizenship legislation at the moment in which people swear or affirm, as the case may be, their loyalty to Australia and its people, using that kind of terminology. There are some additional words in the citizenship oath about the tradition of respect for rights and so on which might also be embraced.

These are matters that could sensibly be the subject of debate and possibly decision. We mention them to you, but we do not make any particular proposal to you for dealing with them other than to suggest that these basically are things that could go off and be dealt with after the event by the government. I think, Mr Chairman, that sufficiently explains what is envisaged in relation to this and we will leave it to the Convention.

**CHAIRMAN**—Thank you very much, Mr Evans.

**Mr SUTHERLAND**—I am quite concerned that (1)(b) could even unintentionally be misleading because it seems to suggest to me that it is just automatic that we would remain in the Commonwealth of Nations. As I understand it, the procedure is that, if Australia changes its Constitution in the way that is being sought, we would have to formally seek re-admission to the Commonwealth of Nations in the same way that Fiji and South Africa were in effect denied re-admission. In the case of Fiji, the Fijians knew that, once they became a republic in the way that they did, it would only take one of the member nations to veto their re-admission, and India would have been that nation.

It is not beyond the realms of possibilities that many of the smaller nations in the Pacific that are in the Commonwealth of Nations and are not quite enthusiastic with the way Australia is acting in terms of global warming could, as a result of that, seek to take an action to veto. I am not trying to make a major debate out of that but rather to suggest that the wording should be ‘Australia seek to remain a member of the Commonwealth of Nations’.

**CHAIRMAN**—I invite Mr Evans to respond.

**Mr GARETH EVANS**—This matter would need to be checked, but it is not my understanding that the mere decision to change from monarchy to republic denies one's status as a member of the Commonwealth such that one would need to seek formal re-admission to the Commonwealth. There is a presumption of continuity, as I understand it. There is a notification and endorsement process, but I do not think it is the case that there is a withdrawal involved—certainly not of the kind that occurred in 1987 in Fiji when, after the coup, the deliberate decision was made by Fiji to withdraw from the Commonwealth and a subsequent decision has now been made to re-apply.

I would like to see any contrary advice on that, because it has always been my understanding of it that this is utterly uncontroversial, that the majority of members of the Commonwealth of Nations are republics and that many of them have become republics well after their original accession to the Commonwealth as independent countries. One example of that is Sri Lanka, which became an independent country 50 years ago but a republic 20 years ago and there was absolute continuity of membership without any problem. I assume that is the case here and I would certainly want that issue to be further checked before delegates proceeded on the assumption that there was any problem about a veto.

**Mr TURNBULL**—I think delegates will find—and Fiji is not an example of this; that was a coup—the modern practice is that when a Commonwealth realm such as Australia, which has the Queen as head of state, becomes a republic there is total continuity. There is no need to withdraw or reapply. A good recent example is Mauritius—I would suggest you check that—which replaced the Queen and remained in the Commonwealth. Barbados is moving to have its own head of state rather than the Queen, and they similarly will not be expected to withdraw and reapply.

I would make a practical observation to those of you who are concerned that Australia might be expelled from the Commonwealth by all of those republics: just bear in mind that Australia pays a very large percentage of

the operating costs of the Commonwealth. I think it most unlikely that Australia would ever be met with any opposition to its remaining a member of the Commonwealth.

**CHAIRMAN**—Thank you, Mr Turnbull. The Resolutions Group has made a report to the Convention. There are of course a number of other matters that a number of members have canvassed as to consequences of the change from a monarchy to a republic. We have identified in our Order of Proceedings that we proceed in our debate today with speakers from the floor. That essentially means that people have five minutes.

I have a list of speakers that I think was circulated on the day 5 issue. We will go through that list. It is a list that begins with Mr Ben Myers, followed by Mr Peter Grogan. After people have spoken for five minutes, if there are no further speakers they can speak again. They can in fact identify any one of the issues that are before us, which is going to be a bit of a problem. It might have been better if we had been able to deal with the debate sequentially. If delegates prefer to do that, we might be able to deal with the debate on items of the Resolutions Group report one by one. Perhaps that would be a better way to proceed. So we would deal with Resolutions Group report perhaps in order. It makes it difficult having a speakers list which lists those items on which people wish to speak. That being so, I decided that I would have to accept that they can speak on any matters even though that might lead to some confusion. If there is a contrary view on the floor, I would be interested to hear it. It is a matter of how we can best hear them.

**Mr LAVARCH**—The speakers list was prepared against the backdrop that delegates were anticipating that there would be a debate on the preamble as well as the other items which are listed here. As these items before us are important—and on behalf of some of the ARM delegates I know they are proposing principally to address their remarks to the preamble rather than the other transitional and associated matters—may I suggest that we proceed basically from speakers from the floor rather than the actual formal list that you have there. I happen to know that a number

of the people on the list there would prefer to make their contributions when the preamble is before us, maybe with preference to be given to those who are on the list and who do wish to speak but generally to be drawn from speakers from the floor.

**Mr RAMSAY**—My understanding was that no speakers list has been issued for this morning. It certainly has not been circulated to anyone I have spoken to.

**CHAIRMAN**—I am dependent on others for the distribution. I have a list of people who have indicated that they wish to speak on this issue, which is about what consequential changes would be required. A speakers list has been distributed. I think we need to take note of Mr Lavarch's remarks. Can I also point out that, as far as the discussions on the preamble are concerned, while I have suggested that the reports be available by 11 a.m., I have since been advised that it is possible they may not be available by then. If that were so, we might well decide to defer the debate on the preamble until Monday, when I expect we are going to have quite a bit of time available, simply because I do not think the time issue is now quite as much a matter for debate as originally contemplated, which means that we might be able to deal with the preamble issue subject to the time when we receive the report. If we can today, I would like to be able to get the reports from working groups on the preamble so that we can deal with them at a time the Convention decides. I have indicated 11 a.m. as the time. I do not know whether they are going to be available at the moment, but I will advise the Convention as soon as I am aware.

**Professor WINTERTON**—There is one issue that I think is omitted which is important—I am not sure whether it is an omission or whether it was deliberately left off the two lists from the Resolutions Group—and it raises issues of policy. It is the question of immunity of a head of state, which has attracted a certain amount of attention in the United States in recent times. There is a fundamental issue of principle of whether a head of state should have immunity from criminal and/or civil suit. I do not know

whether this has been left off by accident or whether it—

**Mr GARETH EVANS**—Quite deliberately.

**Professor WINTERTON**—I would suggest that it is a matter which certainly should be referred to the government, but I think it would be useful for this group to express an opinion on that rather important issue.

**Mr RAMSAY**—I have confirmed that no speakers list has been issued for this debate this morning, and I suggest we proceed with speakers from the floor.

**CHAIRMAN**—That is exactly what we will be doing. I have been advised that the list was only a list of people who wanted to speak on the issues and that it was not distributed for that reason; we will have speakers from the floor. There is a number of issues, not only that raised by Professor Winterton but a number of others not specified, which might be difficult for people to find in the attachment.

There is another paper being distributed with a few of the other issues that need to be considered. I would propose that we deal with these seriatim through the Resolutions Group recommendations. So we will deal with the Resolutions Group's first recommendation—that is, the name and that Australia remain a member of the Commonwealth of Nations. When we have finished the debate on that, we will go on to Nos (2), (3) and so on. If there are other matters then that delegates wish to raise, we will deal with them when we are looking at (3)(c) when we talk about issues which should be referred to the government—perhaps Professor Winterton's matter of immunity might be one of those—so that we can canvass them and discuss them.

I would, however, point out that when we come to votes this afternoon, unlike the procedure that we followed yesterday, we will be taking votes in the normal course so that some of the issues we might be able to deal with will have a proper vote and we can dispose of them altogether. So this afternoon's vote is not going to be on a 25 per cent basis but in the way that we are all accustomed—that is, if there is a majority, that majority will be identified, the counts will be taken

and then we will be able to pass that as a recommendation to the government. Is there any other procedural comment? Professor Blainey, did you wish to comment formally?

**Professor BLAINEY**—I think many delegates are perturbed that so many important issues cannot be discussed and that the to and fro of discussion is not sufficiently expedited. I wonder if I could propose at this early stage that, since there are still 67 delegates who have indicated that they wish to give their 15-minute speech, we debate or vote on the question of whether we should cut down to a maximum of 10 minutes with no extension of time for speeches. We have already 18 hours of set speeches on that topic; if we cut them down to 10 minutes we will save six hours which we can then divert to these more important issues.

I wonder if it could be proposed that the remaining part of their speech, so long as it does not exceed what the head of Hansard regards as normal, be put into the proceedings. So those people who did not finish their prepared speech could have the remainder of it printed in the *Hansard* transcript.

The other advantage of this proposal is that we have here some young delegates who are slightly nervous about the camera exposure, yet they have got speeches that are worth while. Also we have got other delegates who are not committed and are not willing to commit themselves until the final day, which means that they do not want necessarily to give a speech that might indicate some prior commitment which later they change.

**CHAIRMAN**—Thank you, Professor Blainey. It had been my intention to propose, subject to whether we get any time on general addresses today, that we conserve sitting next Tuesday evening to allow some further general addresses. I hope also that we get some time for general addresses on Monday. Tuesday will be allocated entirely to general addresses. I think we will take your proposal, Professor Blainey, as a notice which we will take up at an appropriate time. I call on Ms Axarlis.

**Ms AXARLIS**—Mr Chairman, first of all I must applaud the way you and Barry Jones have conducted these meetings. I am in awe

of your ability. I realise the stress under which your office is working. However, in the best interests of true democracy, could I please ask that the speakers who have already spoken three and four times speak to the issue and not on irrelevant matters and that the people who have not had a chance to speak and are reluctant to push themselves—and there are many in this room, particularly women—have a chance to have their say, not in five minutes but in due fairness in 10 minutes. I agree with the revered Professor Blainey.

I think it is very important to declare yourself because the office is in a very difficult situation. Also in the interests of true debate, we should not have the situation we had yesterday where, with all due respects, the status quo was being repeatedly stated while none of the other positions were able to be discussed. I do not think that really reaches a fair debate.

**Mr RUXTON**—Oh, come on!

**Ms AXARLIS**—Excuse me.

**CHAIRMAN**—Order!

**Ms AXARLIS**—I have been very respectful to that side of the House for the entire week.

**CHAIRMAN**—Order! Ms Axarlis has the floor, thank you.

**Ms AXARLIS**—Thank you, Mr Chairman. Simply declare constitutional monarchy, undeclared, republican or monarchists. Let us have one after another in a manner which really allows us to have true debate and brings our thoughts in place, particularly for those who are not sure of the way they want to go.

**CHAIRMAN**—Thank you, Ms Axarlis. It is difficult to determine a speaker's view until they have spoken. One of my difficulties in allocating order has been to know just what that person's view might be. I accept what you say. It would be good to have a debate, sometimes it is hard to allocate as you prefer.

**Sir DAVID SMITH**—Mr Chairman, I have a procedural matter. As you know, you allowed Professor David Flint to be my proxy yesterday to enable me to attend a friend's funeral. At the end of his speech he ran out

of time. It was close to 12 and you ruled that there was to be no extension of time and that was fair enough. There had been, however, some extensions of time granted earlier in the day. I wondered if you would enable me now to table Professor Flint's complete speech simply for the record.

**CHAIRMAN**—Yes.

**Senator FAULKNER**—Could I make a further procedural point, Mr Chairman. Yesterday you would recall that I raised the issue of the *Notice Paper* actually reflecting the order of business that the Convention was dealing with. I do appreciate the flexibility that you have to amend the Order of Proceedings if you consider that necessary for the effective conduct of business. I do agree with you that it would be useful to bring voting on a little earlier today because of the time constraints we have for the conclusion of today's session.

The point I would make to you, Mr Chairman, is this: nowhere on the *Notice Paper* is there any clear indication to delegates to this Convention that voting in the plenary session will commence at 3.45 p.m. You have properly made that announcement to the Convention today. I believe that, if a delegate to the Convention is not either in the Convention when you made such an announcement or listening on the monitor, it is very difficult for them to be aware of what is occurring.

I think this is in the interests of all delegates, regardless of what position they might hold on the issues before the chair. What I submit to you, respectfully, Mr Chairman, is that the secretariat undertake whatever is necessary, and that maximum effort is put in, to ensuring that delegates to this Convention are aware that those changes to the Order of Proceedings have taken place. It is a substantive point. Delegates are entitled, having adopted rules of debate and an Order of Proceedings that says that voting starts at 4 o'clock, to be made aware if there is a change to those procedures. I think this is important for all of us and the integrity of decisions that this Convention makes.

**CHAIRMAN**—An amended *Notice Paper* is being distributed to all delegates to meet the requirement. Obviously people do need to

have the official paper. It will be boxed subject to people collecting material from their boxes, but I take the point. Any other procedural matters?

**Ms DELAHUNTY**—I have a point of clarification on the question of proxies. We have noticed as the long days and evenings continue that the question of stamina comes into play. However, the formal point I would like you to adjudicate on is: should a proxy be allowed only to vote and not to speak? Unless we were elected or appointed to this Convention, I have assumed that you would not speak as a proxy but simply vote.

**CHAIRMAN**—The ruling that I have made is that a person who is given a proxy cannot speak on an issue if the person for whom that proxy is issued has already spoken on that issue. For example, if a person has given a general address and has appointed a proxy then there is no longer a vehicle available for that person who is a proxy to give a general address until such stage as everybody else has finished and if everybody else gets an opportunity. At this stage that is unlikely.

Similarly, if a proxy is appointed for a person who has spoken on an issue, then that proxy is not allowed to speak on the issue. I have allowed them to speak subject only to whether the person whom they are representing has not already spoken on that particular debate. That is the normal way in which proxies work. They are allowed to vote on behalf of that person because, again, that person for whom they are the representative cannot have voted at the time because they would not have been there. So they have a right to speak, subject to the person whom they are representing not having spoken and a right to vote on the proxy's behalf.

**Mr GARETH EVANS**—There is just one more matter arising out of the report of the Resolutions Group which I would like to draw to the attention of delegates—that is, a document headed 'transitional and other provisions'. If it has not been circulated already, it shortly will be circulated. That is a list, not itself again purporting to be an exhaustive list, of those transitional and consequential matters



which delegates might like to refer to when making contributions under resolution 3.

There is one specific aspect of this issue that has not been addressed in that particular document—it has been left out—and that is the matter raised by Professor Winterton in relation to immunity. I undertook to Professor Winterton to mention to the Convention that the Resolutions Group did briefly consider the question of civil and criminal immunity in relation to the head of state. The view we took, for what it is worth, is that the existing presumptions should continue, namely, that the head of state is not immune from criminal prosecution but should be immune from civil prosecution in relation to matters associated with the conduct of his office.

That is probably not a matter that needs renewed attention. Nonetheless, if the parliament wishes to take it up in the course of drafting the appropriate provisions to the amendment, it should do so, but it does not appear to be a matter that should sensibly attract debate at this Convention. We accordingly made no recommendation for there to be specific reference for that. I hope that is sufficient to get it onto the record for further consideration as need be.

**CHAIRMAN**—Before we start on the debate, are there any other interventions on procedural matters? I do not want to deny anybody the right to speak on them. If there are no further interventions, we will commence our debate.

**Professor BLAINEY**—I would like to foreshadow a motion that, on the final day, when the vote has to be taken on the propositions and there are more than two propositions, we consider a preferential or optional preferential voting system. With thought, it can be devised both by show of hands and then by the formal submission of a preferential ballot. We should be thinking at this stage of how we conduct the final important stage.

**CHAIRMAN**—Thank you very much. We have given some thought to this. It is my intention to raise it for the consideration of the Convention early next week.

**Dr COCCHIARO**—Can the working groups now move into their rooms?

**CHAIRMAN**—Yes, the working groups can go to their rooms. I hope that at 11 o'clock you can give us an indication of how you are progressing. If you cannot make a report then, we will defer the reports of the working groups until after lunch. The trouble is that I do not know how long you need in order to reach report stage. If you can let the Convention secretariat know by 11 o'clock, I can report on your progress to the Convention, and we will then determine when the reports from the working groups can be made.

I am not trying to accelerate your work. As I indicated, if need be, the working groups can have the reports in today and the debate can take place on Monday if we run out of time today. I am trying to accelerate the process if I can. At 11 o'clock, if you can give the Convention secretariat an idea of your progress I can report back to the Convention and advise when we will be dealing with those reports in plenary session.

**Professor WINTERTON**—Just a point of clarification: what subject are we about to debate now?

**CHAIRMAN**—We are now dealing with the Resolutions Group report, which is circulated to all members on the green paper headed 'Constitutional Convention: Resolution of the Resolutions Group Concerning Transitional and Other Matters'. It is a matter that was moved by Gareth Evans and we are going to deal with each of these points one by one. I suggested that, having dealt with (1), which is the name 'Commonwealth of Australia' and membership of the Commonwealth of Nations, we would then, by the time we had got down to (c), be free to foreshadow other matters that might be dealt with, such as the immunity question raised by Professor Winterton if delegates wish to canvass it.

I call for contributions on the floor for the Resolutions Group recommendation (1). We will be having formal resolutions on all these matters later in the day, when we shall be putting the questions. I will treat the debate as we did yesterday. There will be a three-minute speech from the mover. The motion will then be seconded. We will put the resolu-

tions one by one. Are there any contributions from the floor on that first question?

**Resolution (1)**

That the Convention resolve, in the event that a republican form of government is established:

- (a) the name "Commonwealth of Australia" be retained; and
- (b) Australia remain a member of the Commonwealth of Nations.

**Resolution (2)**

That the Convention express its preference on the title of the head of state, in the event that a republican form of government is established.

**Mr FITZGERALD**—I think this is a foregone conclusion. I think it is put there by way of explanation. There is a large group of people out in the community who are quite ignorant of what the Commonwealth means. I have heard a member of parliament say, 'I am not sure whether we should become a republic because that would mean we would not be in the Commonwealth any longer.' The facts are that there are 53 countries at present in the Commonwealth of Nations. Of those, for the record, 16 monarchies recognise Queen Elizabeth as the head of state; five monarchies have their own monarch; and 32 countries are republics.

**Mr RUXTON**—They're all crook.

**Mr FITZGERALD**—I note your interjection, but I am afraid defamation law does not allow me to respond to you on that issue. It is important to know that the Commonwealth is a symbol, it is a name; it does not change very much. I just thought I would put those facts to you because out in the general public there is a wide group of people who are not aware of the facts. There are two Commonwealth organisations. We just had the Heads of Government Meeting; another organisation that I belong to is the Commonwealth Parliamentary Association, which mirrors this other organisation and which deals with the parliaments.

There are 140 parliaments in the Commonwealth at this stage, if you want to know how large an organisation it is. It is a massive organisation in the world. There are countries trying to get into the Commonwealth at present that might surprise you: Yemen,

Palestine, Mozambique. These countries are not necessarily of British stock. It is a highly respected organisation throughout the world and, whatever our status, I totally support Australia staying in the Commonwealth.

**CHAIRMAN**—Thank you, Mr Fitzgerald.

**Ms HOLMES a COURT**—I would like to support that. I do not think that many Australians want us to make as large a change as some people are wishing. For us to leave the Commonwealth would certainly be an enormous change. I have to say old habits die hard and I cannot help being a teacher. Somebody mentioned the other day, with sadness in her voice, that we are going to end up with the lowest common denominator. As a teacher, I know that when people say that they really mean the highest common factor. I think that we are, in fact, searching here for the highest common factor amongst us all and, after the end of four days, we really should be proud of ourselves that we have made great progress.

We have had four cabinet ministers—my old friend Daryl Williams, my old boss Peter Costello, my associates with whom I work, Richard Alston, and my new friend, I hope, Senator Hill, not people I would normally be expecting to share my views—come across to my views. We have had premiers and leaders of opposition. We have had a very broad group. I have found it most enjoyable to be here communicating and eating with people who normally would not invite me to share anything with them. I was sharing an oyster with Professor Blainey the other night and a meal with Bruce Ruxton. It is great. I am not putting Michael Hodgman in that category.

When discussing the preamble, we want some goodwill. In fact, we want buckets of goodwill at this Convention. The Australian Republican Movement has come here in goodwill and we have made concessions. My own views have been modified, they have been varied, they have been accentuated in some ways and they have been adapted as the week has progressed. I sincerely hope that for the rest of this Convention we can reject the politics of personality. It is much too important for that. Personality attacks are indicative of a bankruptcy of ideas.

This Convention is a learning experience for us all. It is a learning experience for Australia. It is the first experiment we have had with this type of proportional representation and it has been successful in bringing together the most remarkable group of Australians. You cannot help, at my age, feeling confident in the future of this country with the young people who are here who will inherit this nation.

Sir James this morning objected to press coverage. I think that amongst those people who are learning about this are, in fact, the fourth estate. The journalists who come to this room normally come to see people win, to beat each other over the head, to operate in an adversarial way. In business, people are learning that adversarial tactics no longer work. We have partnerships, we have alliances, we have associations, and I can tell you it works extremely well. We are not here for the traditional method of debate. We are here to find the highest common factor.

In the debate on the preamble, as in all debates, there will be a huge divergence of ideas. Please, this does not mean there is a split; this means we are simply people here putting our views, expressing our views and sussing out what others think so that we can find that highest common factor. Maybe this will be very exciting in that it will set an example to parliamentarians, for whom my personal respect has always been high and is growing daily. Since spending these few days in Canberra, my admiration for parliamentarians has grown immensely when I think of the deprivation involved in their being away from family and friends and lack of communication through being here—hours spent in aeroplanes away from their family.

**CHAIRMAN**—Thank you, Ms Holmes a Court. While Ms Axarlis is coming to the microphone, there is a further explanatory paper entitled ‘transitional and other provisions’ being distributed. That is being distributed on official paper because it is a list of other transitional matters to which delegates might wish to give attention.

**Ms AXARLIS**—Mr Chairman, ladies and gentlemen, do I believe in a republic? Yes. I think the people of Australia are ready for a

republic. But do I also believe in retaining the status quo? Yes, as far as parliamentary structures are concerned. I think our founding fathers got it right, but they were men who were bold, they were visionaries and they worked in an environment of 100 years ago. The time is for us to be visionaries, for us to be bold and for us to move forward, but not to the detriment of a parliamentary system that is the envy of many nations, not to the detriment of a parliamentary structure that has stood the test of time.

I believe in changing the preamble and in acknowledging the people whose land we share—the indigenous people. I believe in changing the preamble to acknowledge multiculturalism, which has already been embedded in law since 1988. But I also believe in retaining the status quo of the Commonwealth of Australia, in retaining and being part of the Commonwealth of Nations and in retaining the title of Governor-General—I might not get a chance to speak later on issue 2, so I am speaking now—because I believe that the word ‘president’ has connotations for the Australian public which really build up a dual system. The Prime Minister of Australia is the head of our parliamentary system, the head and leader of our nation. I do not wish that in any way to be misconstrued by a title of ‘president’, which has the connotation of building a dual leadership of this nation.

Symbols are extremely important, ladies and gentlemen. They are important to a nation that has withstood, is strong and needs to have enormous consensus—I am sorry if you do not want consensus, then at least a majority. I am sorry that I am not as politically astute in articulating these issues.

**Sir DAVID SMITH**—You’re doing all right.

**Ms AXARLIS**—Thank you very much. I must say that, in listening to all of us, I think there is an enormous goodwill and spirit to reach a decision which will be in the best interests of this nation. I represent the business community. Very few of us are here. I wonder why. I represent multiculturalism. Thirty-three per cent of this nation are from a non-English speaking background. Over 40 per cent have one parent who is non-English

speaking. There are only 12 such delegates out of 150. I am disappointed, yet I thank the Prime Minister for appointing me to this Convention because, if I had not been appointed, there would have been even less representation.

I believe in the title of the Commonwealth of Australia. I think we should remain and be part of a very strong community of the Commonwealth of Nations. I think we should retain the title of Governor-General because it is the best way to move forward to a republic, which the people want. It is the best way to move forward and retain the status quo, ladies and gentlemen over there, and still have the wish of the people being listened to. On the question of which model, I hope I do get my 10 minutes on Tuesday. Mr Chairman, I have given someone else even more time to speak. Thank you.

**CHAIRMAN**—Thank you very much, Ms Axarlis. I call the Hon. Peter Collins.

**Mr COLLINS**—Mr Chairman and delegates, in supporting the retention of the title of Commonwealth of Australia, as I foreshadowed yesterday, I want to lay to rest some of the myths that have been floated by those who oppose the idea of Australia becoming a republic. There are those who have deliberately chosen the issue of title to fight on, saying that somehow, if we become a republic, we will become the ‘People’s Republic of Australia’ or perhaps the ‘Democratic Republic of Australia’, or just the ‘Republic of Australia’.

We do not need to do any of those things. The founding fathers got it right. They got it right in the ‘Commonwealth of Australia’. It stood the test of time and it will continue to stand the test of time. So too did they get it right with the Commonwealth crest which hangs above this chamber. If you look at the Commonwealth crest above this chamber, there is no need whatever to change any element in that crest. To go further down the line, when it comes to the states whose coats of arms comprise that crest hanging above the chamber, let us lay this to rest as well. We are not going to start renaming states. We are not going to rename Queensland. We are not going to have to rename Victoria or change

their coats of arms. We are not going to have to do that.

**Mr RUXTON**—There is a move there already, for goodness sake.

**Mr COLLINS**—Bruce Ruxton, you ought to have the decency to listen to a few more people in this chamber instead of interjecting on them. You should listen to this debate because I believe that you have a lot to learn, perhaps more than many others. Mr Chairman, I want to say—

**Mr RUXTON**—I tell you what, you have got a lot to learn.

**CHAIRMAN**—Mr Ruxton, would you mind desisting from interrupting Mr Collins.

**Mr COLLINS**—I think it is shameful that delegates should be shouted down by other delegates who, if they want to speak, can ask for their five minutes later on. If you want to speak about the Commonwealth of Australia title, ask for it. I say, Mr Chairman, that the Commonwealth of Australia is the perfect title for this nation as it is and as it will be after this Convention, after the referendum and after the people of Australia have made their decision.

On the question of the title of the head of state, I am adamantly opposed to retention of the title Governor-General. It is a colonial vestige. It is simply unworkable. The term ‘President’ is universally understood. There are already presidents in this country. There are presidents of Legislative Councils in the states. It is not an unfamiliar term at all. We should not be afraid of the term ‘President’. Thank you, Mr Chairman; thank you, delegates.

**Mr EDWARDS**—I support the recommendations of the Resolutions Group. Indeed, in campaigning on the issue in Western Australia, we at times had to deal with this question of whether or not we would remain in the Commonwealth, particularly when our colleagues, desperate to knock us off, floated the fear that if we became a republic then we would have to pull out of the Commonwealth. Of course, that is absolute nonsense. I want to support the Resolutions Group in the recommendations that they are putting here.

I was also a member of the Commonwealth Parliamentary Association which was mentioned by a speaker just a few minutes ago. A couple of years ago, for instance, I had the opportunity, at the invitation of the British Commonwealth Parliamentary Association, to go to London and to spend a couple of weeks there with various delegates from different Commonwealths all over the place. I think there were about 30 delegates. It was a tremendously strengthening process because, while we have very well developed and strong parliamentary systems, there are other Commonwealths and other countries in the Commonwealth who do not have those strongly developed systems. It was tremendous to be able to take part in a process where those people were able to learn from both our strengths and, indeed, our weaknesses as they went about developing their own parliamentary systems. Indeed, a number of our people were able to either stay on or go and spend some time in those countries helping those systems develop. The process is true not just of parliamentary systems but of a whole range of areas as well. I just think we as a nation draw strength from our participation in the Commonwealth, and I would not ever see us departing from that.

As a very keen sportsman and former sports minister, I want to see us remain part of the Commonwealth Games. I think most people would share my view about that. As a republic, Australia can, will and should remain part of the Commonwealth.

On the title, I do not really favour the use of the word 'President' because it has a lot of connotations about it which I do not necessarily like in the Australian context. I would prefer 'Governor-General', but perhaps with the help of all the people here we can come up with something that is uniquely Australian. Thank you.

**CHAIRMAN**—Thank you very much, Mr Edwards.

**Professor TANNOCK**—I would like to support the recommendations of the Resolutions Group. I think that it is entirely appropriate that Australia retain the title of 'Commonwealth of Australia'. I think that is a wonderful title for a republican Australia to

have. Of course, I want to declare my strong commitment to our republican future. I congratulate all the delegates here on the spirit of the discussion, and I particularly congratulate not only those who came here as republicans but also those who are either changing sides to be republicans or revealing they have always been republicans. I think that is a marvellous part of the development process here.

On the question of the title of the head of state, I have an open mind on that. I think that in some respects calling our new head of state 'President of Australia' is an appropriate public symbol of the move to this new status. Make no mistake: although we see the change being in technical terms a relatively small one, it is symbolically a very big one for Australia. Calling the person 'President' would help to underline that. On the other hand, retaining the title of Governor-General has, I think, two important advantages. Firstly, it would be reassuring and comforting to people who want a simple continuity from the past. I think that could be an important reason for it. In practical terms, in that sense, it could be an important part of achieving a success for the republican cause in the forthcoming referendum.

We must never lose sight of the fact that it is the Australian people who will finally settle this question. Those of us who support the republican cause must do all that we can to put before the Australian people a package that they will accept. We should also not take them for granted. We should not assume the Australian people are incapable of making a significant jump. We should not try to do things in this republican package which could be interpreted as sleight of hand.

The other reason that I think might favour the retention of the title 'Governor-General' is the linkage with our history. I think it is important for Australians to understand that those who are espousing the republican cause at this Convention do not want to disavow our past; the wonderful heritage that we have been given in so many elements of our society by Britain. We want to acknowledge that and we want to continue to enjoy the benefits

of it. That is another reason perhaps the name Governor-General could be retained.

On the question of retention of membership of the British Commonwealth of Nations, of course we should do that. As my colleague from the Australian Republican Movement Graham Edwards has said, there are all sorts of practical benefits and symbolic benefits associated with that.

Can I conclude my speech by thanking the Australian Republican Movement for giving me the opportunity to be here. I would like to pay special tribute to the people like Malcolm Turnbull and Neville Wran who have done so much over the years. There are many other workers in the ARM, of course, who have done so much over the years with nothing but the best intentions of this nation in mind to advance the cause of republicanism. There has been a certain amount of sledging of some of the ARM people in the media and in this gathering here. I think that is unwarranted. I think these people, like everyone here, are great Australians who are trying to do the best for their country.

**Dame ROMA MITCHELL**—I do not really want to say anything on recommendation (1), on which everybody seems to be in agreement. But as the other speakers have converged on recommendation (2)—and I do want to say something on that—I am taking the opportunity of doing so, especially, I remind people, it is the first time I have raised my voice in this gathering, and that is unusual for me.

I look at the question of the title of the head of state very largely from the state point of view. I would remind the delegates that so did the delegates from the smaller states at the time of the constitutional conventions before the Constitution. If the title were to be 'President', then what if you retain—as I fervently desire that you retain—the heads of the individual states? What do you call them? Vice-President would be inapposite if the Australia Act provisions remain. Once again, I fervently hope they will so that each state within its limits has a head of state.

I cannot see what connotation with 'President' and 'Vice-President' there can be. Governor-General is simple together with

Governors of the states. That is what the founding fathers decided when they did not want to have a governor and a governor's deputy or a vice-governor. I think 'head of state' is a bit absurd. How do you introduce the head of state? 'May I present Miss so-and-so, Head of State.' It is a bit ridiculous. I think 'Governor-General' fits the bill, although I would have no objection to a president if it were not for the position of the states.

**Ms THOMPSON**—I want to address a couple of issues—one being the question of the name of the country. I, like every other person who has spoken this morning, support the retention of the title 'Commonwealth of Australia'. In doing so, I would like to address a point that Mr Hodgman has raised on a number of occasions, which is that we must remember that we are a federation in this country. We are a federation of co-equal states and, as a Western Australian who has lived in Tasmania, I am acutely aware of that. The Commonwealth, of course, was a name that was thought of by the founding fathers to encompass that ideal, and I therefore support its retention.

I would like also to address the question of the title of the head of state. I agree with a number of speakers that this is an issue that we need to consider. Initially I was attracted to the concept of 'President', and I think Dame Roma's comments in relation to that we should think about quite deeply. Therefore, I do not have any particular problem with the retention of 'Governor-General'. Mr Edwards's suggestion that we think up something uniquely Australian has some merit. In the short minutes since he said that, the title that springs to mind most readily to me is 'First Mate'. I am sure that would entice some of our naval friends to come on board, so to speak.

On the question of how to deal with the transition to a republic, I am working on the assumption that we will become a republic on 1 January 2001. Most of us last night had the enormous pleasure of being hosted for drinks by someone whom I would like to see as our first head of state under a republic. The current Governor-General would be the most

appropriate person, not only as an interim first republican head of state, but as our first republican head of state. I would hope that we would see that as appropriate, not only because of who he is and because of the enormous qualities that he brings, but also because of the great symbolism that the transition to that position would bring to us, in that it would bring with us our history and our background.

I also support remaining in the Commonwealth of Nations. I have just spoken to Ms Peris-Kneebone and she tells me that women's hockey is going to be played in the Commonwealth Games for the first time this year. Given our record at the Olympics in that sport, there is no way I would support any move for us not to be given the same opportunities to be the world's No. 1 nation in that arena. Here's to the Commonwealth Games!

All these issues are ones that we are thinking about. They are not issues that are going to crumble the castle and bring the end of our republican ideals. I see a great deal of opportunity here for our friends from the monarchist side of the House to contribute constructively to this debate, as they have to the rest of the debate in many respects. I look forward to your suggestions on the questions of title of the head of state, particularly, and on who should be the first head of state.

**Professor THOMAS**—What's in a name? We may ask ourselves that. For me, as a psychologist, a name is very important. For that reason I support other speakers who have said that when Australia becomes a republic it should retain the name 'Commonwealth of Australia'. I think about the names of other countries. Some countries called 'Republic of So and So' often have a structure which is opposite to the spirit of being a republic.

Worse still, in some countries that have the name 'The People's Republic of So and So' the government often tramples on human rights, and some countries with the name 'The Democratic Republic of So and So' are run by dictators and there is nothing close to democracy in those countries. For that reason, I think the name 'Commonwealth of Australia' is beautiful.

'Commonwealth' literally means the whole body of people of a nation. It is a name that evokes the unifying spirit of our country, a country that is one of the most culturally diverse in the world. People from over 200 countries have come here and become Australians. We should be proud of the cultural diversity and multicultural character of our country. I think the name 'Commonwealth of Australia' reflects that.

**Mr SUTHERLAND**—I am prompted to refer again to (1)(b)—the question of Australia remaining in the Commonwealth of Nations. I am prompted to do so because I believe that Delegate Edwards spoke about it being superfluous and a nonsense, and that it would automatically follow. I have checked my source and been advised that unfortunately it does not, and that the procedure and practice is that when a country changes a constitution from being a constitutional monarchy to a republic, it requires that the Commonwealth of Nations secretariat notifies every member of the Commonwealth and that any one member is entitled to veto the admission. That goes back to the time when India became a republic, which was about 1946. Contrary to what Mr Turnbull said, and contrary to what may be our best wishes, I think we had better take that into account. Therefore, I suggest that the wording should be 'that Australia seeks to remain a member of the Commonwealth of Nations'.

**Ms ANDREWS**—Mr Chairman, delegates, as have all the speakers we have heard this morning, I rise to support the recommendations before us. I think that it is wonderful that so many of us have started to come together towards the end of the first week of this Convention and that we have started to identify what it is we have in common rather than what it is that divides us. It is clear that a majority of the Convention wishes to make the move to a republic. We are discovering how clear it is and how we would like to go about doing so. I am pleased that we are now looking at some of the details.

Without addressing some of the broader issues, I would like to support the recommendations and talk about why we do not need to change the name of our nation. It is marvel-

lous that we can remain a member of the Commonwealth. There is no need for us to lose our previous associations. It is, indeed, a marvellous thing.

Once republicans have a system of government where our head of state is an Australian citizen and where any one of us is able to become our head of state and be a representative of the Australian people and not a British monarch, we will be satisfied. I am personally very proud of this country. I am very proud of our long history of successful democracy and I am very proud of the fact that we are able to come together to talk about making the move to a republic in such a productive way.

I also note that these issues are addressed in the report of the Republican Advisory Committee, a committee on which a number of delegates at this Convention served as members. I trust that we can use their wise experience in these matters to inform us and that we can refer these matters to the government in a useful and productive way.

Delegates, the Australian Republican Movement supports the retention of our stable and democratic system of government. We support the move to a republic so an Australian citizen can become a head of state. I trust we can work through the details so the transition is a successful one for all of us.

**Mr TURNBULL**—The Australian Republican Movement supports all these recommendations and, in particular, retention of the name ‘Commonwealth of Australia’ and Australia’s continuing membership in the Commonwealth of Nations.

As far as the title is concerned, it seems to be a contest between ‘President’ and ‘Governor-General’. ‘President’ is the standard term used for a non-monarchical head of state around the world. I see Brigadier Garland and Mr Ruxton. I do not know whether any of you have ever seen the cartoon show *Muppet Show*, but in the theatre scene there are two gentlemen in a theatre box. It is great to see them here with us today! The argument in favour of ‘President’ is that it is the standard term—there is no doubt about that—be it in countries with executive heads of state, like the United States, or be it in countries with

non-executive heads of state, like Ireland, Italy, Iceland, Austria or wherever. The argument against ‘Governor-General’ is that it is typically used as a title for a viceroy. I am not aware of any Governor-General ever who has been anything other than a representative of somebody else, usually a monarch. Having said that, plainly there is a great deal of affection for the term in this country. It is a familiar term. We do not see any in-principle reason the term ‘Governor-General’ should not be preferred.

Obviously, in the context of this debate it has not been possible to refer to the head of state in a republic as ‘Governor-General’ because we have got to use a term like ‘President’ or ‘Head of State’ to make the distinction. ‘Head of State’ does seem to be a bit cumbersome. There is a certain symmetry in moving from G-G to ‘HOS’. The equine analogy took a while to catch on there, Mr Chairman. We are open-minded about that. Notwithstanding Sir David Smith’s remarkable unprovoked assault on me yesterday, I would welcome Sir David’s views on this topic and the views of Mr McGarvie and other people with direct vice-regal experience as to whether they agree with Dame Roma, who is a former Governor, that it would make sense for the title to continue.

I would just like to say one additional thing. There has been a lot of attacks on the Australian Republican Movement and me. The personal attacks are matters for others to judge, but there have been allegations that we have not been consulting with other delegates. Nobody has a model or a proposal before this Convention that has accommodated other delegates’ views more than that of the Australian Republican Movement. We came here with a proposal for dismissal to be by a two-thirds resolution of a joint sitting. We have listened to the views of Richard McGarvie and the views of other, let us say, more conservative republicans and we now accept that a better model would be for dismissal to be by a simple majority of the House of Representatives.

We have spent a lot of time—again notwithstanding what you read in the press—talking to the advocates of direct election and



recognising the need for popular participation. That is why we supported Archbishop Pell's amendment yesterday to Working Group C to accommodate extensive community consultation and participation in the nomination process.

As far as the prospect for further constitutional reform is concerned, we said at the outset we welcomed the idea of a further constitutional convention to consider many of these other issues that are not able to be decided here.

The facts are plain. With great respect to Clem Jones—he is not here now—it is all very well for someone like Clem Jones to stand up and say that I am the mother of destruction, whatever that may mean. Within 30 minutes of Clem Jones saying that, he was standing with Barry Jones, Gareth Evans and me, asking us to see how the Resolutions Committee could work to help him draft his model. Within half an hour of that attack we were standing there talking about how the Resolutions Committee could help get a direct election model in a coherent form up before the Convention. Notwithstanding the attacks, we will continue to cooperate. But I say to all of you to bear in mind that the facts are that the Republican Movement came here with the intention of accommodating itself to the views of other delegates, has done so and will continue to do so.

**CHAIRMAN**—Thank you, Mr Turnbull. I will get to you, Mr Ruxton. Just before I call on Mr Waddy, the delegates I have down to speak at the moment are: Mr Lloyd Waddy, Dr Baden Teague, Kerry Jones, Sir David Smith, Bruce Ruxton, Mr McGarvie and Ben Myers. I am trying to pick you up as we go along, so you are on the list, Mr Ruxton.

I suggest that we might embrace both topics as so many speakers have done so. While I initially spoke about the name, and whether Australia remain a member of the Commonwealth of Nations, if speakers wish to talk about the title they may do so, as so many have. I was going to suggest when we opened that second proposal about the name that people who wished to lodge formal resolutions on the title might do so with the secretariat by 12 noon. If they do that, we can get

all the variants fixed up so that we can put them on the screen of this wonderful mechanical device later this afternoon. So, if you do have a name and you wish it to be considered, draft a resolution, get your seconder to sign the sheet of paper and lodge it with the secretariat and be available.

**Mr WADDY**—First of all, may I say that as far as I am aware, since I first took part in debating this matter, I have not, and no-one at my instigation has ever, indulged in a personal attack on anyone presenting a view for a republic. As I said in my opening speech, I utterly and thoroughly respect those who are exercising their democratic right. Nothing that I have ever done, here or before, has or will stand in any way to thwart the democratic will of the people of Australia.

What I have sought to do is to persuade them that they are selling a rich and unique inheritance for a mess of pottage or a mess of garbage. Because I say that does not make the bearer of the garbage a garbage man. Might I also say that through this period I have maintained the most cordial relations with Mr Turnbull. I should think Mr Turnbull and I have had more meals together addressing RSL clubs and other places and enjoying the hospitality than we have had with our wives. Mr Turnbull has been known on occasion—and I am sorry he is not in the House—to say that we are Tweedledum and Tweedledee, to which I reply, 'But which is dumb we cannot yet agree.'

There is absolutely no need for acrimony in this debate. I deplore any personal attacks on anybody. However, there is room for vigorous debate. Let me make it clear that Australians for a Constitutional Monarchy was formed to resist a republican Australia. We still have a majority of support in a majority of states. The 51 per cent in the polls is the New South Wales majority where no political party, bar the Nationals, is maintaining the status quo. We are for no republic and no republic we remain, and I hope we and the millions of Australians who have that view are respected for that view. We were elected on that platform and that platform we will uphold. That is what two million people voted us to do.

But what of the ARM? I listened with absolute wonder. Their slogan was 'Resident for President'. This mantra has gone on forever, and that was abandoned this morning. The republic they are now proposing—and if one listens to Mrs Holmes a Court, the great republic, if it were ever to arise—would be called the Commonwealth of Australia. It would have the Governor-General, and I gather that the same incumbent, Sir William Deane, whose hospitality we enjoyed last evening, would be the first president. So there would be no change in that. No symbols of that kind would change at all.

I thought Mrs Holmes a Court and Mr Turnbull were very keen on Ausflag and changing the flag. When we raised that in debate, they said, 'No, you mustn't mention that. We're only talking about the Constitution first. We'll go on trying to change the flag, but we'll change the Constitution. Don't talk about it.' So maybe that symbol will change. But I am aghast—I mean, I am delighted in one way—that they see so much merit in what we have got suddenly.

The Queen now is to come here as head of the Commonwealth—a gracious lady, head of 1.6 billion people, more multicultural than Australia could ever be. She is welcome and we are going to honour her as head of the Commonwealth. What is it then that they are trying to change? We are going to be in the old British Empire, now called the Commonwealth of Nations. What is it that we are arguing about? We are arguing about striking out the fundamental principle of our Constitution—which no-one wants to talk about, and I raised it the first day—that the head of state and the head of government should be purely nominal and act only on the advice of the executive. That is what we are arguing about—that this wretched lady as Queen of Australia must go but this wonderful woman as head of the Commonwealth must come.

And for that we are going to change our Constitution, and every Constitution of the states. We are going to upset the federal balance. We are going to make a president who is over the Governors of the states instead of equal with them. We are still going to call him the Governor-General. I would

love to hear these diplomats try to explain that around the world. This is a Governor-General who is not a Governor-General, and we could not explain it when he was a Governor-General. But now he is not a Governor-General; he is really a president but we do not call him that because we do not dare to. Oh, wonderful! That will keep the diplomats doing something.

I hear that Mr Turnbull is in the corridors—and those watching on the television around the nation should be aware that a whole block of delegates who are not sitting in their seats here are talking like hell, I would say, in the corridors. A lot is going on outside the chamber where delegates can still see what is going on. (*Extension of time granted*) The other changes that Mr Turnbull now announces as ARM policy must leave those who elected that party utterly confused as to what they want, unless it is just to get rid of the Queen at any price.

**Dr TEAGUE**—The majority of delegates are looking for constructive change towards a republic. We are not confused, I assure Lloyd Waddy. Indeed, the last four days of debate have spelt out those matters for change. For example, I moved Working Group C's resolution yesterday and it was supported by a healthy majority in this chamber. That is what we are on about. We are on about achieving an Australian as head of state.

There were ironies in the very eloquent conservative speech that Mr Waddy has given, and he was right to encourage us to play the ball and not the man. That is what we would all want to aspire to. The ironies that you referred to, Mr Waddy, I think are even more eloquently put by Geoffrey Blainey in the contribution he made a couple of days ago.

It is my pleasure to follow two conciliatory speeches, one from Malcolm Turnbull, my close colleague, and the other from Lloyd Waddy, both members of the Resolutions Committee. We have before us the Resolutions Committee recommendations. I have every confidence in the Resolutions Committee and the way it is composed, the work it is doing and the procedural change it brought to

us yesterday. We are looking very much to the Resolutions Committee to come up with a sequence of decisions in the stage 1 and stage 2 process in the last couple of days. I take the opportunity, as I have not explicitly done it before, to say how much we all support you, Mr Chairman, in the chair. We are well blessed, with delegates wanting to be constructive, with the Resolutions Committee and the chair.

I want to address these two matters before us in the spirit that Janet Holmes a Court has put to us when she referred to the highest common factor and our listening to each other; Stella Axarlis in the way in which so emotionally and clearly she asked us to listen to each other and to allow us to be heard; Professor Thomas in the comments made just now; and my very old friend and good colleague Peter Tannock, Vice Chancellor of Notre Dame in Perth—lots of wisdom, and we listened very carefully to what you said, Peter—and Kirsten Andrews, my colleague from the Australian Republican Movement in South Australia, in like manner.

I have an open mind about the name of the Australian head of state. In my speeches a few years ago I was actually advocating the term 'Governor-General' be retained. But in my most recent speeches of the last few years, responding to the dialogue I have had with the Australian people in all the states, I have moved to a preference of the term 'President'.

Let me reiterate the two arguments for retaining 'Governor-General'. They were put very clearly by Stella Axarlis in the first and Dame Roma Mitchell in the second. Stella's argument is, 'When we are moving to an Australian head of state, let us retain those elements of continuity which will give reassurance to the Australian people.' That was her argument and it is a good one for us to consider. The second is even more telling. Dame Roma, as a former Governor of my state of South Australia, is saying that we must retain a head of each of the states. There must be someone in Government House with the same powers, no more and no less, as are exercised now by Governors in the states. I strongly support that. Dame Roma knows that

that was the answer I gave to her in a personal conversation at Government House at her dinner table a couple of years ago.

I strongly support the retention. I cannot see a better word than 'Governor'. 'Governor' is still used in the republic of the United States—a very different republic from that which we would be. Governors are there and they are executive. Remember that President Clinton was the Governor of Arkansas, like a Premier of one of our states. So I am not arguing for 'Governor' on any parallelism with the United States. Similarly, in India, governors in the states are executive heads.

I support the term 'Governor' for a position that must be retained in the states. Therefore, on Dame Roma's analysis, if there are going to be governors in the states—and, Dame Roma, as you come back to the chamber, I acknowledge your argument—we could contemplate the term 'Governor-General' as consistent with that same family of names. But, despite these two powerful arguments from Stella Axarlis and Dame Roma, I keep an open mind.

Frankly, I believe that when we have heard sufficient discussion on this—maybe in our last couple of days—this could see a telling vote by the 152 delegates here. I think the government could be steered between these two terms. There are only two—'President' or 'Governor-General'—for the way we are to go.

With regard to the name for our great nation Australia, there is only one possibility in my mind and that is 'Commonwealth of Australia'. The founding fathers—and I regret that there were no women present—who founded the Australian Constitution—

**CHAIRMAN**—Your time has expired, I am afraid, Dr Teague.

**Mrs KERRY JONES**—Mr Chairman, last night we all had the honour of going to a very lovely cocktail evening at Yarralumla hosted by the Governor-General. It reminded all of us, I am sure, no matter what side of the debate we are on, of the importance of symbolism in our nationhood. I think the issues that we are tackling today closely tie in with the issues of symbolism.

Everyone is aware that, particularly over the past five years, there has been a real attempt by some republicans to bring about what we call republicanism by stealth—that is, to bring about republicanism by removing symbols that are the signs of our nationhood, the signs that unite us as Australians. Through stealth, they have been trying to remove these symbols with no mandate at all to do so from the Australian people.

A particular example occurred in New South Wales just over 14 months ago when Premier Bob Carr, with no mandate, literally evicted the Governor of New South Wales from Government House and said that Government House would now become almost a museum. The Governor was put into extremely dowdy little offices in a very old building in Macquarie Street. That really stirred up the wrath of the people of New South Wales, and some 20,000 people marched up Macquarie Street. Premier Carr in his arrogance refused to change that decision. That important symbol of the unity and the role of our Governor of New South Wales was simply removed at the will of one politician.

I am delighted to say that Peter Collins, the Leader of the Opposition, who was with us earlier this morning, has given a clear mandate that, despite his own personal republican beliefs, if elected he will return the Governor to Government House and act on behalf of all the people of New South Wales.

I think we have to be very careful to ensure that politicians, as part of this debate, are no longer allowed to implement their personal republican agendas through issues that are straight-out republicanism by stealth.

I refer as well to the plans of the former Keating government which saw plans drawn up by the planning authority—which were available for public observation—whereby they were going to build a presidential palace somewhere down by the lake. I presume the intention was that beautiful Yarralumla, the historic home of our Governor-General, our Australian head of state, would—as happened in New South Wales—become another museum.

The flag is a critical symbol. I am going to move, as part of the resolutions we are debating, that we get an honest statement from those pushing the republican agenda that the flag is not part of their agenda. You are all aware, I am sure, that the Australian Republican Movement and Mr Turnbull himself have actively sponsored and funded the very distasteful exhibition called *Flagging the republic* that is moving around Australia.

I would like to move, if it is appropriate with these resolutions, that a statement be made to indicate that there is absolutely no intention, as part of the republic push, to change the Australian flag. It is not my role here to tell you why I believe it is the best flag in the world, but I think there should be a statement by the republicans—Mrs Janet Holmes a Court, I believe, is still a director of Ausflag—that the flag is a separate issue and that our Australian flag, probably the most important symbol of the unity of our nationhood, is not to be changed.

**CHAIRMAN**—I should say to you that the flag is not on our agenda; therefore I am afraid it is not within your capacity to move a motion or for us to have a resolution quite in that form.

**Sir DAVID SMITH**—In the course of his remarks a few minutes ago, Mr Turnbull referred to what he chose to call my ‘unprovoked attack on him yesterday.’ May I remind the house that Mr Turnbull turned to my colleagues and me and accused us of acting in this Convention in bad faith. I do not know whether an accusation of bad faith constitutes provocation in the circles in which Mr Turnbull moves, but it certainly does in mine.

**CHAIRMAN**—Sir David, while I understand you wish to talk to this the subject actually has nothing to do—

**Sir DAVID SMITH**—I am responding to Mr Turnbull’s remarks in this debate. But I will now get on to the point. On the first day I put into the record my views, supported by legal opinion and prime ministerial advice to Queen Elizabeth as late as Prime Minister Hawke’s advice to the Queen in 1984, confirming that the Governor-General of Australia is and has been, since 1 January 1901, the constitutional head of state of this country as

distinct from the sovereign's role, which I have described as the symbolic head of state.

I have listened to what my colleagues on this side of the house have had to say. I have not heard anything to persuade me to move to support any of the republican models. I remain implacably a constitutional monarchist, but I do want to say to those who have preceded me this morning that I welcome the constructive and conciliatory tone adopted by those who have suggested that if, God forbid, this country does become a republic they would be prepared to consider retaining the title of Governor-General. Dame Roma Mitchell, in particular, has pointed out the importance of this title in recognising the continuing position of the states in this federation, notwithstanding that on the votes in the early part of the week most of the states seem to have been deserted by most of their political leaders.

**Mr FITZGERALD**—Well represented, but.

**Sir DAVID SMITH**—That is a matter of opinion. I welcome the suggestion that the Governor-General's title should continue to be used whatever form of government we might adopt. As I say, I hope to God that we never become a republic but if we do I am grateful to those who have suggested that the title Governor-General might be retained.

**Mr McGARVIE**—I am delighted to join in the effusion of goodwill and mutual pride in our country, and in every other delegate present, which has been the feature of this morning's debate. I was highly impressed by Stella Axarlis, by Trang Thomas, by Janet Holmes a Court and by many others, and I am very glad to respond to Mr Turnbull's suggestion to give my view.

Becoming Governor is an experience quite unlike any other. I may reveal that I was quite reluctant to become Governor. I had quite a wrong view of what governors do, and my initial reaction was one of great honour, but a desire to remain as a judge of the Supreme Court. Eventually, after discussions with the then Governor, Dr Davis McCaughey, I became Governor. One of the greatest experiences was to find that—and I can speak here for my wife—the minute you become Governor and Governor's wife, the community

confers on you a capacity which as ordinary people you did not have before. The community regards you as theirs. They want to help you. It is the only position I have ever been in in which everyone has tried to help me. I give an example.

Quite early I was honoured to be made a fellow of the Hebrew University of Jerusalem. It was a very great occasion with leading citizens there. In the next day there was a full report in the *Herald Sun*, but there was no photograph of me. Later that day I got a letter from Lillian Frank, who was in charge of it: 'Dear Governor, I wish to explain to you why there is no photograph of you in the *Herald Sun* this morning.' She had endorsed the photographs. Mr Chairman, I am capable of taking dreadful photographs, which will not surprise anyone. In a way that one encountered all the time, she was protective of me as Governor. This is one of the great things that quite surprisingly emerges.

I think the most important thing for us all to make sure is that, if we become a republic, we have a head of state who will be content with quite a deal of influence but no effective power, except in situations of emergency. I think I can speak with the advantage of having been in two positions in which one does have great powers and in which one is expected to exercise those powers with the utmost restraint. I was judge of the Supreme Court of Victoria for 16 years and Governor for five years.

I found that in each of those, when one takes the position, one is cast into a mould that has been built by one's predecessors. One is conscious that the community expects of you the standards that your distinguished predecessors have set. One is very conscious that one's reputation will depend on one satisfying community expectations of proper standards.

Symbolism is very important and it is Australian symbolism. I take the view—not taking sides at all between monarchists and republicans—that, as far as the symbolism is concerned, it would—at least in the model that I advance—be exactly the same in a republic as it is at present in a monarchy.

When our ancestors were thinking of Federation, there appeared in the *Hobart Mercury* in 1891 in a comment on the role of the proposed new office of Governor-General, 'Nobody knows what they can and what they cannot do.' A century and more later, we do know what they can do and what they cannot do. When you become Governor or Governor-General, you know exactly what the community expects you to do and exactly what they do not expect you to do. So we do have the advantage of a very satisfying symbol—and I speak only of the time since Australians have been Governor-General because I have not studied the times before. But since Australians have been Governor-General, they have created very high standards in all respects.

It is part of our constitutional capital that people do look up to you. You have an influence by just being Governor, Governor-General or wife. People who would not have been interested to talk to you the day before, like to shake your hands and like to be involved with you. I am delighted to be able to speak in an atmosphere which is not a controversial atmosphere.

**CHAIRMAN**—Have you got much longer to go, because we are running out of time? Your time has expired. Will you be very long, or do you want an extension?

**Mr McGARVIE**—I will be quite short. The position is that if we change to 'President', whatever model we adopt, people will expect the president to do the sorts of things the president they see most on the television does—the most powerful politician in the world, Bill Clinton. If the title is 'Governor-General', the person who holds that title will be quite free of illusions of grandeur. People who are Governors-General or presidents have all the frailties of human beings.

**Mr RUXTON**—Mr Chairman, delegates: I heard the remarks about the warmth of this morning. It has been good. Just as an aside, there has been a noticeable absence of the other republican mob over in this corner. I just wonder what is brewing. The name 'Commonwealth of Australia' is rather interesting. I am all for it and I concur with Sir

David Smith's comment that, heaven forbid, if a republic comes about this country should be called the Commonwealth of Australia. During the Whitlam period, they removed the term 'Commonwealth of Australia'. 'Commonwealth of' was struck off the banknotes. It was struck off all the official documents in Commonwealth departments. It just disappeared overnight without any debate at all and now it is going to come back. That is interesting. At any rate, I support the name 'Commonwealth of Australia'. The preamble to the Constitution in section 1 says:

This Act may be cited as the Commonwealth of Australia Constitution Act.

It has always been the 'Commonwealth of Australia'. As for Australia remaining a member of the Commonwealth of Nations, I think I support Mr Sutherland's view that we will—not necessarily like Mr Turnbull said this morning—automatically just stay there. He went on to say that we are a great contributor. I believe that the whole 50 nations must vote us in just as they did Mauritius a few years ago.

I would like to correct what Mr Turnbull said this morning with respect to the Caribbean—whether it was Barbados or the Bahamas, I have forgotten. There was a big article in the *Australian* about the intending republic coming to that particular island. The debate went on for a long time, but when the vote was taken after everyone reckoned the republic was to come about it was overwhelmingly defeated.

As far as Australia is concerned, we must be voted back into the Commonwealth of Nations. It would be awful to think that someone who does not like us out there is going to turn their back on us.

**Brigadier GARLAND**—It could be New Zealand.

**Mr RUXTON**—Yes, it could be New Zealand. As for the term 'Governor-General', there again, heaven forbid, if there is a republic 'Governor-General' is a great title for our head of state.

I could stand corrected on this, but if that did happen we would not be creating a precedent because it has happened before, and we

are talking about the Republic of Ireland. They had a Governor-General for maybe the first 12 years. So we would not be the first to do that. I look around the world and I see that in most republics presidents have been noted for butchery, for having no human rights and no human dignity. Let us face it.

**DELEGATES**—Come on!

**Mr RUXTON**—Okay, I am saying this. It is good to see that the word ‘President’ has gone out the window. However, knowing the members of the Resolutions Committee, the matter is the titles of ‘Commonwealth of Australia’, ‘Governor-General’, et cetera. I think it is softly, softly, catchy, catchy—that is what is in their minds. I do support these resolutions if we become a republic.

**CHAIRMAN**—Thank you, Mr Ruxton.

**Mr FITZGERALD**—Mr Chairman, on a point of order to do with clarification, if I may: the documents that I have show that Mauritius joined the Commonwealth in 1968. Bruce Ruxton said it was a couple of years ago; they joined in 1968. If anyone wants information on that, I can give that to them.

**Mr RUXTON**—Mauritius?

**Mr FITZGERALD**—Yes.

**Mr RUXTON**—Mr Chairman, Mauritius was a full member with a Governor-General, but just a few years ago—I would say it would be two—they became a republic. Okay?

**Mr FITZGERALD**—Yes, they did become a republic—

**CHAIRMAN**—I think this is a bit incidental to the general debate. Can you have a discussion outside on the consequences of it? That would be a very good idea.

**Mr MYERS**—Mr Chairman, thank you for the opportunity to speak today. I was going to speak only once at this Convention in the 15-minute general debate, but I heard this morning that that debate will be cut to 10 minutes, so I am going to take the opportunity to use this five minutes to get my—

**CHAIRMAN**—Mr Myers, just on a point of information, that will not occur unless the Convention so decides. It is only a foreshadowed motion.

**Mr MYERS**—I just want to make sure I get my full 15 minutes of fame. I actually stand before you as an undecided delegate at this Convention. I have not determined yet whether we should keep our existing constitutional monarchy or whether we should make the constitutional changes necessary to move to some form of a republic. I must say that the shift to a republic is not without some appeal to me, nor do I think direct election is unachievable. I would have to say that other changes to the Constitution are certainly worthy of consideration, but as delegates I think we must really consider whether, whatever constitutional changes we do propose, they are achievable and, perhaps foremost, are going to make our system of government better. There is absolutely no point in voting on any proposal that will advocate change merely for the fact that we need change. Australians are a fairly conservative bunch of people and they are not going to buy any uncertainty that detracts from our present system.

The concern I have with the republic debate so far is that, throughout the years that it has raged, there has been no consensus, and the fact that we have been here for a full week so far and that debate is only getting stronger is an ominous warning for all of us. Yesterday, we heard the call for compromise. Now I think we need to consider what that compromise really will mean for all Australians.

Professor Craven warned the other day that, essentially, no model that is put to a referendum can afford to be defeated. I think we really need to concentrate on that fact because no Australian government, regardless of political persuasion, will continue to pursue this matter in the near future if it does go to a referendum and it is defeated.

That being said, however, the support for a republic will most certainly be strengthened by the retention of the name ‘Commonwealth of Australia’ and by our continuing membership of the Commonwealth of Nations. I most certainly support those recommendations from the Resolutions Committee. I also support the retention of the title ‘Governor-General’. I think it is absolutely important that in Australia we do retain some link with the past,

and the office of Governor-General is one that is widely respected in our society and, as Mr McGarvie alluded to earlier, the titles of Governor and Governor-General are something that all Australians are seeking to protect and retain.

It is important to keep the title Governor-General so that we maintain a strong relationship with the states. So far in this debate, I do not think there has been enough consideration of the role that the states will play in any move to a republic. One of the things that we really need to concentrate on over the next week is what the states will do, how they will enact legislation, and so forth, to facilitate any proposed change. I think it is important that we do not confuse the opportunity to make our system better with any misguided belief that foremost we must make it popular. The primary responsibility that we all have is to make a better system, regardless of whether it is the same system or a different system.

**CHAIRMAN**—I still have notification of six speakers, including Mr O'Farrell. We need to take note that we are now debating items (1)(a) and (b) and (2). There are a number of others to be debated before we adjourn at 1 o'clock and I have not yet had a report from the working groups.

**Mr O'FARRELL**—I would like to touch very briefly on the question of the provision for the formal oath of allegiance and the oath of office. It is not so much that that is concerning me as much as, in the unlikely event of Australia becoming a republic, the oath which so many millions of people have taken of allegiance to the Queen will be in doubt. This is not an easy matter for ordinary people to consider. Having given an oath of allegiance, they would need some release from it. It is important that this matter is considered because not only does it affect people personally—when I say 'many millions of people', you have to realise that all migrants, up until a few years ago, took an oath of allegiance to the Queen—but also it affects the image of Australia in this region where people are accustomed to the belief, because there are many who are not sufficiently literate, that a man's word is as good as his bond. I suggest

that some serious consideration be given to that matter.

**Mr MACKERRAS**—Good morning delegates. I represent the quota of voters who elected Marilyn Rodgers from Western Australia and I am not allowed to talk about certain things. I will begin by saying that I have done a bit of research on the question of the title of any head of state under a republic. The trouble is that it is not very adequate; I will just tell you what it is. There are 170 democracies in the world with directly elected legislatures. Of these, 91 are countries which are republics with popularly elected presidents, that is, 54 per cent; 41 are republics with politician-chosen presidents, that is, less than a quarter; and 38 are monarchies, that is, also less than a quarter.

I have not done the research which I should have done, that is, of the 91 republics with popularly elected how many use the term 'president'? I ask Malcolm Turnbull to do that research for me. I am sure virtually every one of those 91 countries would use the term 'president'. I feel sure also that virtually every one of the 41 republics with politician-chosen presidents would also use the word 'president', and I suggest it would be sensible if somebody did that. My view is that, if we become a republic, we should use the term 'president' because that is the standard term. I am sure it is overwhelmingly the term used in the countries to which I refer.

I disagree with Sir David Smith that the term 'Governor-General' should continue. The term 'Governor-General' is the term of the local head of state representing the Crown. It would be most inappropriate to continue with that term and I would like to know, if anybody has researched this point, whether there is a single republic in the world today in which the head of state is called Governor-General? I feel entirely sure that there is no such country in the world today in which the head of state is a governor-general while being a republic. It seems to me that the appropriate thing to do is to use the term 'president'. On the question of remaining in the Commonwealth, the answer is very simple: obviously we should. On the question of



retaining the name 'Commonwealth of Australia', obviously we should.

The other morning, Mr Beazley said something very wise and sensible. He said that in 1898 Australia drew up a small 'r' republican constitution. That is absolutely correct. We chose the name 'Commonwealth of Australia' to indicate that in 1898 we drew up a small 'r' republican constitution. I would make the observation that, although it is said that there are no founding mothers, there was a founding mother—Queen Victoria. She did not like the term 'Commonwealth of Australia', and the fact that her objection was overridden is most interesting. Those are my views on the questions we are considering today.

**Mr LEO McLEAY**—I am glad to see that today we are getting some points of agreement, which is probably what the people who elected a lot of the delegates expected they would do. The agreement that we have on the name of the country when we become a republic is one that everyone in Australia would be very comfortable with. The Commonwealth of Australia says what we are. It is something that everybody is comfortable with.

Notwithstanding Malcolm Mackerras's research, I am still opened-minded about what name we should have for the head of state. It might be worth while concentrating on that over the next five or six days. There is some confusion and ambiguity in people's minds about what either of the titles of Governor-General or president could mean.

I would like to take up one point with Mr O'Farrell. He was very concerned that if we changed to a republic then all of a sudden the oaths people had taken to the Queen would be undone. Recently, we changed the oath of allegiance of new citizens to Australia. That did not undo the oath of allegiance that previous new citizens had taken to the Queen. If we move from a constitutional monarchy to a republic, we are not going to undo any oaths that people have taken in the past, either to the Queen or to the Commonwealth of Australia.

I would like to also take issue with a couple of points that Mr Waddy made. He seemed to think that there would be some terrible confu-

sion if we moved to a republic and did not have the Queen of Australia any more but said that we wanted to stay in the Commonwealth. He said that if we had a meeting of the Commonwealth here and the Queen, as the head of the Commonwealth, turned up it would be terribly confusing and people would not understand it—shock, horror!

I point out to Mr Waddy and other delegates that the Queen who is the head of the Commonwealth is not that schizophrenic person who is the Queen of Australia. The Queen who is the head of the Commonwealth is a different entity. If we had a meeting of the Commonwealth here in Australia now, there would be more cause for confusion. If that meeting was in this chamber and the Queen was sitting where you are, Mr Chairman, what would people be seeing on the television? Would they be seeing the Queen as the head of the Commonwealth or the Queen as the head of state of a number of the other entities that were sitting around here, or would they be seeing the Queen of Australia? I think people would be seeing what was in the eye of the beholder. In my view, if we did this there would be less confusion than there is at present.

The other issue that I would like to take up with Mr Waddy is that he seemed to think that it was somewhat terrible that some delegates were shifting their positions. He thought it was awful that somehow or other there was some terrible split in the ARM and that, if Mr Turnbull campaigned on a slogan of 'Resident for President' and we are now saying that maybe it might not be the name 'President'—it might be something else—then the campaign was undone.

Quite frankly, I think the people who sent the elected delegates in particular here expected them to come up with an outcome. They expected that people would come here, listen to the arguments and shift ground. That is what they want. The people of Australia want an outcome from this conference. They do not want people to stand up and say, 'I got 750 votes on the basis that I like that and not that, so I'm not shifting.' If that is the way delegates are going to approach the deliberations of this conference, then what we should have

done on day 1 was ask for a hands-up on who got elected on what platform and then all go home. We are supposed to be here to listen to argument, and if people are changing ground then that is good. Even Bill Hayden told me last night he has shifted ground a bit, so I think that is excellent. If we are finding that there is movement, then I think that is what the people who elected some of you want.

My last point is about the Commonwealth of Nations. If some people—Doug Sutherland, Mr Ruxton and others—seem to think we will have terrible trouble with the Commonwealth if all of a sudden we change and they will shut us out, that is absolute rubbish. They know and everybody else knows it. Australia has probably played one of the most constructive roles in the Commonwealth of any of the countries in the Commonwealth and if we change our style of government they will certainly accept us, as they have accepted a majority of nations of the Commonwealth that are republics.

**Mr WRAN**—Delegate Waddy used the terminology that the republicans in this gathering were prepared to remove the Queen at any price. It rather seems to me by the intransigence of the constitutional monarchists here that they are prepared to retain the Queen at any price, and it is a price.

One of the important elements of the Queen ceasing to be our head of state is that an Australian will add a new type of dignity, an Australian dignity, an Australian symbolism. I agree with Kerry Jones that symbolism is important. I believe it is terribly important that we have our own head of state not because of pomp and ceremony but because, on the one hand, of its unifying effect and, on the other hand, the symbolism it conveys to people in the region with whom we do business and who come to this country.

I do not think dragging in statistics helps very much. We have always found Mr Waddy, who incidentally is a very gentlemanly person, and Mr Turnbull and I have had dealings with him since the Australian Constitutional Monarchists were formed, to be a man of his word and a person who did not engage in personal attacks and recriminations. It is only when we came here that not Mr

Waddy but some of his supporters, whom no doubt he is a bit embarrassed by, have engaged in those cheap sorts of attacks.

As I say, I do not think a great deal is gained by quoting statistics, but I was staggered when Mr Waddy, in his opening address to this Convention, said that in the latest poll taken in Australia—I think it was taken in Queensland—the people of Australia who supported a republic now were only 51 per cent. I can tell you that in any election 51 per cent is a very handsome figure.

**Mr RUXTON**—It divides the country.

**Mr WRAN**—Mr Ruxton, I am glad you gave me the opportunity. I was going to get off statistics. The important statistic Mr Waddy did not mention in that poll is that when asked how many people supported the retention of the so-called Constitutional Monarchy the answer was a miserable 37 per cent.

There is no point saying that, if you have a republic, you divide the country. The country in a sense, intellectually, is divided now. The people more and more every day wish to see a Commonwealth of Australia, and I do not see any divisions on that nomenclature so far as the country is concerned in the future. But more and more, they want one of their own as the head of state.

**CHAIRMAN**—Can I remind you, Mr Wran, that we are actually talking about name and (1) and (2).

**Mr WRAN**—I am grateful for your helpful advice, Mr Chairman, but I just wanted to correct that. Coming strictly to the motion, it seems to me that two things are clear from this debate. First, there does not seem to be any argument at all about the 'Commonwealth of Australia', but there do seem to be differences about president, Governor-General, et cetera. I make the suggestion—and perhaps I will move an amendment—that, rather than take a vote on one or the other whilst so many of delegates are at working parties right now and really not participating in this debate, that question could go forward next week for vote when people are present.

**CHAIRMAN**—Thank you, Mr Wran. We actually have run out of time. What I had

suggested was that motions with respect to the title be lodged hopefully with the secretariat by 12 noon. We will be considering what we are going to do about the title at the voting this afternoon at a quarter to four. So if you want to move an amendment at that time, then do so. Please lodge it as a proposal so we can look at it, if you wish, later on.

**Mr WRAN**—I think we could sound our colleagues out over lunch.

**CHAIRMAN**—If you wish to put an amendment in on that basis, please do so. Just before I call Lady Florence Bjelke-Petersen, I inform the Convention that we have Professor Blainey, Liam Bartlett, David Curtis and Mr Rann to speak on the Resolutions Group recommendations (1)(a), (1)(b) and (2). Unless there are any other speakers, I would then propose we open the debate on (3) so we can actually deal with the Resolutions Group report before we get these Working Group reports.

**Mr WILCOX**—Mr Chairman, may I have a go briefly, too.

**CHAIRMAN**—Yes, Mr Wilcox, I will put your name down, too. I call Lady Florence Bjelke-Petersen.

**Lady FLORENCE BJELKE-PETERSEN**—Thank you, Mr Chairman, fellow delegates. I stand here before you today as a member of Queenslanders for Constitutional Monarchy. Of course, you would understand that we do not really want a republic. I am certainly pleased to know today that the republicans want to continue with the name of the 'Commonwealth of Australia'. I think that is very good idea and I am certainly very happy to hear that. Also, I am happy about the motion that Australia should remain a member of the Commonwealth of Nations. I think that would be automatic in any case, whatever you called Australia. I think that would be quite right.

I do want to say that our constitutional monarchy has proved that the system of Queen, Governor-General and Prime Minister has provided stable government, with all our freedoms being protected. I think that is something we do want to remember at this time. That is items (1)(a) and (1)(b).

Then we come to the Convention expressing its preference on the title of head of state. I believe that we should continue with 'Governor-General'. I think that is something which is important. One thing that perhaps has not been stressed enough is the matter of the states. This is something that we are going ahead with—like the cart before the horse—and we have not found out whether all the states are going to come along with it.

It was in 1977, I think, that Queensland made the Queen the Queen of Queensland. From my understanding of it all, it is all very well tied up and pretty tight. They actually had opinions from legal people in Oxford to tie it up fairly tightly. I do not know whether they thought that some time in the future something like this might happen that they did not want so they agreed with that. Western Australia might be in the same boat, from what I can gather.

That might be the case later on. Whether we get to the stage of getting all the states to agree or not is another matter. But to me 'Governor-General' is a very appropriate title for the head of state. One thing I always get worried about is, when we talk about a republic and when the republic comes, whether the republicans are going to try to do away with the states. That is what I get worried about. I see my republican friends shaking their heads and saying no.

**Mr WRAN**—You have got my assurance.

**Lady FLORENCE BJELKE-PETERSEN**—Thank you, Mr Wran. I am glad to hear that. I hope you can persuade all your friends to say likewise. I have quite often heard it said in the media and read in the papers that they are going to do away with the states and make local government bigger. When I hear our Mayor of Brisbane talking about it, I think he sometimes thinks that he might be able to take over as the Governor of the state. Those are just some of the things that really bother me. I certainly believe that 'Governor-General' should be the title of the head of state. I leave those remarks with you today.

**Professor BLAINEY**—For my part, I glory in the name the Commonwealth of Australia, as did a long procession of Australians now dead. I do appreciate the proposal of the

republicans that that name be continued. I also support the title of 'Governor-General', irrespective of my views on other facets of that subject.

**Mr RANN**—I certainly appreciate the opportunity to be able to speak. On the issue of the title of the country, I strongly—and as a member of the direct elect group can only speak for myself—support the retention of the name 'Commonwealth of Australia'. I think that is appropriate. After all, the state of Massachusetts in the republic of the United States is known as the 'Commonwealth of Massachusetts'. The people of Australia are comfortable with the name. It is embracing and helps identify us.

I want to disagree with a number a speakers, including my close friend and colleague Bob Carr, over whether we retain the name Governor-General. It seems to me that what we are trying to do at this Convention is help a sense of identity as a nation about where we have come from, where we stand and where we are going. This Convention is a bridge in history. It is also about clearing up confusion. One of the problems that we have at the moment with our system of government is that it is ambiguous and confusing. When the Queen and/or Prince Charles recently visit various countries, it is quite clear to the rest of the world that they are visiting those countries as the Queen of England or the Prince of Wales. They are not there to assist with the selling of Australian goods in Italy and so on. If we are about clearing up confusion, it is necessary to embrace the word 'president', someone who represents all Australians, someone who is president of the Commonwealth of Australia.

At the same time, I believe that it is very important that we recognise that, in the states, there is no need to change the title of Governor. I think people are comfortable with the title of 'Governor'. It fits within various republican formulae around the world and would not in fact be unambiguous. If we are talking about those two fundamental issues, I would certainly support the retention of the title 'Commonwealth of Australia'. I would certainly support using the title 'President of

the Commonwealth of Australia', yet supporting the title 'Governor' at the state level.

I think it is important, however, that we also make it clear to the people, because I know there has been some confusion on talkback shows around the country, about where we stand in terms of the Commonwealth of Nations. It is quite clear that the Commonwealth of Nations includes somewhere between—there was an argument in the corridor the other day—29 and 32 republics, five kingdoms with loyalties to other queens or kings within the Commonwealth of Nations and I think 15 or 16 constitutional monarchies.

**Mr RUXTON**—Look at all those other republics in it. You have got to think about that.

**Mr RANN**—Mr Ruxton, perhaps in your concept of loyalty you might include courtesy. I have never interrupted during your interjections during this debate. I want to commend my almost namesake Neville Wran for the other day. I am very insensitive when it comes to politicians. But I think it is very interesting that, of the people who constantly slag politicians at this Convention, they have often been the greatest ratbags in terms of interventions, lack of courtesy and so on during this debate. I hope things will improve and that it will be less feral next week. I think it is very important that we do show courtesy towards each other. One of the things that is quite clear is that constitutional conventions occur with about the same regularity as Halley's Comet. We cannot afford to blow it.

**Brigadier GARLAND**—I raise a point of order. I know this is not parliament, but I did think that we had some semblance of convention in relation to dress when people come into this particular place. I notice that all of the delegates, with the exception of my colleague over here whom I can excuse for a variety of reasons, because of his disabilities, are wearing coats. I would have thought that a member who is speaking and was a member of one of the Queen's parliaments in Western Australia would also observe that convention in here. He did come in initially with a coat on.

**Senator FAULKNER**—Bill Hayden was here all yesterday without a coat, you dope.

**CHAIRMAN**—Your point is noted. This is a convention; it is not a place where we have set dress standards. I think it is up to each individual delegate to set the standard they believe appropriate.

**Mr RANN**—Thank you. I am not a member of the king's parliament in Western Australia, by the way, Mr Garland. But it is good to see that you are sticking to the main issues. Constitutional conventions occur with about the same regularity as Halley's Comet, and we cannot afford to blow this Convention. If we do, none of us is likely to be around for the next one. If next week we fail the test of history, then none of us deserves to be invited to the next convention, quite frankly. To fail to do so would be a real contempt for the Australian people and for future generations.

I certainly want to commend the flexibility that is beginning today to be embraced by a number of delegates. Again I want to stress that, as we go into this weekend with talks currently under way between people, we cannot afford gridlock and it is vital that we are all prepared to show some goodwill. Frankly, a compromise is essential and must occur. It is important that we can in fact unite around issues such as the title of the country and also the name of the head of state under a new system. It is important, I believe, that we embrace compromise before this weekend begins so that next week we can ensure that we deliver to the Australian people what they deserve—something about future generations. Thank you.

**CHAIRMAN**—Can I get the speakers who are about to speak to come down here. It takes quite a deal of the Convention's time otherwise.

**Mr WILCOX**—I apologise for being in the wrong place; but I am getting so used to the back bench here that I get a bit timid when I come down near the front bench.

**CHAIRMAN**—I have never known you to be timid yet, Mr Wilcox. I am impressed by your new attitude.

**Mr WILCOX**—Mr Chairman and delegates, I join this debate particularly because I am so pleased that there seems to be very much of a consensus on retaining the term 'Commonwealth of Australia'. I am pleased about that. As I said the other day, I put myself forward as a patriot, as an Australian, and I think there is a great deal of patriotism here amongst delegates. The people would not want to upset that wonderful title of 'Commonwealth of Australia'. If it ever got to a referendum, and it may well do, the people would support that.

Secondly, in relation to 'Governor-General' and 'Governor', I support what Dame Roma Mitchell said. One of the interesting things is that she was able to speak as somebody with a wealth of experience. I believe that if there is any change, both 'Governor-General' and 'Governor' should be retained. I think the last speaker said something about presidents and governors. I am quite happy to follow the Americans in a lot of things, even some of their constitution, but I do not want to copy them like that. They can have their president and their governors of states; I would like to stick to what we have got.

There are two more things I want to mention. The first relates to statistics. Mr Wran was quoting some poll on something. I would like to remind delegates, as I said before, that we do not want to get carried away with the number of people who voted in the election for delegates because only 46 per cent voted overall. So you have to bear that in mind.

Finally, 'Commonwealth' is a great word. It is the common weal and the common good and I think it is something that we want more of in Australia. If we retain that and make that clear to the people, if there are any changes, they will be on our side.

**CHAIRMAN**—I advise that the reports from the working groups have now been received. Given the time, it would be better if they were received immediately after lunch at 2 o'clock. We will receive the reports at 2 o'clock and we will determine then whether it would be better to defer the voting until Monday and the consideration of them or whether we proceed with them. As I have not seen them and we have not had time to look

at them, I think it might be better if they are presented at 2 o'clock. As soon as they are available, I will ensure that they are circulated among all delegates.

**Dr SHEIL**—I think it is very big of the republicans to be able to reach an agreement like this that we call Australia the 'Commonwealth of Australia'. I agree with that name. It sounds a bit like keeping the status quo. I agree with us staying in the Commonwealth, and I am pleased the republicans agree to that. I agree with the name of 'Governor-General'.

But I do not agree with the republicans at all because all of the proposals involve getting rid of the Crown. I see the Crown as the ultimate and untouchable protector of all our freedoms, our Constitution and our democracy. It is at the heart of everything. The Crown is at the head of all our great departments of state, like the parliament, the Public Service, the judiciary, the Defence Force and the Mint. While the Crown is at the head of them all, nobody else can be. No dirty little republican fingers can get at those departments and get at our freedom. At all costs, I want us to keep the Crown.

**Ms ZWAR**—One of the arguments put forward in favour of changing the name to 'President' was that that is what is done elsewhere in the world. I find that the weakest of all the arguments put forward in favour of changing the name. As someone who is proud to be an Australian, I say that we should choose the name that we want for the reasons we want it. I fail to see why we should be about pleasing the rest of the world or why we should be trying to fit in with what the rest of the world is doing. We are here trying to work out what the future of Australia should be. For that reason, I suggest that we keep the name 'Governor-General' and that we do not listen to arguments that say we should change that name to conform with practices that occur elsewhere in the world.

**Mr LOCKETT**—Mr Chairman, I am pleased to see a state of unanimity—that is, that we should continue to call ourselves the Commonwealth of Australia. I am delighted with that. But, as for the title of head of state, someone suggested that we should have some-

thing uniquely Australian, so I toyed with a few ideas. How about Boss Cocky? Perhaps that might be a bit threatening to the Prime Minister. On the other hand, what about Top Banana? Is that appealing? Perhaps not. So I agree with those who assert that it will be better if we continue to call our head of state 'Governor-General'.

If we are to make this change to a republic—and I emphasise that that is a decision for all the people, not for this body—I do not see why we should unnecessarily cause concern to people who feel that there may be some underlying agenda or that it is the intention to change things just for the sake of change. So I support the title 'Governor-General'.

**Mr ROCHER**—In my view, the word 'republic' does not inspire great confidence in Australia any more than does 'president' to describe the head of state in those nations which have proclaimed themselves republics. The use of 'peoples' or 'people's democratic' as adjectives in the titles of many modern nations which are also republics are in my view misnomers and intended to deceive. Recent history and contemporary awareness are enough to lead many, surely, to the viewpoint that those countries which include the adjectives 'peoples' or 'people's democratic' before 'republic' are neither representative of their people nor in any way democratic as we understand true democracies to be.

Adoption of the title 'republic of Australia' will, of course, bring us into line with those few republics which have a proud and democratic record as well as enable us to be identified with a more significant number of countries whose practice of politics most Australians would fight to the death before seeing adopted here. The use of the word 'republic' to demonstrate the genre of our political system should be eschewed whatever the outcome of this Convention.

Similarly, but not for identical reasons, it is submitted that any future head of state need not, and indeed should not, be known as the president of Australia. There are good as well as patriotic reasons for not wishing to assume the handicap of terminology which has be-

come either hackneyed or in disrepute. For those and other reasons, the description of our country as the Commonwealth of Australia should be retained. The relative uniqueness should sit comfortably with most Australians while connoting an egalitarian objective and a solid continuity. Described as a Commonwealth rather than as a republic, Australia will be set apart from those republican nations whose political systems we either quibble with or abhor.

National presidents frequently do not convey or possess the values which Australians share. Consistent with a singularly Australian approach, our head of state should retain the designation of Governor-General. Mr Chairman, if patriotism is indeed the last refuge of one, then these are the remarks of a scoundrel.

**Mrs ANNETTE KNIGHT**—I will very briefly state my point. If a republican form of government is established, I believe that, as a proud nation—and I am a proud Australian—‘Commonwealth of Australia’ should be retained since all the very best features of our country and its people are reflected in this description, this terminology. It reflects the unique personality of the people of this nation, the sharing of the common weal; the commitment to the common good of all who live here, and that is a privilege that is not shared by many other countries of the world where the common good of the people is not paramount in what they think and is not reflected in their constitutions or their way of doing business.

I would like to see us remain within the Commonwealth of Nations because it reflects in itself strength in unity, and I believe that that is a very important way to go. It reflects a will to cooperate with others of like mind and therefore reflects strengths overall, and it reflects the will to cooperate with others in the international forum.

I also support the retention of the name ‘Governor-General’. I cannot see that there is any use in having change for change’s sake. I think those things that are familiar to us are things that we should hang on to if they are still valuable. The position is known. The name Governor-General reflects the position

of guardian of the Constitution and of people’s rights. I agree with a wonderful young Australian who has expressed her thoughts and mine very well, Heidi Zwar. I think she says that we as Australians should not be bound to do what others have done simply because they have done it. We are Australians. The position should reflect the dignity of the office and its usefulness in the minds of Australians.

**CHAIRMAN**—Thank you very much, Mrs Knight. I call on Mr Foley, who will be followed by Sallyanne Atkinson.

**Mr FOLEY**—Mr Chairman, delegates, I wish to speak briefly against the proposition to retain the term ‘Governor-General’ in the event that Australia moves to a republic. I do so because to retain that term would, in my view, be an absurdity. It is not, as the previous speaker indicated, merely a question of change for change’s sake; it is a question of change for the better.

In the realm of symbols and images, we should do what we can to help future generations celebrate that which is valuable about the process of constitutional change and reform. It would be most unfortunate if we were to shrink from that opportunity simply because of familiarity with the past. Indeed, to do so would go close to making an Australian republic something of a laughing stock; a situation where terms more familiar to the colonial era were retained as we move into the new millennium. Accordingly, I encourage all delegates to prefer the term ‘president’. It is the one associated throughout the world with the move to a republican form of government. To retain the term ‘Governor-General’ would run the danger of making the Republic of Australia a laughing stock.

**CHAIRMAN**—Thank you, Mr Foley. Sallyanne Atkinson will be followed by Michael Lavarch. Then we might move on to item 3.

**Ms ATKINSON**—Thank you very much, Mr Chairman and delegates. I have been listening with great interest to the comments this morning and I think it fascinating that there have been comments rather than debate. The thing that has really struck me is that we have been talking, discussing and debating a

lot in the last couple of days and this seems to me to be the first instance where there seems to be a unanimity of views and commonality of opinion. I thought for a moment that Mr Foley was going to ruin those remarks for me when he starting off by saying that he was against, but it turned out that what he was against was the term 'Governor-General'. I will come to that in a minute.

I, too, support the retention of the Commonwealth both in letter and in spirit. I think very much that the word 'Commonwealth' says what it is. That has already been explained. As my friend Annette Knight from Albany has pointed out, the whole concept of 'Commonwealth' gives us a strength in unity. It gives us a feeling of family. It gives us a feeling off being part of a tribe of nations. I think that is very important. Of course, as we all know there is certainly a lot of precedent for that. Other countries have become republics and yet are still part of the Commonwealth.

The discussion about president or Governor-General I find much more difficult. I would have thought that, as we were talking about a republic, president would have been the way to go. I have been surprised—and I do not know if other delegates have—at the strength of feeling against the word 'president' among the people I have spoken to before I came here. There seems to be almost a degree of fear attached to it that it is going to make us something different. People seem to think that if we are going to have a president it will be like eastern European dictators or the President of the United States, neither of which seems to hold any favour with an awful lot of people.

Whilst having a great deal of respect for the Governor-General that we have and Governors-General that we have had in the past and not having anything strongly against that title, I think it would be nice if we could come up with a new word or a new title. I am not here to tell you what it is, because I do not know. It seems extraordinary that we cannot use the collective imagination of this nation or even of the delegates here to stretch our minds around this.

It has been said—and, of course, I feel very strongly about it—that what we are talking about here is an Australian concept. We are talking about an Australian republic for Australians and we are talking about an Australian head of state.

Another thing that struck me in this place is the fact that symbolism seems to be an undervalued concept. I think symbolism is very important. We have seen this throughout the centuries with institutions like the church, like the army. I think the symbolism of our head of state is going to be something that will focus the hearts and minds of Australians, that will affect how we think, how we feel about ourselves and about our nation. Mary Robinson is almost an alternate delegate; she has been mentioned so often. Whether she had powers or did not—and she did not in theory—she used quite a lot in practice. I think her greatest strength was that she provided a focal point, a rallying point, a symbol, for the people of Ireland.

Without wishing to sound equivocal, I have to say I do not have any particular views on president or Governor-General, but I would like to think that we could bring together our considerable intellects and imagination and perhaps come up with something else or perhaps we should then decide to leave that to the people of Australia.

**Mr LAVARCH**—Like all delegates who have spoken today, I wish to endorse that Australia should remain the Commonwealth of Australia. The term 'Commonwealth' has great resonance, not only in terms of its history with this country; it also has a very strong republican background, because after the civil war in England when Oliver Cromwell briefly became the leader of England that period of republican government was known as the Commonwealth. It is nicely a term which appeals to both sides of this debate and can be broadly endorsed.

On the issue of the title of the head of state under a republican form of government, I suppose this was an issue which was debated to some extent by the republican subcommittee of the cabinet of the last government. The reason that the last government decided to adopt the term 'president' was that it was



the term which is almost universally used to nominate the head of state of a republican form of government. The argument against using the term 'president' is the popular opinion that when someone thinks of president in Australia they think of Bill Clinton rather than Bill Deane. Given that the nature of the change, the nature of the office that I think certainly the vast majority of delegates are debating here is not an executive presidency but one which plays a role which corresponds to that played by the Governor-General, to continue the term 'Governor-General' may explain more fully the nature of the office to the Australian people.

So there are arguments on both sides. I concede that. But having said that, I do favour the term 'president'. I think over time—and in a relatively short period of time, including the debate leading up to a referendum—the nature of the office would become clear. I think people are looking for change, and this is part of that broader concept of change. To make the debate seamless into point (3), Mr Chairman, I might stretch your patience by making a few comments on particular elements there.

**CHAIRMAN**—I wanted to have a break so that I can table a few proxies. I was waiting until one order of business was finished. So you can be third speaker on point (3). I have only two others listed.

**Mr LAVARCH**—Okay. With your guidance, I would simply conclude by saying that the tenor of this morning's debate has been very constructive. I think we did go through a bit of a difficulty during the second day of this Convention. In part, that was due to unfamiliarity with the process when we got to consideration of the actual resolutions of the working group, and how the voting process was going to work. It was the first occasion that delegates had to work their way through it. It may not have run as smoothly as it could have, but we learned from that experience and moved on. The process is now, I think, one with which we all agree. Let us hope that the second week of this Convention can be held very much in the spirit of this morning's debate.

**CHAIRMAN**—I propose then to close off, but not with an absolute line, on that part of the debate relating to resolutions (1) and (2) of the Resolutions Group.

If delegates have ideas or wish to move resolutions on the title of a changed head of state, if that should take place, then it would assist voting this afternoon if they could lodge those with the secretariat—preferably by noon, but as soon as possible—because it will enable them to be put up on the screen to make consideration a little easier.

I have two proxies that have been lodged: one by Mr Michael Kilgariff from 4 p.m. this afternoon, in order to catch his flight to the Northern Territory; and another from Senator John Faulkner. Mr Kilgariff is appointing Mr Michael McCallum from 4 p.m. and Senator John Faulkner has appointed Mr Daryl Melham.

Speakers on the third part of the Resolutions Group recommendations may, if they wish, canvass other matters including either that to which Professor George Winterton referred, which is the question of unities, or other issues from the other green paper which identifies other matters for consideration in terms of transition, headed 'Transitional and other Provisions'. They may debate any of those during the debate on this next item. We move on to item (3) and begin with Frank Cassidy.

### Resolution (3)

That the Convention notes that:

- (a) there are a number of transitional and consequential amendments that would need to be made to the Constitution in the event that a republican form of government is established, including:
  - . date of commencement of new provisions;
  - . commencement in office of head of state upon oath or affirmation;
  - . form of oath or affirmation of allegiance of office;
  - . provision for continuation of prerogative powers, privileges and immunities until otherwise provided;
  - . provision for salary and pension;
  - . provision for voluntary resignation;

- (b) these matters are addressed in detail in the report of the Republican Advisory Committee;
- (c) issues should be referred to the government on matters which need to be identified and resolved before being presented at a referendum.

**Mr CASSIDY**—It has come to Constitutional Convention quiz time. Okay? I am the quizmaster; everybody here are the contestants. I am going to ask you some questions. You give me the answers. In fact, there is only one question. Because it is an uneven playing field, we might ask the Deputy Chairman not to take part. He knows all the answers as he showed last night at Government House, in fact.

This is a ‘what year is it?’ question. I will give you the clues. You let me know what year you think it is. It is a year when one Aussie Rules team won its first ever grand final; a horse, whose name I forget, won the Melbourne Cup; Australia had a federal conservative government. The Prime Minister of that federal Liberal government announced to the whole world that this country was no longer hanging on the apron strings of the United Kingdom. Foreign policy had changed. He told the world that. In fact, he told it in what Phillip Adams calls ‘the shortest speech ever given by an Australian Prime Minister.’

If I had Adriana Xenides here and one of those boards from *Wheel of Fortune*—it is such a short speech; there are only five words in it and four of them are three-letter words and one of them you cannot buy a vowel for—she could twist the letters as we went through this speech. The speech was: ‘All the way with LBJ.’ The year that I am after, that I am inviting you to offer to me, is 1966. That was the year the whole world was told that Australia no longer went all the way with the UK, that our ties to the British system, our ties to Britain, were over. We were going all the way with someone else. That was a turning point in Australia’s history.

The next thing I want to do now we have done the quiz is do some arithmetic. If you take the number 1966 away from the number 1998, you get 32. That is how many years we have been waiting to do the paperwork from the change of policy that happened in the

mid-1960s—32 years. Even Collingwood won a grand final after 32 years. Nothing is impossible if you wait that long.

If we look at the Australian Republican Movement—I am a member of that movement—our policy is to have the Australian republic in place by 1 January 2001. Another bit of arithmetic is to take 1966 away from 2001 and you get 35. Years and years ago one of the greatest figures in history changed the whole world in 33 years. If we wait until 2001, it will be 35 years before we get around to doing the paperwork to give us the republic that, as so many monarchists have said for so long, is really in place anyway. We are only talking about paperwork here.

Many people say that the republic is inevitable—another word with ‘v’ in it. In my personal opinion, the republic is overdue. I think the very least we can do, if we look at the first dot point of recommendation 3(a), which looks at the commencement date for the republic, is to make it as soon as possible consistent with proprieties—consistent with going to the people, having the referendum and so on—and that date is on or before 1 January 2001. I pick up Lois O’Donoghue’s point: we really need to have that in place by the Olympic Games. I thank Peter Collins for giving the commitment that an Australian will open the Olympic Games. I commend that recommendation to the Convention.

**Ms ZWAR**—I look forward to the discussions on day 8 of this Convention when we address the topic: if Australia is to become a republic how should the links to the Crown at state level be handled? I would like to state now that I believe that in the interests of consensus, in the interests of unity, and in the interests of the Federation the new provisions should commence only when each and every state votes at referendum in favour of the move to a republic. That point aside, I would also like to comment specifically on the date of commencement.

I fail to see the need to set a rigid timetable for change such as that suggested by the ARM. What happens if a referendum does not succeed by 1 January 2001? Does that mean that the move to a republic is somehow less symbolic? I believe that if and when Australia

changes its system of government it should be a significant and symbolic moment in its own right. I put it to the proponents of change that they should have enough faith in their proposed republic to celebrate it in its own right and not to feel the need to up the importance of the occasion by tying it in with the centenary of Federation, with the Olympic Games or with any other occasion.

**Mr LAVARCH**—I just want to make a couple of comments on the dot points in recommendation 3(a). Firstly, I make a general point that none of these particular points of themselves are terribly life threatening one way or the other in terms of decisions which this Convention has to make. Essentially, they are transitional matters. They do require decision, but they are of no massive moment as would sway delegates one way or the other in their views.

If I can just comment on a few of them, the first one—the provision for an acting head of state in certain circumstances—which most logically is the provision which currently applies when the Governor-General is unable to act should be extended. That sees the senior of the state governors acting in the role. I think that logically could be extended and would have broad support.

On the issue of the oath or affirmation which the head of state is to take, at the moment this oath is contained in the Constitution and will require amendment. I suggest to the Convention that the form of words which could be usefully looked upon is that which is now used by new Australian citizens in a citizenship ceremony. The essence of that is the commitment of citizens to Australia, its people and its values. It is quite an eloquent description of the basic values and commitments that we expect our citizens to have and for our No. 1 citizen it would seem to me to be appropriate.

I had, depending on your point of view, either the infamy or the pleasure to be the first Commonwealth minister to swear an oath which did not pledge allegiance to Her Majesty but rather to the Australian people. The actual oath for ministers is not contained in the Constitution. Coming to the ministry in unusual circumstances in April 1993 after the

rest of the ministry had been sworn in, there was a change to that oath and I took that oath. It gave me great pride to be able to swear allegiance in that way directly to the Australian people. It is that essence which I think should run through the oath of allegiance for our head of state.

None of the other matters are of immense moment. I think we can safely leave them to the Resolutions Group to come back to us with specific proposals.

**CHAIRMAN**—Before I call on Archbishop Hollingworth, I have two more proxies which I should table, both due to travel arrangements. Mary Imlach has appointed Rod Nockles for this afternoon and Sir James Killen has appointed John Paul to vote from 3.30 p.m. I table those proxies.

**The Most Reverend PETER HOLLINGWORTH**—Mr Chairman, before this Convention began I made a resolution to myself that I would not speak until I had listened carefully and exhaustively to all the debates. Indeed, I intend to keep that pledge. I trust I will have an opportunity to say something in greater detail next Tuesday.

However, there are two small matters that arise in this respect. One of them is that as someone, and I expect there are many of us here, who swore an oath of allegiance to Queen Elizabeth II, her heirs and successors—I did so before I was consecrated a bishop, before I was ordained a priest and on many other occasions—I imagine, notwithstanding what one or two other speakers have said, that something that will have to be addressed is whether or not those oaths continue to be legally binding or whether we will all have to take new oaths. I make that point in passing.

There is another matter that I rise to address. The previous speaker was, I think, referring to my boss when he referred to a 33-year change around the beginning of the first millennium. I respectfully have to disagree with him because I do not think the world has yet changed. Change is actually a long, slow and difficult process. We have been beavering away at it for 2,000 years or more and expect to continue for a good deal of time to come. The serious point I want to make is that I

discern that change is in the air; there is an impatience for change. I embrace change, not for its own sake but because it is the right thing to do and, as a Christian, I would say: because it is pleasing to God.

In this particular substantive matter about change in relation to the Crown, I think that we must proceed in an orderly way. I do not believe we should be railroaded or stampeded because it happens to be the beginning of a new millennium—incidentally, the third Christian millennium begins in 2001, as Mr Jones clarified with the Prime Minister in the parliament, and I am indebted to him for that—or that it should be in 2001 because it is the centenary of our Federation. Whatever the change is and whatever form or substance it takes does not matter. There is a sense of neatness about 2001, but the events and the endeavours of human beings are seldom as neat as that. I think we must proceed with whatever it is we have to do in our own good time when it seems good and pleasing to Almighty God and to all God's people.

**CHAIRMAN**—Thank you very much, Archbishop. I call on Mr Bradley, to be followed by Professor Peter Tannock.

**Mr BRADLEY**—Thank you, Mr Chairman. As we approach the end of the millennium and the end of the century, the process we are engaged in today and some of speakers we heard this morning recalled to my mind some other changes that I have seen in recent times. It was not so long ago that the fashion for wholesale destruction of buildings of previous eras seemed to have taken grip, and we saw around our major cities and provincial towns edifices which represented architectural values and styles of previous eras totally destroyed. Fortunately for us all, that fashion seems to have changed and the urge for the new and the glossy has been replaced by a respect for the values and styles of our heritage.

But in the first place, as that change occurred, there was an intermediate step: it was a step from wholesale destruction to a style of renovation which is best called 'facadalism' where the outer skin or veneer of the edifice was kept and the interior was totally gutted. Facadalism in architectural renovation took grip for some time after the wholesale de-

struction. Listening to the debate this morning, it seems that in constitutional terms we are a bit behind the times and are still stuck in the era of facadalism.

Speaker after speaker today said that we should retain all the names and titles in our current system so that we can pretend that we are not changing it. But behind the facade we wish to totally gut the system, alter the power balance significantly and make quite serious changes to our system of government. The attempted perpetration of this myth or fraud on the Australian people is made plain now we have come to discuss what are called 'other transitional necessary changes' because one of the key elements of these changes will be to deal with what happens to the Crown and the powers of the Crown in our system when they are replaced with presidential powers under whatever name.

One of the key changes will deal with land and other titles in Australia which are currently vested in the Crown. One of the key changes which will have to be considered will be the effect upon Crown lands in Australia of the elimination of the Crown from our system. I posit the view for the consideration of delegates and the people of Australia that one possible outcome in that scenario is that we effectively alienate from the Crown all existing Crown land holdings. Under our current laws and native title acts, that may well trigger the right to negotiate over every piece of Crown land and every Crown land interest in Australia and cause a chaos that we have not seen for some time.

My friends from the Republican Movement will say, no doubt, that they will engineer some scientific change to the Native Title Act and ensure that the good republicans on the High Court will not hold up this system or this change by enforcing the law as it appears to be. But I raise for your consideration, and for the consideration of the people of Australia, the extent of change proposed and the extent of renovation and destruction that is entailed behind the facade of retaining the names of the positions but altering the powers, the power structure and the holdings behind them.

**Professor TANNOCK**—I do not think that the delegates or the Australian people should respond positively to the beginnings of the fear campaign we just heard. I wondered how long it would take to bring native title into the republican question. I am sure all republican delegates here want to debate the constitutional issue of whether or not we have our own head of state. We think those other matters have little or no relevance and should not be allowed to cloud that very clear question which will be before the Australian people next year.

I would like to argue for the introduction of Australia's head of state, and therefore its new republican status, on the first day of the 21st century, namely, 1 January 2001. We have heard a lot this morning about the importance of symbols, and I think the date of the start of the new model of the Australian system of government is important. It has been wonderful for us to be a 20th century nation; a nation which actually began with a constitution that became operational on the first day of the 20th century. It would be entirely appropriate if our new republican constitution became operational on the first day of the 21st century. I was pleased to hear the Prime Minister commit himself to that timetable. We hope we can get him over the line on one or two others.

I acknowledge the wisdom of Archbishop Hollingworth's point. It certainly would not be appropriate to be so dominated by that start-up date that things were not done properly. The most important thing that needs to be done is to make the legal changes, to make the constitutional changes and then to go through the proper processes to find a new head of state for this country. That process should be a systematic one that conforms ultimately to the model that we recommend from this Convention. I do not think the head of state should simply be a move from the existing one into the new one.

Finally, the position of the states needs to be looked after in this question of finding an appropriate date. The states will have a great interest and great responsibilities in relation to this move. The states need to be given full opportunity to consider their positions and to

make whatever changes they think are appropriate in their own head of state arrangements in their own time. My belief is that the states should not be compelled to make any changes that they do not want to make. My hope is that those who do want to make a change in their own head of state arrangements will do so in a way that will coincide with the move at the Commonwealth level.

**Mr MYERS**—I have already enunciated this morning my particular thoughts on many of the matters we have been discussing. However, I would like to add my support to the views expressed by Heidi Zwar and Archbishop Hollingworth, in that timing is one of the issues of lesser concern in this debate because whatever we do we have to do properly. It is very easy to get something wrong and will be very hard at a later date to fix it up. From that respect, I think that time and full consideration should be given at the utmost to this issue.

Our existing Constitution has lasted us well for a very long time. That is one of the reasons it has a high degree of support in the community. If we are going to make any change, we have to ensure that we preserve that support and that we preserve the rights of the states and the rights of all Australian citizens to have full consideration in this matter.

**Brigadier GARLAND**—I am surprised that, under point 3 in the Resolutions Group recommendations, no real mention has been made of one of the most fundamental things which needs to be considered before any move can be made to a republic, and that is the position of the states. We have a Commonwealth Federation because of the states; we do not have states because of a Commonwealth Federation. Indeed, I would have thought that amongst the list of points that needed resolution before any move was taken was the position of the states and the Australia Act. I think that is something which has been very much overlooked by the Resolutions Committee.

The second matter which I would like to raise has already been raised and relates to crown land. If we move away from the current system, what happens to all of that

land which is currently called crown land and what are the transitional procedures associated with that?

The third thing which I would like to address was raised by Archbishop Hollingworth, and that relates to the oath of allegiance. I must remind everybody that there are a plethora of people in the Australian community who have taken the oath of allegiance to the head of state of Australia, the Queen—the Crown. It relates to politicians, and I must say that in some respects I find it difficult to believe that many of our politicians currently serving are indeed living up to the oath that they took in relation to loyalty to the Crown. The second lot of people are the armed forces. Then there is the police, all of the law officers in land and all of the public servants.

These sorts of things need to be addressed. They need to be addressed as part of the transitional provisions because, if they are not, there will be anarchy in the place once a decision has been made, if it is ever made, that we should become a republic.

**Mr EDWARDS**—I am one of those people who has taken an oath under three circumstances—once as a local government councillor, once as a soldier and once as a member of parliament—but let me tell you that on all of those occasions I would have much preferred to have been able to swear my allegiance to Australia and to the people. I think that, whatever oath we come up with in the future, it must reflect that.

I am very much a convert to the view that there should be one oath and that that oath should be sworn by all citizens, whether it is the new Governor-General, a minister of the Crown, a Prime Minister or someone taking out Australian citizenship. There should be one oath for all of those situations. I think the Australian Citizen Act oath might well fit that bill. The reading I have here says:

From this time forward under God, I pledge my loyalty to Australia and its people whose democratic beliefs I share, whose rights and liberties I respect and whose laws I will uphold and obey.

I have a fairly strong view that we will eventually arrive at that sort of situation.

In relation to the states, this Convention has absolutely no right, authority or mandate to address the issues of the states. That is something that the states themselves must do. While we have these issues before us, I think they are thrown in as red herrings by people who want to say that the whole thing is simply too hard and we should not endeavour to resolve the problems. I wonder where we would be today in the world if people took the same view about the millennium bug. I understand that there is going to be a bit of difficulty in solving that. But because it is a bit hard to solve do we just walk away from it and not endeavour to do it?

The other thing is that I do not think it would be wise of this Convention to get too tied up in detail. What we have to come up with are the general principles and from there people who are much more able, and in a different position than us, will be able to sit down and work that detail out. If we get too bogged down in detail, which is apparently what some people want us to do, then we will never progress.

In terms of date of commencement of new provisions, at the risk of upsetting some of my colleagues from the RSL, I originally had a view that the best day for a republic to come into being would be on Anzac Day in whichever year we moved towards a republic. I might say that I have moved away from that. There is only one national day in Australia. There is only one day where we, as a nation, stop and show respect for our past and celebrate one thing as a nation.

I would like to think that in 30, 40, and 50 years we will still be celebrating Anzac Day that way. I had the view that if we were declared a republic on 25 April we would ensure forever in the future of this nation that the spirit of Anzac Day would be celebrated. I have moved away from that view because of a lot of complicating arguments that can be thrown up and put in front of the one important principle that I firmly hold to—that is, we should have an Australian as our head of state. As Peter Tannock said, that is the core issue and that is the decision that I most hope we will reach here by the end of next week.

**Dr SHEIL**—The last speaker glossed over the difficulties there will be with the states in this move. You must remember it was the states that created the federal government. The states were sovereign, self-governing colonies and the Constitution was written with the whole idea of having an absent sovereign and a governor-general who had all the powers of the Queen. She is entrenched in a couple of states, as Lady Florence Bjelke-Petersen said, and they are going to be a tough nut to crack before you do all this. I do not think you can gloss over what this is going to do to the states.

I would also like to take on the issue of the oath because it does have a very important significance. There have been some very noted figures in Australia beavering away at getting this republic up and going. They have all taken an oath of allegiance or an affirmation to give true and loyal service to the Crown. They keep saying that they are swearing it to the Queen but really they are swearing it to Australia, our own Crown.

As I explained in my speech before, the British Crown has virtually had pups. All the constitutional monarchies that have developed from the Crown of Great Britain now have their own crowns that operate in their own countries in their own way and they use them for their own best purposes. I think Australia uses its Crown better than any other. They have really been breaking their oaths already. I wonder if they have the some elasticity of conscience for the new oath they are going to take to the republic.

Archbishop Hollingworth has said that moving as swiftly as possible, updating ourselves and becoming a republic will be pleasing in the sight of God. I think that the constitutional monarchy with a crown and even under the Queen is a lot closer to God than any republic is ever going to be. I would be very wary of changing to a republic because there could be more disrespect to God than there is under a constitutional monarchy.

**Mr SUTHERLAND**—On a point of order, I draw your attention to point (3) and the wording thereof, because I think it is critically misleading. It refers to 'a form of oath or affirmation of allegiance of office'. There is

no such thing. There is an oath or affirmation, which is loyalty to the head of state, and there is an oath or affirmation of office for those who hold senior elected or appointed positions in the Defence Force, the police, et cetera. To refer to an oath or affirmation of allegiance of office is confusing.

Throughout Australia—except in New South Wales, sadly, where there is no requirement for those elected in local government to take either—there is a requirement for an oath of office for those elected and holding senior positions. Is that correct? If so, should the wording be altered? If this was entrenched in the Constitution in some way, would it then bind all the states, in the way that New South Wales has now departed from what has been convention and practice for nearly 150 years?

**DEPUTY CHAIRMAN**—I do not have the Constitution in front of me at the moment, so I will have to seek some advice on that, but it may be necessary to change the wording. It is up to the delegates. If at any time they want to move an amendment, they can do so.

**Mr RANN**—Everyone here realises the importance of symbolism in terms of the identity of any nation, but timing is also very important in terms of the centenary of Federation and the new millennium. I certainly believe that 1 January 2001 is achievable, to take up the point made by a number of speakers. It would be a goad to action, as well as being symbolically important. Giving ourselves a target is a discipline on us all. A lot of people, whether they are monarchists or republicans or directly elected or what have you, would like to see some conclusion to this process rather than constant delays and diversions which could be divisive to the nation. So I think 1 January 2001 is the perfect time to embrace change.

In terms of some of the points made by Mr Garland about the states, I also believe that the consequential changes are achievable within those time lines in terms of the state parliaments, which I want to stress—and I pick up the point made by Delegate Edwards—have to be the masters of their own constitutional destiny in terms of the different systems within a republic that it would be necessary to embrace in a legal and constitu-

tional way. In summary, I believe that 1 January 2001 is achievable in terms of time, is symbolic and will impose upon us a discipline. It would be a goad of action to make sure that we do not drop the ball. On the issue of the oath, I simply want to make the point that I think the oath should in every possible way enshrine the sovereignty of the people of Australia.

**Ms HEWITT**—In placing these resolutions before us, the Resolutions Group has rightly pointed out that not only do we have to deal with the bigger issues relating to constitutional change, but that behind the bigger issues are matters of consequential change which also have to be addressed and are of tremendous importance. In light of that, I commend nearly all of these resolutions to you, subject to the clarifications that were dealt with before. It makes good sense that matters such as how we swear oaths, when the new head of state takes up his or her role, voluntary resignation, et cetera, be dealt with. Those issues all have to be dealt with in due course. This is very important detail.

However, one matter on which Australian people feel strongly is that we should not be rushed. If we rush towards a date—and I keep hearing the year 2001—we risk overlooking a lot of critical detail, and people want us to get this right. The year 2001 is an unrealistic time frame. It is important not to rush. This is not just a consequential and transitional issue; it is an essential issue. By all means, let us set goals and time lines, but we risk losing the support of the Australian people if the date I keep hearing, 2001, is locked in.

**Ms MACHIN**—I was interested to hear the previous speaker say that there are some big issues that we have to address and a whole heap of consequential ones. Dare I say that although some of the consequential issues might superficially seem not so big, they have the potential to generate a huge amount of debate. We had a taste of that this morning.

An earlier speaker also said, I think, that change is in the air. That change is not confined to the broad issues that we have been discussing up to this point. It is very important that we discuss all sorts of issues here. It is good to see there is a degree of

unanimity on basic things such as us remaining in Commonwealth of Nations and the name of our country staying the same because that allays some concerns in the community. If people had taken on board every allegation made in the campaign, there would be a lot of scope for ordinary Australians who have an open mind on this issue to be frightened off.

I would like to refer back to a couple of the remarks made by some speakers. I think it is ludicrous to suggest that this is a way of bringing in a whole new debate on land title. I think that it is an insult to the High Court for one of the earlier speakers to suggest that ‘our friends’—I think they said ‘our republican friends’—in the High Court will no doubt reinterpret the simple change of name from ‘Crown land’ to ‘state land’, or whatever you might like to call it, as a whole new native title debate. That insults the impartiality of those people currently sitting on the High Court.

There has to be quite a lot of change to the Constitution if we do become a republic, but much of that is machinery changes. Again, for people to go out and say, ‘There’ll be 70 or more changes for the public,’ is a bit misleading. It does not explain the nature of the changes and the fact that many of them are as plain as the nose on your face if we make the change from a constitutional monarchy to some form of republic.

There are other furrphies that I would really like to put to rest. Firstly, there is the flag, but I think that may have been raised this morning. There is no proposal that I am aware of—certainly not by the group that I am here with, the Australian Republican Movement—to change the flag. That is an entirely separate issue. I am sure—

**Senator BOSWELL**—Your boss is the leader of the Ausflag organisation.

**Ms MACHIN**—My boss is not the leader of Ausflag—that is just a nonsense. You should read your mail and you will find out who the leader of Ausflag is. It is an entirely separate debate and Australians have the right to discuss that. But that is a debate that can be held in 10 years time. It has nothing to do with this issue, in my view; nor does the issue of the anthem. I think most people would



agree we are perfectly happy with our anthem, so let us put that furphy to rest, along with the presidential palace it was suggested we would have to have because what we have at the moment simply is not good enough. I heard some people saying the palace would have to have 900 staff. I do not know why what we have at the moment is not good enough. I think the house we went to last night is absolutely beautiful. I know Sir David Smith would have enjoyed it—he was glad to be back there, no doubt.

The other furphy is Neville Wran or Malcolm Turnbull as president. Whilst both those gentlemen may be absolutely intellectually qualified for the job, I do not think either of them would particularly want it, particularly not after the bruising that they have had over the past week here.

Other people have talked about the oath. I would like to pick up on a point that was made by way of an aside. I think Brigadier Garland mentioned that politicians—who presumably have identified themselves as republicans—are not living up to their oath. I make the point they have no choice: there is no other oath that they can take at this stage. I come to the discussion about 'symbolism'. The oath falls into that category. Whilst it is not a substantial thing and perhaps does not have a huge legal bearing, it sets standards and it talks about what we expect of our politicians and the sorts of values we hold in our country. I think it is eminently reasonable that the oath that our public officials take represents and reflects those sorts of values that we hold. That may need some alteration.

Finally, I would like to pick up on a point made by Brigadier Garland, who mentioned that word 'anarchy'. I say again that it is hysterical to suggest that, because we have to make changes to our Constitution, we are not capable of doing it in a peaceful way. Of course we are. That again is an insult to the good sense of the Australian people who have taken a great interest in this debate and will continue to do so. I would think, with all due respect, that they expect a little better of delegates than hysterical claims like that.

**Ms DELAHUNTY**—Most of us came here with a great sense of possibility. We are almost at the end of the first week and it is fair to say that the tide is rolling very strongly towards a republic. In these discussions today we are looking at the consequential changes that will follow from our decision to have an Australian head of state. I concur with Wendy Machin. These are issues of symbolic importance that must be discussed but they must not get in the way of the decision about the model—what form of republic we will become. How delicious that now, on Friday of the first week of this Convention, we are discussing in detail not if but when we become a republic. My view is that the year 2001 has a lovely symmetry. It begins the new millennium but more importantly for Australians it is our 100th birthday. It is the centenary of Federation.

I am not going to die in a ditch over the name of our new head of state. Whatever he or she is called will, I am sure, reflect the culture and the character of Australia. My sense is that 'president' probably will be easy but I think we should turn our minds and our collective imagination to coming up with something with an authentic Australian ring. I certainly believe, as has been eloquently argued in the chamber today, that we are part of the Commonwealth and we will stay part of the Commonwealth; we would not have it any other way.

There is a couple of other things that have been happening at this Convention. There has been a dual process. Delegates have been working very hard to hammer out the details of the exact model. We have been doing it inside the chamber and also outside the chamber. There has been a sense of having an open mind and of listening and of trying to work towards that compromise which will be a republic that all Australians can vote for at a referendum. Compromise is in the air. We are making great progress. Let no-one say that we are bogged down or that we are not making progress. We are.

Secondly, and I am delighted by this, this Convention has engaged, in a way that nobody expected, Australians in the discussion at last about their Constitution, their form of

government. Australians of all colours and persuasions have come into this chamber to listen to us, to look to us for clear guidance about where we are going with this republic. We have received faxes and messages from janitors to general managers telling us and advising us about what a compromise might be. I hope to reply to all of you who have sent me faxes and letters. It will not be for a few days or a few weeks. I know other delegates are finding this deluge of mail very challenging and we want more. Don't we?

I know the Australian public is waiting to hear about that model. I know the Australian public has been told by some of my colleagues in the press that all the republicans are divided and that we cannot get our act together. That is not so. We are getting our act together so fast you are going to be dazzled next week.

The other feedback I am getting, and I guess I am sensitive to this because I feel it myself, is a sense of puzzlement about the demonisation or the attempt at demonisation of the ARM, and in particular our chairman, Mr Malcolm Turnbull. Given this escalating interest in the Convention, the Constitution and the republic, many Australians are interested to know what has been the genesis, what has been the story so far of the Australian push for a republic? The historians have told the story, but it is the ARM that has carried with a labour of love—and I have got to get cracking—for the last seven years to get this Convention on, to fight for this Convention when it looked a bit shaky. It is the ARM that has taken the debate out of the academy and into the airwaves.

**Mrs Annette KNIGHT**—I just want to make some brief comment regarding the matter of setting a date for the announcement of the commencement of the new detailed provisions should we elect to look to a republic. I have taken on board the comments made by the previous speaker, Mr Rann, regarding the need to get on with it, and it is a view with which I have some sympathy. However, the critical issue to me is the opportunity to educate and give a proper understanding to the people of Australia about the implications inherent in the change to a republic. Time

must allow this before the referendum and any announcement of the change of status, should it occur. The timing of such announcements I think should not hinge on whether or not we have a particular sporting event or festival that seems to be a good time to make such an announcement. It is too important a decision to tie into an event such as that.

That is not to say that it would not be a good time to make such an announcement, but only if proper consideration has been able to be given to the issues and the people of Australia have been educated and given information that enables them to make proper decisions. We who have attended this forum have become more than aware of the complexity of the proposition to change to a republic. Even minimalist views, the minimalist model and its achievement have implications to the people of Australia that they must be given time to properly consider on an informed basis. The date of the commencement of the new provisions should only be endorsed after the people of Australia know and clearly understand what is contained in them.

**DEPUTY CHAIRMAN**—I just remark that it is Bruce Ruxton's birthday. Happy birthday, Bruce.

*Whereupon delegates sang Happy Birthday to Mr Ruxton.*

**Mr RUXTON**—I tell you what, I am still young enough, too. I just want to say something at the outset about Mary Delahunty and clear guidance. I go along with that, but we have not been all united here. I think the constitutional monarchists have been united, but that mob over there have been missing all morning. I am just wondering what they are brooding about. You wait, Mary; you have trouble. If you can get on top of Professor Patrick O'Brien, you are going to be good. I know that family. Graham Edwards mentioned that we do not want to get into detail. But there are some important details that should be discussed. In relation to the date of commencement of these new provisions, I wish the vote was taken tomorrow. That is the way I see it. I think it would be a resounding defeat for those people on the right. There is also the commencement of office et cetera.

As for the oath of allegiance, I hope they do not come up with some flowery statement like we have seen in the past. As for salary and voluntary resignations, that is something different. But we have not discussed a vice-president or a Lieutenant Governor-General. This is very important. I think we have got to do that. That vice-president cum Lieutenant Governor-General has not been mentioned really at all in this debate and I think it should right at the outset of these provisions. I know it is there.

**DEPUTY CHAIRMAN**—It is dot point (4).

**Mr RUXTON**—It is dot point (4), but we should expand on that and how we are going to do it. Is he or she going to be elected at the same time as the other person? However, there are some other points that I think should be in these provisions. I think the Australian flag as it is now should be put into the Constitution so only the people of Australia can change it. That is the way I see it.

**Senator BOSWELL**—Why don't you foreshadow it?

**Mr RUXTON**—I will foreshadow it and it will put a stop to Ausflag and Mr Scruby trying to ram those little pieces of toffee paper down our necks, as is going on in Australia at present. In respect of age, is there going to be a limit on the age of the president? In most cases in other countries, there is an age limit. I believe 35 is a common denominator.

**Senator FAULKNER**—Do you mean an upper limit or a lower limit, Bruce? There will be a lower limit, won't there?

**Mr RUXTON**—I would think there has to be an age limit—whether it be 30, 35 or whatever—before one can become eligible for this new office. In respect of the states, we have not mentioned the states at all in detail. I do believe that we have to come to grips with the states of Australia.

I would like to ask one thing: who is eligible to become this new President/Governor-General? In a lot of the briefs that have been put forward, it has been said that it could be anyone who is on the electoral roll, but that will not do me. There are people

in this country with dual nationality and I do not want a head of state of this country who owes half his allegiance to another country. I want to make that point right out. That might be their whole argument.

**Senator FAULKNER**—They mean the Queen.

**Mr RUXTON**—But you have not mentioned it at all, I am sorry.

**Senator FAULKNER**—It is an own goal, Bruce. That is an own goal, mate.

**DEPUTY CHAIRMAN**—Order!

**Mr RUXTON**—It is my birthday, damn it! In summing up, there should be no dual nationality for president. We should discuss an age limit. I believe the Australian flag should be written into the Constitution. We have got to go into more detail about how we elect the vice-president or the Lieutenant Governor-General, to use another name. I believe we have to have more consideration about the states. Is federalism going to exist after all of this or is centralism on the way?

**Ms MOIRA O'BRIEN**—As we have just seen, compromise is certainly alive here this week and I believe that is exactly what we are here to discuss and to work with. What I would like to respond to at the moment is an allegation or assumption, if you like, about the Crown and land tenure. I believe it is just a fear campaign, but it is extremely serious that we get it out in the open now and dispel those fears.

My family's cattle property is a Crown lease in perpetuity. If it were an issue, I would most definitely be extremely concerned. It was something that was brought up before I attended this Convention, so I sought to make sure that this was not really an issue—that it was, as I would have thought, just a pure name that had changed and nothing had happened. So I would like at some stage for an authority on land tenure or things like that to clearly dismiss those fears before any more wild assumptions are made and it gets out of hand.

I would like to strongly support Heidi Zwar and a few others on their sentiments regarding the time frame. This is far too important to

rush anything through. You may say that it has been in progress for over 10 years and so it has not been rushed, and I think it would be wonderful if we were a republic in time for the year 2001 or even the Olympics, but it should not be necessarily so.

I would also like to put my support forward for the states. There has to be unanimous support from a majority in all the states for anything to go through.

As for the term for the head of state, I guess it comes back to a little bit of fear of the term 'president'. I would like to think that we could come up with an Australian name and move away from 'president'. Thank you.

**Senator BOSWELL**—Mr Chairman, firstly, I would like to address some of the remarks of Mary Delahunty who seems to be looking at this Convention through some very rose-coloured glasses. She believes that we are all rolling over into a big soft jelly and that we are going to support some sort of republic. Ms Delahunty, this Convention is trying to come up with a conclusion that it can put to the people, but do not interpret that for one moment as any weakening on the side of the people who want to retain the status quo. We seeking to come to some decision that we can put to the people. But I can assure you that we will be out there, standing toe to toe with you people on the other side, presenting our case and defending the present Constitution.

I also want to address some remarks of my colleague the ex-National Party member, Ms Wendy Machin, who said, 'Don't worry about the flag; that is just a red herring—it is people running interference and the flag is safe.' I wish I could share her confidence when she sits alongside Mrs Holmes a Court—who I believe is going to open an Ausflag convention in the near future; I think she has opened one in Western Australia in the past—and Malcolm Turnbull, who is as dedicated to changing the flag as he is to changing the Constitution. Wendy, I do not know whether you find it difficult to sit over there or if you are having a little touch of the jitters having found yourself on the wrong side, but let me assure you that, if you sit with those people

there, you will be tarnished with the brush of changing the flag.

But I rise today to address the resolutions concerning transitional and other matters. I think what we have to really examine—and this is what the people of Australia want to know before they make a decision as to whether they are going to make a change—what the cost is going to be to the Australian community. I have asked some people about this, and I have been told that the cost is indeterminable, that you cannot put a financial cost on it. It is just a ballpark figure; it is just too big a figure to go in.

But we have to consider that there will be referendums, certainly in Western Australia if we listen to our friend the Deputy Premier, Hendy Cowan. I understand there may have to be referendums in Queensland. There may have to be referendums in other states. We may be faced with a plebiscite in Queensland, Western Australia and other states before we go to a referendum. There are more costs involved. I am told by learned legal gentlemen that every act will have to be reinterpreted to see whether any unintended consequences will flow.

Before we make a decision, one of the things that this conference must address and one of the things that the people would require be known is how much it will cost this nation to make the change. I am not going to foreshadow what the conference will finally come up with, but it looks as though we are going down the track of the McGarvie model being put to the people because that offers absolute minimalist change. If we are going to have minimal change and we are going to strike out our Governor-General and put in a wise council of three men, which I see has some problems, the people will want to get value for their money. If it is going to be only that and it is going to cost half a billion dollars, one billion dollars or two billion dollars, then let the people know. This has to be part of the information that they will have to have before they can determine how they will vote in a referendum.

Mr Deputy Chairman, I am going to foreshadow an amendment that will seek that information from the Treasurer. I have had

experience with the Treasurer, Mr Costello, over a number of years. I find him a man that is not very—

**Senator FAULKNER**—Good.

**Senator BOSWELL**—He is particularly good at his job but he does not like spending money unnecessarily. He tries to get the deficit down at all stages. He likes to go out and tell the people that the deficit is down and they have lowered interest rates as a result of the deficit coming down. You could say he is Scottish in his approach to money. I foreshadow that at the next possible opportunity I will seek a requirement of the Treasurer to give information that would help this Convention make a decision on the cost of moving from one constitution to another constitution. I hope that I will have the support of the Convention.

**Mr VIZARD**—I had not intended to speak today. I was up late, till five in the morning, analysing the Indian Constitution in some detail. But I am rising to respond very briefly to something that Mr Waddy put earlier in the day. Before I do that I just want to say that I concur entirely with what Bruce Ruxton put. I concur entirely with Bruce Ruxton's proposition that Australians do not want to share their head of state with the head of state of another country. I think most republicans here—in fact, I think most people here—think that we ought to be part of the Commonwealth of Nations. I think we should be called the 'Commonwealth of Australia', and I think most people are expressing the sentiment that our head of state should be called the Governor-General. I think they believe that for the reasons relating to the esteem and the reputation and the significance that attaches to that position by virtue of the esteemed reputation that the people fulfilling that role have brought to it over the years.

I think that, conversely, the term 'President' is confusing. To the electorate it will mean all sorts of things. The connotation will be that of an American president with a completely different set of executive powers. The connotation will be that of a president of the US model—a 'zippergate' president, a 'unabomber' president.

Republicans are not about changing the powers of a president. They are not about changing the powers of a head of state. They are not about changing the structures. In fact, we do not want to change those powers, as I said the other day, one scintilla—not one scintilla more, not one scintilla less.

That brings me to Lloyd Waddy's point: if you do not want to change anything, if you want to leave precisely the same authority, why are you doing this? All you are left with are symbols. In fact, we have a symbol. The Queen does not get in the road. She is not harming anyone, but that is precisely the point. She does not harm anyone. She is distant. She is unobtrusive. She is powerless. Symbols are supposed to be meaningful. Symbols are supposed to be powerful. Symbols are supposed to be laden with meaning and are supposed to rise from the body of common experience.

Our forefathers thought that when they founded this Federation. They looked for a symbol that would bind together a disparate set of colonies, a disparate set of postal systems, a disparate set of rail gauges, a disparate set of locations. The only thing they could find was a common symbol that at that time was meaningful and relevant. She was Queen of an Anglo-Saxon, Anglo-Celtic population and she was meaningful to the population and bound those colonies together, our people together, at that time.

Symbols are not supposed to be left on a shelf. They are not supposed to gather dust. Ask people about the power of a cross or the power of a wedding ring, or ask someone who has lost a father or mother about the power of a funeral or a soldier about the power of the Tomb of the Unknown Soldier. It is my proposition that in fact we are honouring the intentions of our founding fathers by re-empowering our symbols by making them relevant for all Australians. It is not enough to say we are left with just symbols. That is precisely the point. That is exactly the point. We are not about destroying anything. We are about re-empowering, about reinvigorating, about giving renewed meaning to the symbols that are so critical to our national identity.

**Professor BLAINEY**—Mr Deputy Chairman, could I build on, I hope constructively, the exchange that took place between Mr Ruxton—on his birthday—and the people on the republican front bench? The people on the republican front bench took up Mr Ruxton's point that there should be undivided loyalty, undivided allegiance in a head of state or symbolic head. This has been one of the main arguments—and for many people the dominant argument—used against the Queen, that she does not live here and that her first loyalty is or seems to be to another country. Since this argument has been mainstream in the republican movement, I really think they should address it and carry it, for their purposes, to its logical conclusion.

I agree that it is appropriate that people should argue that the head of state or the Governor-General or the president should be one of us. Therefore, there should be devised distinctively Australian qualifications for the proposed president and there should be devised a distinctive oath of allegiance to match. So far, this very difficult question—and it is difficult politically—has not been tackled.

Many will disagree strongly but my definition of multiculturalism is a variety of cultures but with one loyalty in the last resort. There is no future for a nation which carries multiculturalism too far. Sensible, moderate multiculturalism works only if it commands the complete loyalty of the country, commands the complete loyalty of those in high office and demands their public renouncing of all other allegiances.

If there is to be a president of Australia or a Governor-General, an oath—far above the oath demanded of citizens—of undivided, undisputed loyalty is essential. A multicultural nation, by its very nature, needs strong strands of national loyalty to compensate for the extra liberties it grants to people of different opinions and different cultures. It is absolutely vital that the symbolic head of a multicultural nation should provide this undisputed loyalty. I move:

That those members of this Convention who see themselves in full or in part as having ethnic allegiances, or an ethnic point of view form a

working party, and tackle this difficult question as the first stage for wider discussion.

I would like to suggest that Stella Axarlis be the chairman of that working group and that all those who, by that definition, are eligible to join should go into that working party and look at this very difficult problem—a problem the republican movement has so far put aside but which, in terms of their own logic, they must tackle.

**DEPUTY CHAIRMAN**—We are about to adjourn.

**Ms AXARLIS**—I would like to suggest that Sir David Smith join the group as vice-chair because I think this is an important issue.

**DEPUTY CHAIRMAN**—Do not jump the gun. First of all, let us see if we can deal with this very expeditiously. It has been moved; is there a seconder?

**The Most Reverend PETER HOLLINGWORTH**—I second the motion.

**DEPUTY CHAIRMAN**—I think we will have to put it without debate. The proposition is that an ethic committee or subcommittee be set up and that Stella Axarlis chair it.

**Sir DAVID SMITH**—I am grateful to Stella for her courtesy, but I am ineligible. My parents came to this country from Poland, but I was born here and thus have no dual allegiance at all.

**Ms AXARLIS**—I am quite happy to do that. I have always had total loyalty to this nation—

**DEPUTY CHAIRMAN**—We have a procedural problem. I was making a point that, in a sense, we are all ethnic. Why do we never hear from the Welsh, Gareth?

**Senator FAULKNER**—Mr Deputy Chairman, I raise a point of order. Delegates may feel that this is a very worthy proposition and that it ought to be accepted by the Convention. Is it competent for this matter to be put at this time, given that we have very strict rules of debate?

**DEPUTY CHAIRMAN**—We could move for an adjournment.

**Senator FAULKNER**—No, I just think it is a matter for you to rule on. I think it is just

a technical question. Perhaps you could do it by leave, as long as it is generally agreed. But there is a technical question, I think you would agree.

**DEPUTY CHAIRMAN**—If there is general agreement, it could be done. If it was seen as a matter of some contention, then you would have to adjourn it. Could anyone indicate an objection if I put it to the vote?

**Mr DJERRKURA**—Mr Deputy Chairman, I raise a point of order. Despite your definition that we are all of ethnic background, we are not.

**DEPUTY CHAIRMAN**—I took it that that would not include Aboriginals and Torres Strait Islanders, the original inhabitants.

**Professor BLAINEY**—I suggested this formula simply as a constructive gesture so that those who might feel that the motion was hostile to them in fact could feel that the motion was very much in sympathy with their position.

**DEPUTY CHAIRMAN**—There needs to be a bit more examination of it. Perhaps we should adjourn and try to deal with it as soon as we can after lunch. I remind you that we will resume at 2 o'clock and not at 2.15 p.m. We will then have the working group reports. The reports on the preamble will be put in the pigeon holes during lunch. You will have a chance to look at them. We will postpone voting on the working group reports until Monday. The voting which will take place between 3.45 p.m. and 4.45 p.m. will be on the matters discussed this morning. If there is any additional time, then we will either have further speakers from the floor on those additional matters or deal with Professor Blainey's matter. Then if there are any gaps we might bring a couple of people on in this general debate.

**Proceedings suspended from 1.04 p.m. to 2.00 p.m.**

**CHAIRMAN**—A proposal was raised by Professor Blainey before lunch that we set up a working group. Any 10 delegates can form a working group and it would be quite appropriate if that were done. I understand processes are under way to do that. It is not a matter of passing a resolution; it is a matter of

getting 10 people together. If we do as I suggested before and deal with these working groups on Monday, we will see whether or not that working party has deliberated and is able to get its affairs ready by then. If not, we might have to deal with it on Tuesday. But I thought the idea was a very good one. We now have a series of working group reports.

**Ms RAYNER**—May I ask for information, Mr Chairman?

**CHAIRMAN**—Yes, certainly, Ms Rayner.

**Ms RAYNER**—I simply could not hear you. Are you saying that there will be no presentation of the working group reports?

**CHAIRMAN**—No, I am saying that before the adjournment there was a proposal that another working party be set up. That working party was to involve discussion on the implications for people taking the oath who also enjoyed another country's citizenship. It was proposed that such a working group be constituted by a resolution of the Convention. I was merely pointing out that any working group can be constituted if 10 delegates of like mind so decide to constitute it. That, I understand, is in process. Once it has been formed, those other delegates who wish to join that working party can do so. It has nothing to do with today's reports; it is all to do with another working party.

**Ms RAYNER**—I have one follow-up question. I remember that, on the first day of this conference when a very worthy resolution was rejected, a further motion was passed that this Convention would set up a working group to consider an ongoing process of constitutional change. I, like Topsy, imagined it was just going to happen. Is what you are telling me that somebody must actually apply to develop that group in spite of the fact that a resolution was passed by this Convention that such a working group be established?

**CHAIRMAN**—My understanding is that we have an item on our business paper—and I have not got the business paper in front of me that relates to that matter—and that we are going to deal with that at some stage. But the point I was making is that any 10 delegates can constitute a working party. My understanding is that we did put something down

on the Notice Paper about it, but I cannot remember where it is. I am sorry, I do not have one with me at the moment. I will get back to you on that and we will work out where we are. I think that would be the best way.

We are now going to receive the reports from the working groups. I know a number of you have been in working groups and therefore were not at the proceedings this morning, so perhaps I should explain to you where we are. We have dealt with the resolutions received from the Resolutions Group which relate to consequential changes to the Constitution. Those consequential changes were dealt with in accordance with each of the proposals there. There was a further proposition relating to this question of oaths, which I have just mentioned. It gets back to sections 44 and 45 of the Constitution and whether or not the provisions that now restrict parliamentarians should apply to a head of state.

We have decided that we will take the reports from the working groups now. I propose to take them one after the other. Having received each of those working group reports, I thought that we might defer further debate and voting on them subject to some preliminary dialogue following the report of each of the working groups. That would enable us to know where we are. We can come back and debate them on Monday and then vote on them on Monday afternoon.

Initially this afternoon we will be dealing with the reports of the working groups. Subject to how long that takes, I propose that we see whether there are any other speakers from the floor on consequential changes. If there are no more speakers on consequential changes—that is, the resolutions we were dealing with this morning—we might move to general addresses until such time as we move to the voting on the consequential changes at a quarter to four this afternoon. I see from my briefing paper that we have subgroup (i) of a working group on preamble and transitional covering clauses.

#### **REPORT OF SUBGROUP (i)**

##### **Preamble and transitional covering clauses.**

**Dr COCCHIARO**—I present the report of subgroup (i), ‘Preamble and transitional covering clauses’. The preamble, of course, is seen as particularly important as it sets the framework. It says, ‘This is Australia and this is what we are all about.’ This working group had a large number of people in it. It consisted of lay persons like myself, several eminent constitutional lawyers and one or two politicians. It was felt that it was not appropriate for the working group, or even for this Convention, to actually spell out each individual word of the preamble, but that we should set out a clear view of the content of the preamble.

We did not go into a discussion of transitional covering clauses for the reason that this is a technical legal issue and it appeared the Resolutions Group had already looked at these in their recommendation this morning in item 3. Consideration was given to the adequacy of the current preamble. It was agreed that it was inadequate and needed to be changed for obvious reasons—that it needs to recognise formation of the republic, that it does not recognise former indigenous occupation and that it should recognise historical developments since the last changes. Discussion then ensured whether changes should be made to the current preamble or whether it should be left as it is and another updated preamble be inserted elsewhere in the Constitution.

It was decided that the current preamble should be amended. It was also clear from the outset that there was a very strong minority dissent against including civic values such as rule of law, equality, culture diversity and respect for the land and environment in the new preamble. The clear basis for this dissent was that the High Court may interpret the values in the Constitution in some very unexpected ways. One example given was that, if we included equality as a value, this may negate affirmative action in advancing, for example, equal opportunity, women’s rights and indigenous rights.

I must make clear that the minority view was not as a result of disagreement with the values but that, by including the values, courts, judges and constitutional lawyers



could be spending their time arguing about the definition and scope of each value. Some lay persons were impressed and, at the same time, concerned that something seen as fundamental values could be used by the High Court in unexpected ways. Having heard this, the majority of delegates, including other constitutional lawyers, also felt very strongly that basic values should be included in a constitution. Several other constitutions, for example, the South African constitution, were cited as examples.

You will find, therefore, that resolutions from our group are divided into three sections. There was unanimous agreement on the first points in the report of subgroup (i), namely:

1. build upon the existing preamble
2. recognise prior occupancy/custodianship by Australia's indigenous peoples
3. acknowledge the positive contribution of the crown
4. acknowledge the establishment of an Australian republic
5. conclude with an enactment clause recognising the sovereignty of the Australian people.

There was no disagreement with these clauses, to my understanding. These points are fairly well explanatory and I will not go into them. The second section of resolutions was one favoured by a clear majority of the committee who strongly believed that basic civic values must be included. Some of the core values that were mentioned were representative parliamentary democracy, rule of law, equality, cultural diversity and respect for the land and environment.

The arguments for including what were seen as minimum core values were, first, that some people found it hard to see how there could be any legal problem with inserting well-founded principles and values in the preamble. The second argument was that these values are based on well-recognised principles in law and by international conventions. Also in favour was that other constitutions recognise these core values. It was also felt that including some core values would be highly desirable for young people and others who did not normally read the Constitution, as it would make it more meaningful to them.

Further, there needs to be a statement of modern Australian values to meet popular expectations. The younger delegates also stated that young people would be interested to see concepts of environmental protection included.

You should all have a copy of page 1 of the report of subgroup (i), which is at the back of the report. Immediately behind that you should have a copy of a preamble prepared by Professor Winterton. The majority felt that this was an achievable preamble that includes the core values I have just mentioned. The majority group has also added the word 'diverse'. Where it says 'the people of Australia', we added 'the diverse people of Australia have decided to constitute the Commonwealth of Australia' et cetera.

I believe that the majority view was that it still needs to include environmental values in some way. I will read it to further outline it:

Whereas the original, indigenous Australians held in trust this continent of which all Australians are now trustees:

And whereas the people of New South Wales, Victoria, South Australia, Queensland, Tasmania, and Western Australia—

you will notice that there has been a change there—

humbly relying on the blessing of Almighty God, agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas that Federal Commonwealth, the Commonwealth of Australia, evolved into an independent nation under the Crown of Australia:

And whereas the diverse people of Australia have decided to constitute the Commonwealth of Australia as an independent federal republic founded upon democratic government, the rule of law and the equality of all citizens before the law, and dedicated to the principle of equal worth and dignity of every human being:

We, the people of Australia, do hereby enact and give to ourselves this Constitution.

As I have mentioned before, we also felt that perhaps environmental values should be included in some way.

The third section of our report, to which I refer you, in the group of resolutions was the minority view. There was a strongly held

minority view that there should be no mention of civic values in the preamble, as I have mentioned before. I will repeat the arguments. The High Court will employ the values named in the Constitution and will or may interpret these values in unexpected ways. We would pick up all the problems of interpreting abstract concepts, including some simple words such as 'democracy'.

Personally, I did not see how that could be a problem. However, it was pointed out to me that Plato, regarded as the father of democracy, was in a democratic society where the majority were slaves to the elite or that even our forefathers considered democracy in a society in which the indigenous peoples were invisible and women were unable to vote. In other words, the courts and lawyers would have to be employed to interpret the meaning of these words.

The other argument in favour of the minority view that there should be no mention of civic values in the preamble is that the preamble should be simple and state facts, such as the recognition of indigenous occupation and statement of intention to be a republic. A statement of general values may be misinterpreted and misused by those opposing the referendum. That was an interesting point.

The strongest arguments for delegates to consider for taking this minimalist approach to change the preamble is that it is possible that politically motivated misinterpretation of what are—I am sure, to every Australian—good and proper core values may occur. If I could make some general comments in closing and also point out some of the other views that were presented in the working group.

One view held by some members of the working group was that we include in the preamble a perhaps even longer list of values and then avoid the legal ramifications by including a clause in chapter 3 of the Constitution excluding the courts from considering these values in legal interpretation. The argument put against this course was that it made a mockery of including the values in the preamble in the first place or that the High Court may disregard the exclusion and accept the values.

Another view put was that it may be possible in the referendum to ask two questions—one would be yes or no to a republic; the other yes or no to the adoption of a set of values—and in this way cause less confusion and not impact on the result of the republic question with the values question. Another view put was that the Convention should propose to the government that the following be incorporated into a preamble as much as possible: a statement of history, a statement of present reality and situation, and a reflection of values and future aspirations. But it should include the very important rider that the Convention would note that the legal consequences would have to be considered by the government in the final draft.

In conclusion, the group looked briefly at other preambles presented, including ones from Ron Castan QC, ATSIC and other ideas for preambles. But because of strong concern for legal implications and all the time spent on that, there was no in-depth discussion.

**CHAIRMAN**—Thank you very much. Before we move on to the report of subgroup 2, is there any brief comment anybody feels they must make on that or will we leave it to the debate on Monday?

**Mr COWAN**—One thing that seems to have been omitted which did have general consensus—and it may very well be covered by the fact that the existing preamble was used—was the need for the retention of the federation being the genesis of the Commonwealth of Australia, which is already in the preamble. I thought it would have been appropriate for that particular point to have been reinforced, that there was never an intention to move away from the federation principles.

**Dr COCCHIARO**—That is perfectly correct, Mr Chairman. I apologise for not including that. It is in the preamble suggested. In the one hour that I had to prepare the report, I forgot to put that one in. But that was definitely generally agreed.

**CHAIRMAN**—Any further comment?

**Mr FOLEY**—Let me commend the working group for their efforts. Could I just through you, Mr Chairman, seek a little

further explanation from the convener. With respect to the reference in the preamble to 'whereas the original, indigenous Australians held in trust this continent of which all Australians are now trustees,' could the convener enlarge a little on the use of the term 'trust'? It does appear to be a very positive acknowledgment of the pre-existing state of the law and of the relationship of Aboriginal and Islander people to land and sea. I wonder if the convener could just enlighten us a little of the context in which that term is used.

**Dr COCCHIARO**—Yes, I can. This was discussed but I believe the second part working group is talking specifically on the question of the indigenous peoples. Because we spent so much time talking about the possible legal problems, we accepted Professor Winterton's inclusion of that in there because we knew that this question would be further discussed.

**Mr KILGARIFF**—At the risk of being labelled parochial, I think it is about time for the people of the Northern Territory to be recognised as people of Australia too. I do not see any reason why the Northern Territory could not be included in the preamble, even though we are not currently a state. Statehood is an issue that we are currently pushing for and hopefully we will be achieving it around about the same time as we get a republic.

**CHAIRMAN**—Can I suggest that that be treated as an amendment that you might like to bring up on Monday. I think Professor Winterton wanted to add something. I am really only allowing brief dialogue. We will have a debate and amendments on Monday.

**Professor WINTERTON**—Perhaps I can say two things. First of all, with regard to the territories, they were not added to the initial preamble because it was a statement of historical fact and the people of the territories did not approve the original Constitution. So to add them now would be an incorrect statement. In response to the earlier point, the word 'trust' was deliberately used for two reasons. One is to indicate that the relation of the Aborigines to the continent prior to European settlement was to be analogous to ours. That is why the same word was used. I

do not like the word 'nationhood' and so on. It appears to me to have connotations that may be true or untrue. I do not think erroneous statements should appear in the preamble.

It was also hoped there to introduce the environmental concept. Personally, to bring the environmental concept in in that way and to do the indigenous one at the same time saves some controversy. People might resist having an environmental statement on its own. There may be debate about it. This gives recognition to environmental values with the indigenous recognition at the same time.

**Ms SCOTT**—As a member of that group, I want to make the point that the inclusion of this preamble was not meant to be one that came as a draft from us. It was given as one that may be an example. I would not want us to start talking about the words that are in this preamble in any detail at the moment because it was just given as one possible example of a preamble that might work.

**Dr COCCHIARO**—I would like to add and point out to delegates again that in the report we have stated that the committee considered the attached draft preamble as an example of the type of preamble that could embody its proposals. Also, the committee agreed specifically that we felt it was not appropriate for the working group or for this Convention to spell out each individual word of the preamble but that we should set out clear views of the contents. We believe that if we go into each individual word we will be here until kingdom come.

**Mr BRUMBY**—I just want to back up that point. We did not adopt any constitutional preamble or any firm set of words. What we did agree though as a committee was the things which Tony has run through—the need to build on the existing preamble, some of the recognition that needed to be there and, ideally, we would like to see some basic values incorporated, which he mentioned, such as representative parliamentary democracy, the rule of law, equality, diversity and something on the environment. Our view was that we would like to see those but we have not agreed on a final form of words. There was the caveat that Professor Craven had

raised that this could lead to some interpretation by the High Court, so we left it as broad as that. It would be a matter for the resolutions committee to come up with a final and tighter set of words.

**Sir DAVID SMITH**—I am sorry that my friend Professor Winterton dismissed Mr Kilgariff's reference to the territories on the basis that, as the territories were not mentioned in the original preamble, they do not need to get a mention here. For heaven's sake, we are dealing with things to be added to the preamble. I would have thought that the citizens who live in the territories could be added.

**Ms HOLMES a COURT**—Mr Chairman, I particularly want to ask Tony this question as we heard this morning from Stella that about 30 per cent of our population are not Anglo-Saxon. As a Christian who cannot take the step of believing in God and therefore is not allowed to be a Christian, I do not have difficulty with the words 'on the blessing of Almighty God'. But I wonder if your group, as you have put up a draft preamble, discussed how Buddhists, Muslims, Aboriginal people and so on feel about having that. I do not want to take that out, but is it possible that some extra phrase could go in which is more inclusive?

**Dr COCCHIARO**—I think that is a very valid point. We did not discuss it because there are so many issues, as you have all worked out, that the preamble includes and involves. I think that is a very valid point that I would support.

**Mr CASTAN**—I have just one point of clarification. I think Dr Cocchiaro said that the committee was of the view that neither the committee nor this Convention should settle on a form of words. I do not know that we came to that view. It was better expressed by John Brumby, I think, that it was contemplated that this Convention would in due course come to a form of words. It was thought that this morning we could not do that. We should not treat the task as something that has gone away; rather, if any group in Australia is to undertake it, it should be done by this Convention here assembled in the next week.

**Ms DELAHUNTY**—I want to take up the fact that we did not offer a draft preamble. We discussed the difficulty of the words—and we have not got time at this Convention, of course, to analyse every word; we would descend into semantics—but what Professor Winterton's draft does offer us is a model for the type of preamble that we might end up with as it builds on the original preamble. It tells a story of Australia. That is why the putative state of the Northern Territory is not there but could be at some stage. It tells of the evolution of Australia. We were attracted to the notion of including some unifying values because we felt strongly that the Australian people felt this was the time to build those sorts of values and aspirations that we share into the Constitution, provided we can satisfy the legal difficulties.

**CHAIRMAN**—Do you want to respond to that?

**Dr COCCHIARO**—Yes. I think that is right. It was my understanding that the committee certainly felt we could not spell out all the words of the preamble. We did not discuss it in detail, and it is obviously open to this forum if they want to change their minds to do that. But again I would stress that, as you have seen, it is going to be extremely difficult to come to a precise set of words. If we outline specific general principles that must be included, I think that will also work.

**Professor CRAVEN**—I was part of that allegedly strong but ultimately defeated minority that thought that an extensively valued preamble would be a disaster. I feel that I should say that it is regrettable that there has not come before this Convention, by way of resolution from a working group, a principle or a proposal that represents an absolutely minimal approach to the preamble. I think that such a preamble would indeed acknowledge the position of indigenous people but would go very little further, and in particular would contain absolutely no abstract statements of value which, as my friend has very properly and accurately pointed out as part of the proceedings, have the potential to be extraordinarily dangerous. I will take such steps as I can to move, either by way of a substantive motion or an amendment at

some point, a proposal which will contain such a minimal approach to the preamble.

**CHAIRMAN**—That will be possible when we consider this in debate on Monday, and you can lodge it as an amendment.

**Ms SCHUBERT**—It is daggy. Whilst I appreciate what Working Group I has sought to do in blending the old and the new, any preamble which retains the word 'whereas' instantly alienates a younger generation of Australians. This is an opportunity to put our preamble and our Constitution into the type of plain English that is accessible to all Australians, and which does not have the frills and bells and whistles which clearly identify it as a product of a past era, rather than one which provides for a future framework for our nation.

**CHAIRMAN**—I think arguments like that will take in the debate on Monday. I propose to move on to the next sub-group. Before I do so, because Moira Rayner is there, can I explain. You asked me a question before about the working group on the processes for ongoing debate on constitutional reform. I note that on day 7 in session two, the issue has been listed. Working groups are to meet in the afternoon of day 6, that is, on Monday, to consider that topic. The lists for working groups are already open at the secretariat. If you or any other delegate wishes to put your name on working groups for that purpose, you may do so. The working groups then will deliberate and we will receive a report in session two on Tuesday, 10 February. Thank you, Dr Cocchiaro. I call upon Archbishop Peter Hollingworth to present the report of subgroup (ii).

#### **REPORT OF SUBGROUP (ii)**

**It is recommended to the Convention that the present formula, "humbly relying on the blessing of Almighty God", be retained in any subsequent amendments to the Preamble.**

**This action will keep our Constitution clearly in line with nearly all other constitutions of nations in this region and beyond where reference is made to the Divinity as the source of all power and be a unifying**

**statement for people of all religious faiths throughout Australia.**

**The Most Reverend PETER HOLLINGWORTH**—Why is it necessary even to bring such a fundamental matter before this Convention? It is necessary for four reasons. We cannot assume that everybody accepts the proposition and we cannot assume that the reasons they give are sound. First of all, the Constitutional Centenary Foundation, of which I am a member, has moved to delete the reference. Secondly, I understand that a convention held here immediately prior to this Convention discussed the matter but did not vote on it due to their consensus style of decision making. Nonetheless, there was, I am informed, strong support in some quarters that the reference to God should be removed.

The third reason is that there are other draft preambles, one of which we shall consider soon. Proposals have in fact deleted reference to God. The fourth reason, our group noted, is that if a republic comes into being, the formula will have to change, and that provides the opportunity for various people to move on removing some of the linchpins that were the basis of Federation. This one, we argue, should stay.

What lies behind the move to delete the God reference? Why do people want it out? We heard several reasons. One of them is that it is a problem because Australia is a pluralist multicultural society and therefore the reference to God is offensive. A second reason is that the number of professing Christians in the latest census is now down to 70 per cent, though, of course, if you take into account other believers in God, that percentage is considerably higher. A third reason is that a small minority of non-believers believe—with some good reason, I concede, from past experience—that religion is a divisive force and they would want to remove the reference in the preamble and make Australia a strictly secular republic without any reference to the Divinity.

I think the point that needs to be made in response to this is that, yes, it is true that we can rejoice and celebrate the fact that we are a multicultural and religiously diverse society. I was proud to be a member, participant and

speaker at an outstanding national conference on religion and cultural diversity that took place in Melbourne. It was chaired by Sir James Gobbo, the present Governor of Victoria. There is no question but that one of the things that people brought with them when they migrated to this country and settled here is their religious faith. Australia is stronger for it. It is not true that multiculturalism or cultural diversity implies the diminution of religion or belief; the opposite is the case.

I turn briefly to the third point, which is what our forebears said when they gathered together 100 years ago for the Australasian Convention in Melbourne in 1898. There was a long and extensive debate, there were many submissions from many quarters—the various states, churches and religious groups—and there was strong demand for the inclusion of a reference to Almighty God. Sir John Downer summed up the debate in these words:

. . . that the Christian religion is a portion of the English Constitution . . . is part of the law of England . . . that the Commonwealth will be from its first stage a Christian Commonwealth.

Clearly, that is not the way things have worked out. We cannot claim that Australia is, ever has been or perhaps is ever likely to be—certainly not in our time—a Christian Commonwealth, but that does not imply that we should become a purely secular republic.

The other thing that I want to draw to the attention of delegates is the prayers that were crafted for the inauguration of the Commonwealth of Australia three years later in 1901 in the Exhibition. There were a number of significant prayers, all of them making reference to God. Several of them were prayers that we would not pray today because the nature and structure of our society is very different. But the substance and the contents of those key prayers would remain in whatever shape we may be today.

It was also determined that prayers would mark the commencement of the sittings of both the House of Representatives and the Senate. We are doing the same thing here at this Convention, and I am thankful that one of our members had the thoughtfulness to do that. Prayer is offered. Prayer should be recognised as something which all people of

good faith can engage in, however they define their understanding of God—if they can.

Late last year a senator made a move for the removal of prayers in the Senate. I understand the senator withdrew that move, and that the prayer—the one we pray here each morning—will remain.

**Senator FAULKNER**—It was withdrawn on the floor. The proposal was not supported.

**The Most Reverend PETER HOLLINGWORTH**—Thank you. The reference in the preamble is there to unite us in the spirit that our founding forebears intended, with the one qualification that I have indicated: we can no longer claim this to be a Christian Commonwealth. That is not the point that this working party put. The point we put is that in fact we have a broad basis on which we can reach agreement about the primary question of God. The balance of that reference continues:

. . . whereas the people of N.S.W., Victoria, South Australia, Queensland and Tasmania

and later Western Australia—

humbly relying on the blessing of Almighty God have agreed to unite in one indissoluble Federal Commonwealth under the Crown.

The last three words are the substance of what we are on about. The initial words ought to remain.

The reference to Almighty God is meant to unite all the citizen subjects of this nation, which is a multicultural and multi-religious society whose residents have brought with them faith traditions, and they have immeasurably strengthened the basic faith of this country. If we were to delete that reference, we would stand with the People's Republic of China alone among all the other nations in this region—and, indeed, in most other parts of the world—which include reference to God in the preface to the constitutions of their lands.

We have heard much from delegates about the Irish model, particularly in relation to a president. I have listened to that with great interest. I now quote to you in proximate terms the Irish preface, for which I thank Professor Greg Craven. That preface says:

In the name of the most Holy Trinity, from whom all power is derived and to whom all acts of men are ultimately referable . . .

The committee thought about this for a brief moment, and then, humbly and reverently, decided not to hit this Convention with the full Irish monty!

**Dr TEAGUE**—I would like to refer at this stage to our Constitution. At the end of the 128 sections is the schedule that we all know well, and I want to refer to its reference to God. Before I do that, because it is related to the matters about which we just heard, as one person not wearing the cloth but supporting all that Archbishop Peter Hollingworth has said to this Convention, I welcome the working group's report and I strongly support the retention of these words. I share those words sincerely as an individual Australian.

The schedule at the end of the Constitution, which will be addressed in another working group in the next few days, will look at the oath or affirmation that is given to those who are to be sworn in as elected members of parliament. There are similar oaths and affirmations for ministers. There is to be an oath and affirmation for the new Australian head of state. The form of words for the oath is, 'I do swear that I will be faithful and bear true allegiance to her majesty Queen Victoria, her heirs and successors according to law, so help me God.'

I flag one more thought. In addressing and retaining those traditional and fundamental elements of affirmation and oath, there is a choice. Where there is a requirement for an individual citizen to subscribe to a formula of words, that citizen can choose to use the language that includes reference to God, or choose another form of words. That is entirely consistent with the *ad hominem* or totally general appeal that Archbishop Peter Hollingworth has made in the keeping of these words in the preamble. I strongly support that and ask delegates to bear these other references to God in mind when these matters are being discussed.

**Mr HOURN**—I also rise to strongly support this resolution, although I do have one small difference with His Grace the Archbishop, and that is that the Archbishop said

that we should do this because it would clearly be in line with nearly all other constitutions of the nations in this region. To my way of thinking, it is our Constitution and it really is irrelevant what other nations think. However, that is a minor point.

The main point is that I do strongly support a reference to God in the preamble. We have had a reference to a deity in the preamble for 98 years. Obviously, many deities have graced the floors of this chamber. The key thing here is that the reference is to the 'Almighty God', and that is important to keep in mind.

The other thing is that it does not offend the 70 per cent of Australians who indicated in the 1996 census that they believed in some form of God, nor does it offend Hindus, Christians, Jews, Muslims or others in that category. So in the PM's terms, there was a clear majority of Australians who believe in some form of God and those words in the preamble would not offend any of those. The next point is that it also is in line with the minimal—

**CHAIRMAN**—We are not making speeches to this.

**Mr HOURN**—No. It is in line with the minimal approach. As was said this morning, there is no need to change the Constitution radically and, in that sense, keeping these words is in line with the current Constitution. The last point is that the word 'humbly' is an important inclusion. 'Humbly relying on the blessing of Almighty God' is a phrase that is important for all Australians to remember.

**CHAIRMAN**—Please remember that we are only looking at identifying any details that are omitted. We are not having speeches and I think that last one was more of a speech. The idea was, adopting Mr Chipp's suggestion, that rather than just present the report we allow some brief consideration of the details so that everybody is aware of its content before we go away, because we are not going to debate it until Monday and it will take some time.

**Mrs MILNE**—I do not want to see the concept of God, the divine or the spiritual dimension taken out of the Constitution.

Rather, I would like us to consider perhaps being more expansive and inclusive of the spirituality of all Australians. I have been misrepresented in that way in the past in terms of my discussions with regard to the Constitution. I would like to ask Archbishop Hollingworth whether he has looked at the preamble of some other countries. The Czech Republic, for example, uses the term 'spiritual wealth' to describe a similar concept.

We recognise that this Constitution has to unite all Australians. Given that I think we would have a consensus that we want the divine, the spiritual dimension, in the preamble and probably a consensus that the reference to 'Almighty God' stay—in the sense that it was the people's choice in 1901 that actually lobbied to have it put in there—has your group considered recognising that some people might not see it as a generic term but, rather, something specifically Christian? Did you give any thought to adding something like the Czech Republic's 'spiritual wealth'?

**DEPUTY CHAIRMAN**—Before I call Pat O'Shane, I just want to say that, following Professor Blainey's comments before lunch, he has proposed the formation of a new working group on the oath of allegiance to the new head of state. He has obtained the 10 signatures necessary, and it is suggested that the new working group meet at the time set in the Order of Proceedings for the working groups on Monday evening to report first thing Tuesday.

**Dr O'SHANE**—I rise as probably the most committed atheist in the chamber. I have heard some people have their each-way bet on the issue, but I want to tell you all that I am an atheist and I happen to respect the spiritual and religious beliefs of my fellow Australians. I personally do not have any objection to these words being retained—

**Brigadier GARLAND**—On a point of order, Mr Deputy Chairman—

**Dr O'SHANE**—Sit down, Alf Garland, and listen to what I have to say.

**DEPUTY CHAIRMAN**—Order! What is the point of order?

**Brigadier GARLAND**—My point of order is that we are asking questions. We are not debating the motion on this. I am not sure that this is a question. We have been given a statement of belief. It is not a question per se and I believe that—

**Dr O'SHANE**—Mr Deputy Chairman, I insist that you ask this rude, intolerable man to sit down.

**DEPUTY CHAIRMAN**—I took it that it was simply an introduction and that she would be leading to either a question or some proposition about a reformulation. I think that was where she was heading.

**Brigadier GARLAND**—I hope you will keep a tight rein on her.

**Ms RAYNER**—Keep quiet, Alf; you are a rude old man.

**Dr O'SHANE**—I will continue. I will stand on my democratic right to have my say, regardless of the interruptions from the far right. I am speaking in support of the inclusion of these words in the preamble. As I understand it, in any event, the word 'God' is a generic term. I am sure that the clerics in the audience will debate that issue, but I am speaking, as I have already admitted, as an atheist. I believe that our preamble must be all-inclusive. This is a statement of the Australian people about who we are and the values that we hold dear. I find the words unexceptional. I want to endorse the proposal to retain these words in the preamble.

**DEPUTY CHAIRMAN**—There was something in what Brigadier Garland said that it ought not to be a statement for and against—in other words, a debating point—but to be primarily an elucidating detail to get it right, relying on the infallibility of the archbishop in the end to come up with the appropriate answer. And, indeed, I so call him.

**Ms BELL**—May I just make a point of order. I would like to say that, as a young person who has a lot of respect for the senior members of this convention, I am quite disappointed at the way in which they have been behaving this week. I am quite offended for the sake of those they have been offending that they have been able to go on. I ask that



you restrain them, if they constantly interject unnecessarily.

**DEPUTY CHAIRMAN**—I take your point of order on board, but in actually imposing order we do not have the benefit of the regulations in the sitting of the parliament where somebody—it may well be Leo McLeay—gets up and moves that the person be suspended from the service of the House. We do not have that. All we can do is to appeal to delegates to respect the dignity of other people. The chair needs to have your support in that, but it is really a matter of moral influence.

**The Most Reverend PETER HOLLINGWORTH**—Can I first of all say, in response to Dr Pat O’Shane, thank you for your leadership on this matter because that is the kind of spirit I think we want to embrace. I have worked closely over many years with people who would call themselves atheists and agnostics but who also respect me and what I stand for, what the Church stands for and what religion stands for. There is a broad inclusive sense in which we can embrace and be embraced.

Dr O’Shane asks: are we using the term ‘God’ in a generic sense? Yes, as simply and as crisply as we can with a three-letter word. Christine Milne raises the important question—and I have some sympathy with it—whether we could have a more expansive and inclusive reference that talked more about spiritual wealth. The group gave some brief thought to that matter and concluded, particularly in relation to preambles, that the more you say the more you are likely to get into difficulty, create ambiguity and cause people to ask what is meant.

Therefore, we concluded that brevity was probably the better part of valour in this matter. But I think the point is well taken. Every single member of the group, and they included indigenous peoples of this land, was concerned that the reference should remain and that in the term ‘God’, which in the Hebrew simply means ‘I am’ or ‘I will be what I will be’, you really could not get a more simple, basic description of us as a people and what we might become in our unfolding destiny. I will not take up the time

of the house any more, but I thank the speakers for the contributions that they have made.

**Ms HEWITT**—Before we go on, I have a small comment which may in fact help overcome this dilemma we are in. The way this is written, and perhaps the Archbishop can perhaps clarify this for me—

**DEPUTY CHAIRMAN**—Which report are referring to?

**Ms HEWITT**—I am still on Subgroup (ii)—Almighty God. I would like one thing cleared up.

**DEPUTY CHAIRMAN**—I am sorry, you will have your chance on Monday. We really must proceed to the next one.

**Ms HEWITT**—Can we put God in lower case and generalise it rather than in upper case.

**DEPUTY CHAIRMAN**—This is something that we will have to talk about on Monday. I do not think it is just a mere typo.

#### **REPORT OF SUBGROUP (iii)**

**Preamble—to provide constitutional recognition of the indigenous people as prior inhabitants of Australia.**

**Father JOHN FLEMING**—The working group of which I was a member and a convenor contained within it people from this Convention representing the broadest range of views about the republic and the monarchy. It also represented a broad range of people in our Australian society as a whole. We worked together on a proposition which I had put to the committee. The proposition was this: that the matter of the recognition of the original inhabitants of Australia in the preamble to the Australian Constitution is a matter which stands alone as a moral issue in its own right and ought not to stand or fall according to the fortunes or misfortunes of a republican referendum—that is, the conviction was that this is a golden moment for the widest diversity of people assembled in a convention like this to say something to government which may set in process a series of events leading to a change, an addition, to our preamble and to make good what has been left out.

The words of the report, which is before you, make that clear in part (a):

That this Working Group, representing a wide range of opinion on the republic, recommends to the Constitutional Convention:

- a) that the Preamble should include recognition of Aboriginal peoples and Torres Strait Islanders as the original inhabitants of Australia who enjoy equally with all other Australians fundamental human rights;

Mr Deputy Chairman, this is a deeply moral issue. It is about saying truthfully what the situation was and is. This is a question about dealing justly with our fellow human beings, our fellow Australians in this nation. It is not about scoring points of a political kind in the division of republic and monarchy or of any other kind. The second proposition we are reporting to you is:

- b) that this separate referendum question on the Preamble be put to the Australian people at the same time as the referendum on the republic;

Let me explain why: I am quite certain that the republican models that I have read will continue to contain within them similar kinds of references. My concern also is that when such a republican model is defeated at a referendum, which it might be, this issue would go down with it as well. The working group is proposing that not only should it appear in one of the republican models to be a matter for the referendum but in addition and alongside it there be an opportunity for people to vote 'yes' for that even if they are voting 'no' for the other, or for those who are voting for the republic to also be able to vote 'yes' for this. As I say, it was a consensus of this broadly representative group that the people of Australia would want to have such an opportunity.

Thirdly—and we want you really to understand this—there is no sense here in which we are trying to prescribe or draft a preamble. This is an in-principle resolution. In the third part we are saying, before anybody crystallises into words how this might be expressed:

that there be wide community consultation and negotiations with ATSIC and other relevant bodies to reach an agreement on the form of words to be used in such a proposed constitutional change before it is put to the people.

The wisdom of this is that in such wide consultations we will find the form of words

which are likely to be successful and which could be embraced by Aboriginal peoples and Torres Strait Islanders as well as others because they will have been fully consulted and an agreement would be in place.

The attention of our working group was drawn to this document, which all of you have received in your pigeonholes. It is entitled 'The Constitutional Convention—Preamble endorsed by the ATSIC Board of Commissioners'. It is our proposal as a working group that you read this and that you take it seriously. It is not the property of the working group; it is the property of ATSIC. But I believe that this is obviously going to be an important starting point in much of the negotiation. Let me just read one of the paragraphs to you:

Our nation dedicates itself to a responsible and representative system of government that is inclusive of all its peoples, upholds fundamental human rights, respects and cherishes diversity, and ensures full participation in its social, cultural and economic life.

That form of words, I believe, encapsulates the spirit of what we are trying to achieve in this working group. But we ask the Convention to do no more than endorse this beginning point to, as it were, set the whole thing in motion, to allow it to happen.

It is also true that on the working group different opinions were expressed by different ones of us about how the preamble should be worded and what should be in it. I was one of those that counselled that at this stage we say the minimum that is factually true and that in justice is required in order to get going that conversation that will be essential to prepare the referendum to be put to the Australian people.

It is my hope that when this matter comes on for vote in this form, or marginally amended, it will commend itself to the Convention as a whole, because this Convention gives us a wonderful opportunity to speak across the things that have divided us this week and will go on dividing us next week and to say something together which we can all embrace and say ought to happen. It ought to happen because it is true, it is fair and it is just. So,

by way of report, the working group commends this form of words.

**DEPUTY CHAIRMAN**—I call for questions or suggested changes.

**Mr FOLEY**—Through you, Mr Deputy Chairman, to Father Fleming: I wonder whether you could discuss a little more the pros and cons of paragraph (c), the process of engaging in community consultation and negotiation with ATSIC rather than embarking on the exercise of trying to draft the preamble here at this Constitutional Convention.

There is a view strongly held by many, including me, that it would be desirable to try to seize the psychological moment of this Convention to try to achieve the kind of consensus which is otherwise very difficult to achieve through lengthy processes of consultation with diverse bodies. So I would invite you to share, with the Convention on the whole, some of the pros and cons of that. In so doing, I express my strong support for the proposition to include in the preamble some such recognition of Aboriginal and Islander law and, in particular, the special relationship of Aboriginal and Islander people with the land and the sea—thereby working towards the achievement of some rapprochement between the law of Britain, which we inherited, and the law of the land of Australia.

**DEPUTY CHAIRMAN**—Are there any other contributions? Professor Winterton.

**Professor WINTERTON**—Just a brief suggestion. I think it unwise, as I am going to say later, to try to deal with legal issues in the preamble. If we are going to have a bill of rights, we should have a bill of rights in the Constitution and adopt it properly and not bring them in through the side door. The wording here is unfortunate, I think, in paragraph (a). It seems to be trying to do two things: emphasise that Aboriginals and non-Aboriginals hold rights equally, which is desirable; and also, perhaps through infelicitous wording, imply the—

**DEPUTY CHAIRMAN**—If I may intervene, you are really making a speech—

**Professor WINTERTON**—Just a suggestion then?

**DEPUTY CHAIRMAN**—Okay, if you could put it in the form of a question or perhaps suggesting some way it can be improved?

**Professor WINTERTON**—Would you not agree that the ATSIC statement about dedicating ourselves to a form of government which upholds fundamental human rights would be a less contentious way of expressing paragraph (a) while retaining the issue of equality?

**DEPUTY CHAIRMAN**—You see, when you put that inflexion at the end of the question mark, it makes all the difference.

Any other questions? Mr Bullmore.

**Mr BULLMORE**—I have read the ATSIC statement and it is quite good. I was just wondering if the word ‘original’ in paragraph (a) might not be better replaced with ‘indigenous’?

**DEPUTY CHAIRMAN**—Councillor Leeser.

**Councillor LEESER**—I take Professor Winterton’s comments on board on this. I was on the committee this morning when we were discussing this. I wish to point out that there are two things that need to be noted about the resolutions coming from this committee. It is not specifically a drafting committee, and anything that would have to be put before this committee would go to the Convention and then, of course, on to the parliament to debate and to put it in at a particular referendum to amend the preamble. So those particular discussions and particular issues that Professor Winterton raised could be dealt with at that stage. But I think one of the great advantages of this particular proposal is the level of support that it got from a wide cross-section of delegates on the republic issue, who are all prepared to come together and support the issue of recognition of indigenous people and equal treatment for indigenous people.

**DEPUTY CHAIRMAN**—Bill Hayden.

**Mr HAYDEN**—I wonder whether Father Fleming could advise us whether the working party had a look at the implications of some of this wording. Following what Professor Winterton said, it occurred to me also that much of this could end up, I think, before the

High Court—with repeated appeals about the meaning and the implications. What is ‘responsible and representative system of Government?’ I am sure everyone here knows. I am sure if we all put it down on a bit of paper we would have different results. ‘Inclusive of all its people’ is a term used a lot these days—exclusive, inclusive political processes—but it is very vague. It seems to be the basis for launching some sort of court action. ‘Fundamental human rights’: I wouldn’t go as far as Professor Winterton because, again, I know what fundamental human rights are, but there is a dispute about that. It is inviting the High Court to write a bill of rights. I think that ought to be done by responsible government. ‘Participation in social, cultural and economic life’: I think the unemployed could take action about their exclusion from that.

**Ms RAYNER**—Mr Deputy Chairman, on a point of order—

**DEPUTY CHAIRMAN**—He is phrasing it very carefully as being among the factors that need to be taken into consideration.

**Ms RAYNER**—We are talking now about questions. This is a speech.

**DEPUTY CHAIRMAN**—No. You might say that he is going near the borderline.

**Ms RAYNER**—I say he has gone over the borderline.

**DEPUTY CHAIRMAN**—Yes but, unfortunately, you are not in the chair.

**Mr HAYDEN**—It looks as though I am ahead of my time.

**DEPUTY CHAIRMAN**—What are you asking him to do?

**Mr HAYDEN**—I am speaking on report 4 which, in some curious way, I thought was before us.

**DEPUTY CHAIRMAN**—No. You are on report 3.

**Mr CASTAN**—Comments are being directed to a report that has not yet been presented.

**DEPUTY CHAIRMAN**—I accept that but because he used the words ‘fundamental human rights’ it was ambiguous enough to

think it could have been included under report 3.

**Mr CASTAN**—Is he commenting on report No. 3 or report No. 4?

**DEPUTY CHAIRMAN**—He has now stopped so we can proceed. Are there any other questions?

**Dr O’DONOGHUE**—I was on this group. I stand because I want to recommend to the assembly here that in fact we accept this report. We made no attempt to write a preamble but we wanted to put down some of the basic principles that were in the ATSIC endorsed document. When the appropriate time comes, Gatjil and I will speak to the detail of the ATSIC preamble as such. We want this matter to go to the people at a referendum.

**DEPUTY CHAIRMAN**—The substantive debate will come on Monday.

**Sir DAVID SMITH**—I rise to support both Father Fleming and Lois O’Donoghue. I thought Father Fleming had brilliantly encapsulated the unanimity of what he described as a very diverse group. He brought it into here and as soon as he did the lawyers and the politicians got stuck into it and tried to mess it up. I suggest we take Father Fleming’s report in its entirety and adopt it unanimously.

**DEPUTY CHAIRMAN**—It is a lovely idea but we will not be adopting anything until Monday.

**Brigadier GARLAND**—My question is: when are we moving on to the next resolution?

**DEPUTY CHAIRMAN**—I think probably when you sit down. Do you want to respond?

**Father JOHN FLEMING**—On the matters of the pros and cons of drafting the preamble here and now as distinct from putting up an in-principle thing—you asked me to expand on it—I think the discussion that followed is a very good expansion on it. It is precisely the problem and it is the reason why this is an in-principle statement. The moment you start drafting things people in conventions and committees all want to do their thing. It simply becomes a total disaster area. There is an in-principle report. I think the wisdom of

us going in this direction has been well and truly justified by the way things happen. Professor Winterton's question has been addressed, so I will not go over that. Indigenous versus original—I ask the speaker to accept that we are using the term which is acceptable to Aboriginal peoples and Torres Strait Islanders. That is the reason why it is there. I think the final point of Mr Hayden's has also been dealt with.

**DEPUTY CHAIRMAN**—In a few minutes when we get to the voting stage we will have an opportunity to indicate our desire that this goes forward to the next stage.

#### **REPORT OF SUBGROUP (iv)**

##### **Preamble—to provide constitutional recognition of citizens rights.**

**Ms RAYNER**—This subgroup's task was to look at a preamble in terms of providing constitutional recognition of citizens' rights. As this meeting will recall, on Monday it was decided to proceed with any definition of a Bill of Rights and, as this meeting and the public now listening to our words today will also understand, there has been a considerable amount of debate in this chamber and in our working group about the effect of adopting a preamble which refers in any way to rights.

Indeed, there has been extraordinarily alarmist language spoken as if the adoption of a preamble which spoke of citizens' rights in any way would somehow have the effect of giving an unelected body—namely, the High Court—the power to determine citizens' rights and responsibilities. So there was a lot of discussion in our workshop about the legal effect of a preamble. There was a lot of discussion about exactly how one would proceed if you determined that a constitutional preamble should not have an effect on rights or whether it was intended to leave the status as it was.

What our working group did was pick up the draft preamble endorsed by the ATSIC Board of Commissioners, make some suggestions as to possible additions to it and recommend that it—that is, the ATSIC recommendation our recommendation—should be referred to the Resolutions Group. In the interests of the public understanding what we

are talking about, let me read out to you what such a preamble might sound like with the additions that we have suggested. It might read like this:

Australians affirm their Constitution as the foundation of their commitment to, and their aspirations for, constitutional government.

Our nation dedicates itself to a mutually cooperative relationship with our neighbours, to a responsible and representative system of government that is inclusive of all its people, upholds fundamental human rights, respects and cherishes diversity and our developing way of life, and ensures full participation in its social, culture and economic life.

Australia recognises that Aboriginal peoples and Torres Strait Islanders are its indigenous peoples with continuing rights by virtue of that status.

We recognise the spiritual wealth of our people and we are conscious of our responsibilities to future generations.

We seek a united Australia that respects and protects the land and the indigenous heritage, values and cultures of its peoples, and provides justice and equity for all.

We the people of Australia give ourselves this Constitution.

That is how the preamble to the Constitution might read if this Convention decides to adopt it. The effect of the discussion we have had today about not having these statements, or alternatively making sure that no court can take these statements into account when interpreting the Constitution or laws passed on it, must be evident. Imagine those really inspiring words followed by a clause in the Constitution which says, 'This preamble shall have no legal effect.' That is what those who argue about this matter say is necessary to prevent, by stealth, the equivalent of a Bill of Rights being shoved onto the Australian people.

Let me say to you that there is another way of dealing with the possibility that in some instances a court might consider, along with second reading speeches, official reports and the history of the documents, a preamble at the time of institution of constitutional change. The obvious thing that this parliament should do is address the issue of the rights of the citizens in terms of a statutory charter of freedoms and responsibilities. How can one seriously argue against some form of entrenchment of citizens' rights to dignity, to

entitlement to rights and freedoms without discrimination or distinction, to life and liberty, to freedom from slavery, to freedom from cruel, inhuman or degrading punishment and to recognition as a person before the law?

How can we argue that it would be inappropriate for our Constitution, in some way, to protect equality and equal protection before the law and to the law, the right to an effective remedy for wrongs, freedom from arbitrary arrest and the right to a fair hearing, the right to be presumed innocent, the right not to be convicted of a crime retrospectively, the right to privacy, to freedom of movement, to asylum, to nationality and, more than anything else, the right to a family?

How can they argue that it would be wrong for our Constitution to refer and protect every citizen's rights to own property, to freedom of thought and conscience, to freedom of opinion and expression, assembly and association and to take part in government? Why should it not be reasonable for our parliament to pass legislation of a constitutional nature which protects our rights to an adequate standard of living and, above all, the right to work? We should have, because it matters so much to us, the right to work, to free choice of employment, to just and favourable conditions of work and protection against unemployment and against unequal treatment at work.

We need to have these protections, as well as protections for our standard of living, our right of access to public education without paying a price, our right to participate in cultural life, our right to social order and our right to be treated with respect as citizens. To say these things is not revolutionary. It is just plain commonsense.

If we are concerned that the High Court, as an unelected, unrepresentative, elitist body of mostly male judges, should not have the discretion to find in our Constitution implied democratic common law and human rights protections of our civil freedoms and our human rights and responsibilities, the only way to deal with this is to say what our values are in the preamble and to invite, as this Convention should do, our parliament to take the issue of our rights, status and relationship with our government by the throat

and enact a statutory charter of freedoms and responsibilities as New Zealand, my home country, has done without bringing down western civilisation.

That is the obvious answer. That is why we have, as a result of our considerations on this day, recommended that an inspirational preamble should be attempted, that it should include the matters which are addressed by the ATSIC board of commissioners and that it should address the specific issues in paragraph (2) of our recommendations.

Let me explain why we added a few things in just as a suggestion without wishing to do any disrespect to the ATSIC commissioners who had approved a preamble which they believed constitutionally recognises citizens' rights. We suggested that it would be appropriate to add a reference not only to our diversity but also to our developing way of life. We need to acknowledge not only our history, which has been tragic, brave, gallant, frightening and, in many respects, both a disappointment and an inspiration, but also that we are changing all the time and that we are living on the cusp of challenging and exciting times. It is a developing way of life.

We referred specifically in item (b) to the recognition of the spiritual wealth of people. That was to address the issue that you have all heard a number of statements of personal faith about this afternoon. That is an acknowledgment that, for the vast majority of Australians, we have a spiritual commitment which we reflect in many different ways and which in its own wealth and diversity is part of our treasury of the nation.

We did not specifically adopt the language 'humbly committing ourselves to Almighty God' not because we rejected those words, but because we thought there should be discussion of the possibility of wider language to include those of other faiths entitled to equal respect in a nation which respects freedom of conscience, religious beliefs and expression.

We said in item (c) that we should have an 'expansion of the reference to our unique and diverse land' because we wanted to emphasise the environmental aspects of our care for the land—those responsibilities and trusts towards the land which the Aboriginal owners of the

land had, for so many thousands of years, exercised until we came and changed things so much.

We added in item 'd' a wish to express our 'consciousness of our responsibilities to future generations' for what we do in this one. We believe that is one of the fundamental values of a democratic system. We need to be aware that in using up precious resources and in developing our nation in a particular direction we will affect the generations who are growing up now and the generations to come. We also asked that we should consider whether or not it would be appropriate in the preamble to our national Constitution to have a desire to seek mutually cooperative relations with our neighbours. It seems timely for us to realise that this great island country is not an island; it is surrounded by neighbours who are just a telephone call, a radio wave or a TV wave away.

I commend the report to you with these reminding words. A preamble is not just a set of words which enables you to shove an act of parliament under a heading which is filled with a royal or non-royal insignia. A preamble is a document which should say why we have bothered to create a nation out of a number of military colonies first established in the 18th century. A preamble is important because it does say what we care about. If we really do care about the values we express in it and we really are concerned about the uncertainties of courts applying our values in interpretation of our laws, then we should put those values into the statutes that our parliament of elected representatives make. We should try it on for size and see whether it is worth being so frightened about.

**DEPUTY CHAIRMAN**—I remind you that we will have the opportunity to debate this on Monday. While it was in a sense formally a presentation of the report, do not take that as an open sesame to simply give a speech for and against. Are there any questions or comments relating to content?

**Professor WINTERTON**—Moir, you did allude to it, but I just have two questions on the same point: what does our developing way of life mean and what is the point of including it in the preamble?

**DEPUTY CHAIRMAN**—Do you want to take these all on board and do them all in one go at the end?

**Ms RAYNER**—I will do one sentence I think for George. George and I went to law school together; we know each other very well and he is being cheeky. I told you what the sentiment was. We suggest it goes to the Resolutions Group to take on board the sentiment I expressed, but you apparently did not understand. I will talk to you later.

**DEPUTY CHAIRMAN**—If we can dispose of this quickly, there may be room for one of those amazing 15-minute speeches before we start the voting. I should just indicate that I know some of the people on the list are not here, but the list that we have is: Allan Rocher, who I do not think is here; Mike Elliott, who may be; Father John Fleming; Kirsten Andrews; and Ben Myers. I just give warning that there is a possibility that we could slip in one 15-minute speech as soon as we have actually dealt with subgroup 4. Are there any other questions or comments?

**Mr LI**—Could I just ask for some clarification. The fourth paragraph of the resolution reads:

We seek a united Australia that respects and protects the land and the indigenous heritage, values and cultures of its peoples . . .

Is that referring to indigenous peoples only or to all peoples? It is a bit ambiguous.

**Ms RAYNER**—This was drafted and approved by ATSIC. My understanding is that it refers to 'its peoples', not just the indigenous peoples. That is why we found the model so attractive.

**Mr CLEARY**—I would have thought that the learned professor would have a perfect understanding of what a developing way of life means. If he does not understand that, I do not know why he has not got that little tag in front of his name. It is a petty comment. Pauline Hanson believes in one way of life. A developing way of life is the counter to that, and I think the professor knows that full well.

**DEPUTY CHAIRMAN**—It was a debating point essentially. No doubt we will hear from you again on Monday.

**Ms MOORE**—I just wanted to clarify whether there is going to be any time, as the Chairman mentioned earlier, for the continuation of five-minute speeches before we go on to the major speeches.

**DEPUTY CHAIRMAN**—That is the other possibility, I suppose. How many of the five-minuters were left? I think you were the only one left on the list. Are any of the people that I mentioned before ready and willing? The other way of handling it is for you to speak for five minutes, and David Curtis I understand wants to speak for five minutes.

**Mr IAN SINCLAIR**—That is on the issues matter that we have been dealing with today. The two speakers who have been identified are the two speakers who are outstanding.

**DEPUTY CHAIRMAN**—Yes, and because of the elasticity of the place the two five-minute speeches might take a bit more than 10.

**Dr O'SHANE**—Could I just clarify on what issue the five-minute speakers are speaking. I myself had my name down to speak on the preamble. Is that the issue for us today?

**DEPUTY CHAIRMAN**—No. We will have an opportunity for questions for Moira and suggestions about textual change, otherwise we will put it. Then, in the remaining 15 minutes, we will call on some of the five-minute speeches that were held over from this morning. The debate on the preamble will be Monday.

**Dr O'SHANE**—Is the issue consequential changes?

**DEPUTY CHAIRMAN**—Yes. Do you need to respond to anything?

**Ms RAYNER**—No, I have done it all.

**DEPUTY CHAIRMAN**—We will then pass on and resume the five-minute speeches.

**Ms MOORE**—I would like to seize the moment and discuss 3(a) bullet point 1 in relation to the process we are looking at here over these 10 days. The backroom and in-chamber deals which seem to be taking place at any given moment and the inability of some delegates to listen to the points of others are bad enough, but the issue which

concerns me most at present is the fixation that people here have with the way we should choose a head of state and the perceived need to come up with one model and to come up with it at the end of 10 days.

I ask delegates to step back over the weekend and to look at what we are doing. No modern nation would ever consider doing what we are doing; that is, making proposals for major constitutional and system change in a period as short as this. This is, I believe, the easiest way for us to fail in our quest to become a republic.

There are many possible models for a republic, just as there are many possible models for a new preamble. I was part of the working group which discussed acknowledgment of indigenous people's occupation being included in a new preamble. The process we proposed—outlined a little bit earlier by Father John Fleming—involves broad community participation. So if we are prepared to do this for the preamble, and I hope that delegates will support the recommendation on Monday, why has there been so little consideration by delegates to the need for a similar process to be adopted in our move to a republic?

If we as delegates lock ourselves into arriving at one model for a republic which incorporates one mode of electing or appointing a head of state—both of which we arrive at in a hotchpotch, deals-behind-doors manner—we will be failing the Australian people. If we are to move to a republic, we must do so in an inclusive way so that all Australians own the process, not just 152 people who have already demonstrated that consensus will, to say the least, be an uneasy task.

Let us not rush it. We are at the start of this process. While 2001 would symbolically, as others have mentioned, be a good time to do it, let us make sure that, if 2001 is the time we agree upon, we go to a referendum with a model which has demonstrated wide support in the whole community.

**Mr CURTIS**—I wish to acknowledge the Ngunnawal people as the traditional owners of the land that we are meeting on. I am an indigenous Australian, but I have been elected by the people of the Northern Territory as a



citizen, a taxpayer and a voter to represent their interests at this Convention. The people of the territory have elected me because I stand for an Australian head of state elected by the people, a preamble to the Constitution that embraces all Australians and their right to equality and liberty, a bill of rights to enshrine the liberties of the Australian people and constitutional recognition of local government.

I regret that we will not have the time or the scope to deal with these issues. We have the chance at this Convention to add some very substantial structural improvements to our nation's constitutional framework. None of the changes that we should be considering will threaten our history. There have been many changes over the years that reinforce our independence and sovereignty, but none of them have caused a crisis. We have chosen our own national anthem and introduced our own currency. We have abolished imperial honours and appeals to the House of Lords. These are moves that have given us a sharper sense of our own identity.

A new preamble is something we can agree on during our time here together. I believe that it is clear to many of us, regardless of our views on the head of state, that a new preamble is overdue. We want a Constitution that we can celebrate because of its vision. We need a Constitution that celebrates our heritage as a multicultural nation and that sets out our commitment to a democratic and just society. We need a Constitution that recognises and honours the original owners of the land. We need a Constitution that recognises the role of local government—that vital third tier of government that interacts with the communities at the grassroots level.

If we can agree on a new preamble—a visionary statement to replace the existing outdated piece of legal jargon—we will have made a significant leap forward in producing something of lasting national importance. We will go home knowing that, regardless of the uncertainties surrounding other issues, this Convention had meaning and legitimacy. So let us go through the text of the preamble proposed by A Just Republic:

Australians affirm their Constitution is the foundation of their commitment to, and their aspirations for, democratic government.

This simple but clear opening statement surely cannot cause offence to anyone. It is a statement of ownership and responsibility. It sets the tone for describing national ideals, as follows in the next paragraph:

Our nation dedicates itself to a responsible and representative system of government that is inclusive of all its peoples, upholds fundamental human rights, respects diversity and spiritual wealth and ensures full participation in a social, cultural and economic life.

With these words, we proclaim to ourselves and to the world our commitment to democracy and inclusiveness. We are offering all citizens of our country, whether the descendants of long-term residents or recent arrivals, our guarantee of respect and tolerance. We are proclaiming national values that are free of any association with past policies of discrimination. The next paragraph follows quite naturally:

Australia recognises the Aboriginal peoples and Torres Strait Islanders as its indigenous peoples with continuing rights by virtue of that status.

If the preamble is to reflect our history, then it should reflect our true history, the place of indigenous Australians and the fact that our rights must be recognised and given constitutional backing so that there can never be any doubt. Our proposed preamble goes on to further articulate a vision for our nation:

We seek a united Australia that respects and protects the land and the indigenous heritage, values the cultures of its people and provides justice and equity for all.

Who among us does not want this for our country, and why should we not have these values enshrined in our Constitution?

It seems to me that the only reason for objecting to these references is the fear that we will fall short of these ideals, but the implications of that type of reasoning seriously worry me. They make me think that there is all the more justification for having these references to tolerance and respect enshrined in our Constitution.

**CHAIRMAN**—Your time has actually run out and the matter you are talking about is up

for debate on Monday. If you want to, use a couple of sentences just to finish it off.

**Mr CURTIS**—Our proposed preamble concludes with a simple statement of sovereignty:

We the peoples of Australia give ourselves this Constitution.

In the end, who else can give it to us? If we are serious about our independence, we need a Constitution that proclaims our independence. Our model for a new preamble does just that. I believe it is vital that this Convention agrees to adopt a new preamble that gives us a great deal more of a sense of ourselves than we have. Fellow delegates, I do not know if the significance of this Convention is properly appreciated. It is history in the making, so next week this Convention needs to offer our fellow Australians outcomes that the people can accept or reject. Thank you.

#### **RESOLUTIONS OF THE RESOLUTIONS GROUP CONCERNING TRANSITIONAL AND OTHER MATTERS**

**CHAIRMAN**—Thank you very much, Mr Curtis. I would remind delegates that we have reverted from discussing the working party reports. We are now talking specifically about the resolutions of the Resolutions Group on transitional and other matters, the consequential changes item. I call Mr Neville Wran.

**Mr WRAN**—Mr Chairman, during the debate this morning you may recall that I commented that a great number of the delegates to this Convention were not present for the debate because they were engaged in formulating the reports of working parties. I thought it would be a good idea to move an amendment to send the matter of the title of the head of state forward into next week for consideration. The things that emerged this morning were, firstly, that the favoured titles seemed to be President and Governor-General; and, secondly, that there was significant division amongst those present on which was the appropriate title. In those circumstances, I thought those who were not here might like the opportunity next week to apply their minds to what is the appropriate title. A small thing it may seem in one sense but something if and when the republic comes we will all have to live with. I move:

In relation to resolution 2 of the resolutions concerning transitional and other matters, in light of the absence of many delegates and working groups this morning, the resolution on the title of the head of the state go forward for further consideration.

**Mr GROGAN**—I second the motion.

**CHAIRMAN**—We will take that as an amendment which we will take into account when we are considering that resolution which we will be dealing with directly regarding the name to be given to the head of state. Are there any more very brief interventions? We have two minutes left before we get to the other phase. If not, I will go on to a few procedural matters. We will adjourn that debate. There are a number of matters that I will refresh delegates' minds on. Having those working group meetings this morning, as Mr Wran has just indicated, means that some delegates have not been present.

The next week's agenda and program will be set out in notice papers for each day as on each day. On Monday we will be turning to those working group reports which were presented today and debating them. They will be debated late in Monday's proceedings. There is also, as you will know, an item on 'When should any change to a republic take place?'. There will be resolutions available on that issue as well. I would expect that there may well be time on Monday, and would hope there would be, for some general addresses on the principal question as well.

There are also a couple of other items. This morning I mentioned that, in order to accommodate general addresses, we may need to sit on Tuesday evening. If that is so, we will make an announcement on Monday, the purpose being to accommodate all those who wish to make general addresses and have not done so. We have quite a long list. While Professor Blainey has given notice of his intention to move a procedural motion, technically I am afraid that he is unable to do it as he has already taken advantage of the 15 minutes. I would have to have somebody who has not already participated in order to move that motion. Having said that, there is a suggestion that there may be some containment of time on the general addresses.

We are now going to consider the various resolutions that emerged from the Resolutions Group concerning transitional and other matters. The original paper was one that was distributed with your papers this morning. It is headed 'Resolutions of the Resolutions Group concerning transitional and other matters'. There is another paper, in green, which is headed 'Resolutions of the Resolutions Group concerning transitional and other matters', with the resolutions on page 1, and attached to it are a series of amendments.

I intend to seek a mover for each of these resolutions one by one and, then, when we come to the amendments, I will seek a mover and seconder of them. Apparently some new resolutions have also been distributed to delegates, plus Mr Wran's amendment, which we will deal with when we come to them. They are on page 2, and then we have Mr Wran's resolutions as well. I seek a mover from the Resolutions Group for their package, and then we will be able to deal with the resolutions one by one.

**Mr WILLIAMS**—I move:

That the report of the Resolutions Group be adopted.

**Mr GARETH EVANS**—I second the motion.

**CHAIRMAN**—We now have the Resolutions Group report before us. We have a number of amendments to it. We will deal first with resolution (1)(a). There are no amendments to (1)(a), which is that we should retain the name 'Commonwealth of Australia' for the name of Australia if Australia should become a republic.

Resolution (1)(a) carried.

**CHAIRMAN**—I now move to resolution (1)(b), that Australia remain a member of the Commonwealth of Nations. There is an amendment to that, which we have received. Mr Sutherland, do you wish to move your amendment?

**Mr SUTHERLAND**—Yes. I move:

That motion 1(b) be amended by adding "seek to" before "remain".

**Brigadier GARLAND**—I second the motion.

**Mr SUTHERLAND**—Can I ask the mover of the original motion whether he is prepared to accept my amendment?

**Mr GARETH EVANS**—What is it?

**Mr SUTHERLAND**—I referred it to you this morning, Mr Evans. It seeks to put the words 'seek to' in front of the word 'remain'.

**CHAIRMAN**—There is some question about whether or not it is accepted. Are you happy to accept it?

**Mr GARETH EVANS**—No.

**CHAIRMAN**—It is not being accepted.

**Mr SUTHERLAND**—I would like to express disappointment that Mr Evans is not accepting it. He undertook this morning, when I raised this matter, to seek advice on it. He obviously did not do that.

**Senator FAULKNER**—How do you know?

**Mr SUTHERLAND**—Because he has just said that he had not. I did, and I confirmed the advice that I had given. Early in the afternoon, my good friend Leo McLeay also discarded this as not being a serious matter that should be considered. I submit to you that it is. Let us say that hypothetically during lunchtime I spoke to the head of state of Tuvalu. He said, 'Well, here's an opportunity for us. We are going to agree to Australia being admitted to the Commonwealth of Nations as a republic, but we want a new international benchmark, above sea level, above a potential flood plain level.' I submit to you that this is a possibility. It is a shame that we have to have this debate because, for the sake of two words—

**Mr GARETH EVANS**—It is not a problem.

**Mr SUTHERLAND**—No, it is not, Mr Evans, but with due respect, the reality is that when we become a republic we then have to be re-admitted, and any single country in the Commonwealth of Nations can put a veto on our admission. The reality is that Australia is seen as a big country in this area. A lot of the smaller Pacific nations are not always happy with some of our actions. They regard us as

arrogant, insensitive and presumptuous. This was an attempt to remove any of those sorts of labels so that we would be seen to be saying to the world and to the countries of the Commonwealth of Nations, 'In due course we will do what it is the protocol to do and we will seek re-admission to the Commonwealth of Nations.' That is the basis on which I put it.

**CHAIRMAN**—We are not going to have a long debate on this, but Professor Winterton and Mr Evans want to briefly intercede. Professor Winterton.

**Professor WINTERTON**—This is a debate on a quibble and I do not think any of us are totally familiar with the rules of the Commonwealth. Why not include some general provisions to the effect that Australia remain a member of the Commonwealth in accordance with the rules of the Commonwealth? I would have thought that that might satisfy both.

**CHAIRMAN**—Would the mover and seconder be happy with that? Are you happy with that, Mr Sutherland?

**Mr SUTHERLAND**—Yes.

**CHAIRMAN**—Mr Sutherland has withdrawn his amendment to insert the words 'seek to'. We are now considering the amendment, accepted by the mover and seconder of the original motion, Mr Williams and Mtr Evans, and the mover and seconder of the amendment, that resolution 1(b) read as follows:

Australia remain a member of the Commonwealth in accordance with the rules of the Commonwealth.

Resolution 1(b), as amended, carried.

**CHAIRMAN**—We now move to 1(c). We have an amendment to be moved by Mr Adam Johnston.

**Mr JOHNSTON**—I move:

Add to Resolution 1:

"(c) That the Flag Acts be incorporated into the Constitution to formally retain and preserve Australia's flag".

**Mr SUTHERLAND**—I second that.

**CHAIRMAN**—Let me, on a point of procedure, explain that there is another motion moved by Major-General Digger James and seconded by Mr Bradley that a referen-

dum be put to the Australian people to entrench the current Australian flag in the Constitution. That is not a matter before the Convention, because it is not an amendment to the preamble. Therefore, I am not going to accept that as an amendment for the Convention, but I do accept this amendment because it could be taken as an amendment to the preamble. Accordingly, I call on Mr Adam Johnston to speak to his amendment.

**Mr JOHNSTON**—In speaking to the amendment, I know I have heard certain assurances today that the ARM is not speaking about the flag. However, there is some still some confusion over that. I do not think it is absolute. There is some definite cross-over, as I have heard, between the ARM and the new flag people. What I am asking the ARM to do is to absolutely put this issue out of the way so that under no circumstances is it in your agenda—or ever will be—to change our flag. Our flag is part of our history. It represents all our history, not only our European but our current place in the world with the Southern Cross, and it should be protected for all generations.

**CHAIRMAN**—Thank you, Mr Johnston. We will not have a long debate on this. Do you wish to ask a question or what, Dr Teague?

**Dr TEAGUE**—I want to draw to your attention, Mr Chairman, that only a small group in this chamber have in their places the Australian flag, even though all of the chamber support all of the current symbols of Australia. I am wanting to respond in two sentences to the mover of this amendment that any opposition sincerely held by delegates to entrenching this flag of Australia into the Constitution should not be interpreted in anyway as any derogation or any diminution of our support for the current symbols of Australia.

**CHAIRMAN**—I think you are now arguing the point, Dr Teague. I do not intend to allow a debate on it. We have had time through the course of the day; the papers were circulated early and people could have talked about it then. What I intend to do, therefore, is to put this amendment as moved by Adam Johnston

and I am treating it as a amendment which would require some interpretation of the—

**Mr ABBOTT**—On a point of order, Mr Chairman. This is a very big issue—

**CHAIRMAN**—What is the point of order, Mr Abbott?

**Mr ABBOTT**—It is a very big issue—

**CHAIRMAN**—What is the point of order?

**Mr ABBOTT**—We would make fools of ourselves to dispose of this motion without serious debate.

**CHAIRMAN**—That is not a point of order. I call Professor Winterton.

**Professor WINTERTON**—I have a question to the mover of the amendment. I wonder whether the mover really intends quite what he is saying. If he puts it into the Constitution, it can be changed only by a national referendum majority and a majority in four states.

**CHAIRMAN**—As I understand it, he is seeking to put it into the preamble, and that is why we are allowing it at this point and why I disallowed the other prospective amendment. Dr Cocchiaro, do you wish to say something?

**Dr COCCHIARO**—Yes. I have a point of order, Mr Chairman. It was clear that you should rule this out of order for the simple reason that our Prime Minister has detailed the questions we have to discuss in this forum. Certainly, something—

**CHAIRMAN**—I am sorry, we have been looking at the preamble. We have allowed significant working group reports which we will be considering on Monday. This is an amendment which has been received specifically in respect of 1(c). It has been proposed in that form. We could have taken it on Monday. It seemed to me to be better to allow it in this context. Unless there is any other point of order—

**Professor CRAVEN**—I am reluctant to raise the point of order, but my understanding is that the Flag Acts contain a series of detailed statutory dispositions with the force of law. They cannot, by legal definition, be transposed into a preamble. This is not an amendment to the preamble, because it could

never take affect as an amendment to the preamble and therefore the amendment is out of order.

**CHAIRMAN**—You are giving a legal advice on it which, at this stage, I am afraid, is beyond the competence of the Convention.

**Mr CASTAN**—I support Professor Craven's point of order. You cannot move an amendment to incorporate these acts into the preamble. That is impossible. You can include them as substantive provisions in the Constitution, if that is what is desired, in which case it should not be dealt with now. They cannot be, as Professor Craven has pointed out, incorporated into the preamble. You are contradictory to talk about incorporating legislation into the preamble. It just does not make sense.

**CHAIRMAN**—The difficulty is that if you have opened the preamble so wide that I find it very difficult to rule against its consideration under the consideration of the working group proposals for Monday. I admit that they are quite of a different order but I believe this amendment, having been put within that context, should proceed. Is there anybody else?

**Mr ABBOTT**—Yes.

**CHAIRMAN**—You have already spoken, Mr Abbott.

**Mr MOLLER**—Point of order, Mr Chairman. I am sorry, it seems that every time I get up I am protesting at the procedure you adopt. With the greatest of respect, if you are going to move a motion, you must allow debate. We cannot just let things go through to the Resolutions Group without having seen them. The procedure we are adopting is just crazy.

**CHAIRMAN**—The debate has been allowed throughout the course of today and, if anybody had wished to raise it, you have had the full day in which you could have raised it.

**Mr MOLLER**—With the greatest of respect then, why did we bother coming into this chamber? We have heard people protesting against backroom deals and all sorts of things. Why doesn't the whole Convention just retire and let the Resolutions Group carry

on with it? We have got to be able to debate things like this

**CHAIRMAN**—Mr Moller, you have had all day to debate it, and I regret that you have not been able to make a contribution on it before.

**Mr RUXTON**—This is a legitimate amendment to add to the preamble and you are giving in to the flag changers over here.

**CHAIRMAN**—Never mind the personal invective.

**Mr RUXTON**—There is one, Turnbull, who even has foreign companies—Fuji of Japan and Apple of America—supporting the flag change.

**CHAIR**—I do not think that has got anything to do with this particular proposition, Mr Ruxton.

**Mr RUXTON**—That is what I say. It is downright outrageous. Don't give into them.

**Mr ABBOTT**—I wonder if it might help the Convention if someone moves that this lie on the table until Monday? I propose to move that way because I think it is absolutely impossible to do justice to a resolution of this complexity and emotional power at this time on Friday afternoon without adequate consideration of the issues involved. Plainly, people have not have their papers in advance and did not know that something like this was coming up.

**Dr O'SHANE**—I want to support the comments that have been made by Mr Caston and by Professor Craven. We cannot incorporate this legislation into the preamble. If we pass this amendment and it becomes part of the resolution, we are going to make laughing stocks of ourselves. Let us have some sense in this. We have had eminent legal advice from the floor of this Convention and we should think very carefully before we go hurtling down the road of stupidity.

**CHAIR**—I have just found out that this was only distributed to delegates at one o'clock. In those circumstances, I propose we leave it for division on Monday afternoon when the other proposals of the Working Group are under consideration. You may have an opportunity to debate it on Monday.

**Councillor LEESER**—Mr Chairman, I move dissent in that ruling.

**CHAIR**—I suggest that if you do so, we are not going to be here after 4.45 p.m. and we are not going to conclude the rest of this debate. I put it to you that we are going to debate and then vote on the issue on Monday. Our problem is that I had not realised this motion was only submitted at lunch time, therefore no delegate has had any opportunity before now to debate it. I believed delegates had been given notice of it before; they had not. Therefore, we will defer both debate and voting until Monday when there will be adequate opportunity for all members to debate this proposal.

Amendment postponed.

**CHAIRMAN**—I move on, therefore, to the Resolutions Group resolution (2) which states:

- (2) That the Convention express its preference on the title of the head of state, in the event that a republican form of government is established.

To this question we have three amendments. We have one moved by the Hon. Dame Roma Mitchell:

That the title of the head of state in the event of Australia becoming a republic be "Governor-General".

We have one moved by Mr Matt Foley, seconded by Mr Clem Jones:

That in the event that a republican form of government is established, the title of the head of state should be "President".

We have a third, moved by Mr Neville Wran, seconded by Peter Grogan:

In relation to resolution 2 of the resolutions concerning transitional and other matters, in light of the absence of many delegates and working groups this morning, the resolution on the title of the head of the state go forward for further consideration.

Mr Wran intimated that this also should be deferred until Monday. I will put Mr Wran's motion first. If there is no doubt about that motion, I put the question that the resolution on the title of the head of state go forward until Monday.

Motion carried.

**CHAIRMAN**—Therefore, Dame Roma Mitchell's and Mr Matt Foley's amendments

will be deferred, as will the vote on the question of the title of the head of state. We now turn to resolution 3. I have a number of other amendments that I propose to deal with seriatim. I will take Mr Doug Sutherland's first.

**Mr SUTHERLAND**—I move:

That item 3(a) point 3 (third dot point) be amended by deleting "of office" and adding thereafter:

"and form of oath or affirmation of office (to carry out one's duties of office to the best of one's ability, without fear or favour according to law.)"

**Brigadier GARLAND**—I second that motion.

**Mr SUTHERLAND**—I have spoken to Mr Evans about altering the printing by adding 'form of oath or affirmation of allegiance and office'. In other words, there are two oaths or affirmations that need to be taken, so that makes it collective.

**CHAIRMAN**—Is that agreed by the mover and the seconder? I have an indication that it is. Thank you.

Amendment carried.

**CHAIRMAN**—That becomes part of the resolution. There is another amendment which falls within the terms of the consequential changes. It is an amendment to be moved by Senator Ron Boswell. I propose that we deal with Resolution (3)(a) as amended first and then take Senator Boswell's amendment. It is a consequential change.

**Brigadier GARLAND**—Mr Chairman, I have a question. This morning during discussion on all of these matters there were a number of points raised by various people that had not been included in the including bit but which people felt were very important issues. I ask this question of the Resolutions Group: will you go back to those debates of this morning and include the issues that were raised during those debates as part of the including bits? There are many issues such as law precedents, crown land problems and oaths of allegiance, et cetera which are very important—indeed, more important than some of those dot points—and which need to be taken into account.

**CHAIRMAN**—It had been my intention, when we got down to (3)(c), to say that these issues and those other issues canvassed in debate during this Convention should be referred to the government. If we do that, it means that all matters that were canvassed here at the Convention and all matters that have not in fact been specifically addressed by way of resolution will be referred to the government for consideration. It will be necessary for them to produce necessary legislation in reaction in any event. So I propose we meet your point by including, 'These issues and those matters canvassed during the course of the Convention should be referred to the government.'

**Dr SHEIL**—The words from the Statute of Westminster that this is trying to emulate are 'without fear or favour, without affection or ill will'. Perhaps Doug Sutherland might like to include those in his amendment.

**Mr SUTHERLAND**—If I could just clarify: what was accepted as the amendment does not include any of those words that were contained therein, but the spirit of it is. Mr Evans is fully aware of the intention. I am sure it will be all-inclusive when it is finally adopted.

**CHAIRMAN**—Are there any more items that people wish to canvass before we deal with (3)(a)? The question is that Resolution (3)(a), as amended by the qualifications inserted by Mr Sutherland and accepted by Mr Williams and Mr Evans, be agreed to.

Motion carried.

**CHAIRMAN**—We move to Resolution (3)(b), which is more an explanation, so we will just take note of that. We move on to Resolution (3)(c) where we have added words to meet Brigadier Garland's question. I move:

That these issues and those other issues canvassed in debate during this Convention be referred to the government as matters which need to be identified and resolved before being presented at a referendum.

If nobody wishes to comment on that, I put that motion.

Motion carried.

**CHAIRMAN**—We now move to Senator Boswell's motion.

**Senator BOSWELL**—I move:

That this Convention calls on the Treasurer to provide to the Convention an estimate of the total cost of transition to and establishment of a republic, with reference to consequential changes such as the revision of prior federal and state legislation and practices.

**Ms ZWAR**—I second that motion.

**Senator BOSWELL**—My motion seeks a cost on the changing of any Constitution. This information should be available to the delegates at this meeting here. I think that the people of Australia will be called on to make a decision in a referendum, and they deserve all the information they can get. The people of Australia should know, as part of that information, what it would cost to change the Constitution in order to balance their decision on whether they want to move forward or whether they want to retain the status quo. I know that democracy should not have a price on it and I agree that it should not; democracy does not come cheap. I am also aware that people are very conscious of the costs that politicians run up and the public deserves to have a ballpark figure of what the changes would cost. I have discussed this with the Treasurer and he believes that he can come up with some sort of ballpark figure.

**CHAIRMAN**—Our Treasurer is always confident.

**Mr LAVARCH**—This is nothing more than a bit of gamesmanship on behalf of Senator Boswell. I could just as easily ask that the Convention call on our former most senior Australian diplomat, Richard Woolcott, to give an estimate of the trade and economic advantages to Australia of becoming a republic. It is nothing more than a debating point, and if Senator Boswell wants the Treasurer to give estimates of costs, and he has already indicated that the Treasurer is willing to assist, he can ask him in a personal capacity and no doubt the Treasurer would be happy to assist. Senator Boswell can make a debating point in any particular debate just as I can make a counter-debating point. We should not be belittling the work that we have to do at this Convention by engaging in a little cheap gamesmanship. It deserves to be revealed for what it is and it deserves to be thrown out.

**Mr BARTLETT**—Mr Chairman, with great respect, I am amazed that such an important point has been met with such derision. I think it is incumbent upon this Convention that the people of Australia have all, and I mean all, the information at their fingertips. I think it is also incumbent upon us to make sure that we stress absolutely what the position will be to them before they put the appropriate tick into a box at a referendum. This is grassroots stuff and, whether you like it or not, the people out in the suburbs who get their hands dirty cutting the grass every two weeks want to know the nitty-gritty.

**CHAIRMAN**—I do not want too long a debate on it, but I am allowing a bit of intervention.

**Father JOHN FLEMING**—Mr Chairman, I support the previous speaker. For my sins, on a Sunday night I do a radio talkback program, and I guess there is no more asked question by ordinary citizens than that as to the cost of the whole venture. I do not think we should ever have anything to hide from the Australian people about reality. I do not see why Senator Boswell was subjected to such an appalling attack. I think he was just asking a question to which I would like the information myself.

**Mr LAVARCH INTERJECTING**—

**Father JOHN FLEMING**—There is no point in carrying on, Mr Lavarch, the point is that ordinary Australians want to know the answer to the question and they want to know what the facts are; please let us give it to them.

**Mr CLEARY**—I would like to foreshadow an amendment to ask the Treasurer to include all the costs associated with the transition to a Commonwealth in 1901, plus the cost of the various conventions at which Mr Downer's family sat at that particular time. I trust he would be able to do that for the people of Australia.

**Mr TURNBULL**—I apologise for offering what is a penetrating glimpse of the obvious. This Convention concludes at the end of next week. There is absolutely no prospect of the Treasurer or anyone else being able to give a



reliable estimate of the cost of transition to an establishment of a republic until—

**DELEGATES INTERJECTING—**

**Mr TURNBULL**—We will have a much more polite country when we become a republic, that is for sure. The time, as Liam Bartlett said, when people will be able to assess the cost of the proposal is, of course, prior to the referendum and I cannot conceive of any federal government, be it the present coalition government or the Labor Party, if they are in government, not providing an estimate of the costs. But the prospect of asking the Treasurer to do this in five days is utterly ludicrous. It is a debating point. Perhaps Mr Costello could tell us whether he believes he can give a reliable estimate within five days.

**CHAIRMAN**—I think we will close the debate. There are about 30 of you who want to speak. We are not going to proceed with that. Mr Costello will be able to tell us in his response whether or not he can respond.

**Mr COSTELLO**—Thank you for the opportunity to speak and, also, thank you, Ron, for your generous interest in cutting government expenditure. It is something that I have never seen from you before, but I welcome it.

If the Convention asks the Treasurer to give an estimate of the costs, the Treasurer will of course, as the servant of the Convention, attempt to do so. I make the point that it will, of course, rely on numbers of assumptions. The costing will not be the hard thing. The hard thing will be the assumptions that one will have to make as to what would be required before putting figures on them.

As you know, in five days, with no previous precedents, this could be a rather flimsy document. It would not have the weight of all of the wisdom of the last two budgets in it, Mr Chairman, and I suspect that, much to the Labor Party's chagrin, I will not be pulling anybody off the important task of tax reform to undertake these costings. Subject to those caveats, as long as you understand that it is only as good as the assumptions that there are no previous indications, I stand here as but a servant of the Convention on this issue.

**CHAIRMAN**—I do not intend to allow any more debate. We all know what the issues are. I do not believe it necessary to pursue the debate. I intend to put the question. You can vote against it if you disagree with it; you can vote in favour if you wish. The question is that this Convention calls on the Treasurer to provide to this Convention an estimate of the total cost of transition to and establishment of a republic, with reference to consequential changes, such as the revision of prior federal and state legislation and practices.

Motion lost.

**CHAIRMAN**—There are 65 in favour and 68 against.

**Mr CASTLE**—There being more than 25 per cent of the delegates here in favour of the motion, it should go to the Resolutions Committee.

**CHAIRMAN**—Unfortunately, if you look, the resolution that was passed yesterday does not apply to today.

**Dr TEAGUE**—Mr Chairman, I rise on a point of order in regard to the sincere question asked by Liam Bartlett. It was not because of his sincerity to know a fact to give to people—

**CHAIRMAN**—That is out of order.

**Dr TEAGUE**—I ask you, because there was a stunt—

**CHAIRMAN**—Will you sit down, please, Dr Teague? I now put the question that the report of the Resolutions Group, as amended, be adopted by the Convention.

Motion carried.

**CHAIRMAN**—We have time for two speeches on the general address and we will resume on Monday as on the program.

**Mr ROCHER**—Mr Chairman, coming as they do some nearly five days after the commencement of this Convention, and given the great deal of debate which has already occurred in this chamber, it must be said at the outset that it is unlikely that what I have to say will not have been already endorsed, albeit in different words, by someone or others who have preceded me. In 1991, the then Prime Minister first embarked on a republican campaign which, not incidentally,

was the genesis of a relentless and essentially unchallenged attack on the Australian Constitution.

Licence was then first given to those who asserted a republic cause to, in a virtually debate free zone, bring into serious question a major element of the system of good and democratic government which has stood the test of time. If not on 2 Monday, then on 13 February next—to borrow a line from that respected political commentator Malcolm Mackerras—that licence expires. If by then a republican cause has not been successfully argued, and as yet it has not, true competition for the hearts and minds of a majority of Australian voters will begin.

Whatever emerges from this Convention, and there are at least several possibilities, only those recommendations which have a reasonable chance of gaining popular support should seriously be considered and exercise the minds of those present over the coming week. Popular support or otherwise will ultimately be reflected in a referendum vote to change the Australian Constitution. It is desirable but not necessarily likely that the questions to be put to the people voting at a referendum be as few and as easily explained as practical. If not, even in the unlikely event of unanimity here, the risk of ultimate rejection of any proposed changes will remain high.

If, as some polling seems to suggest, a major reason to change is that Australia should have an Australian head of state, then minimum change is an option. At the other extreme, if a popularly elected head of state with intended or otherwise power to executive government is preferred, massively complex changes to the Constitution will have to be put to the people.

In between the minimum—not minimalist—and the maximum approach is a range of derivatives which promise varying degrees of complexity. Minimum change as distinct from no change at all would, by definition, require least change. Minimum change would, however, only satisfy the patriotic proposition that our head of state must be an Australian citizen. Such a minimum approach must be that, as now, the Prime Minister appoints the

head of state for a term of a stipulated duration and all references to the monarch are deleted from the Constitution. There is another possibility. We could ask Her Majesty the Queen of Australia to abdicate on her own behalf and on behalf of her heirs and successors. You never know, she may gracefully accept that proposition. That would certainly allow minimum change.

The term of any office could be agreed between the Prime Minister and his nominee or for a period of not less than five years or some other term. The question then to put to referendum vote for minimum change would thus be reduced to the fewest and most straightforward than would be the case under any other alternative. Of course, it will be another alternative.

That proposition not being under serious consideration, the nearest to the minimum change rests with an uncompromised McGarvie model. Because the reserve powers of the Governor-General continue to command a great deal of attention and discussion at this Convention, it is timely to pause for a moment and reiterate some basic criteria.

The so-called reserve powers are not now specified in the Constitution. Arguably those powers cannot be exhaustively or safely defined. The manner of appointment or election of a future head of state will almost inevitably modify, for better or worse, the scope of the expressed, reserved and implied powers exercised by past governors-general and the present Governor-General. The relationship of that future head of state with the legislature will, as a consequence, change also for better or worse.

Care should be taken when contemplating any proposals which fundamentally impinge on a Westminster-style system of government which is tried and tested. If change is contemplated merely because an Australian should, without possible exception, be our head of state, then that can be provided by adopting the McGarvie option with the least possible disruption.

To some immeasurable extent, popular expression has confused the issue of an Australian head of state with the need for Australia to become a republic. To some

immeasurable extent, I am sure that is true. That confusion was deliberately intended in some cases and merely a consequence or a by-product in others. Either way, and to the extent that there is widespread confusion, it should be made perfectly clear that Australia does not have to become a republic; nor indeed does it have to remain a constitutional monarchy to have an Australian head of state.

I spoke this morning of my preferences for what designations as far as the description of our country would be should change occur. I am delighted that, so far, my preference for the term 'Commonwealth of Australia' appears to have found favour. I simply reiterate that I would hope that any head of state, if change is effected, would be known as the Governor-General, but I do not intend to go over that ground having said my piece on it this morning.

With fundamental change to our system of government in prospect, normal prudence seems warranted at this Convention as it deliberates on the extent and nature of change. The processes arising out of adoption of any recommendations should be framed to allow all Australians to absorb proposals and consequences to the fullest possible extent. It will be unwise to set and rigidly adhere to timetables if, in so doing, the people of Australia are not able to grasp the full implications of any proposed changes to our Constitution.

Any questions by way of referendum should be capable of being decided by a fully informed electorate. That objective must not be fettered by an imperative that these weighty matters must yield change by the years 2000, 2001 or any other year, or any other artificial goal. If change is to occur, it must be when the people are good and ready.

These remarks so far may suggest that change is inevitable. However, that is not yet the position of the author of these remarks. On the contrary, these comments are predicated on the notion that, if changes are to occur by the popular will of the people voting at a referendum, the very best of the several alternatives should be on offer. That may be described as adopting a fall-back position in

my case, in the event of a preferred outcome falling over.

Our political history as a democracy since Federation has left us little to complain about. It has facilitated political and social reforms and, despite political crises and historically momentous events, it has enabled changes of government and leaders without upheavals. What is wrong with that?

Even so, I came to Canberra last Sunday convinced by polls and editorials that an Australian republic was inevitable and that only the form it was to take was to be decided. I was wrong, and I am embarrassed because I was wrong. More than that, after listening to the arguments so far advanced, the weight of argument after hopefully open-minded consideration strongly favours the status quo as the only serious option.

Certainly, logic expressed in this forum weighs heavily on the side of the constitutional monarchy. It is convincing enough to persuade me, Mr Chairman, to back off from my preconceived notion that a republic was but a matter of course and that only the form it would take was to be canvassed at this Convention. The debate so far has converted me to the monarchists' camp—although I am not sure they really need me.

It should also be said that, with a few notable exceptions, there is more than just a trace of disdain, contempt and/or arrogance amongst some of those pro-republicans who ignore the substantive arguments of their adversaries. They simply have not contested the status quo case and have instead advanced only argument in favour of their case. Compromise or behind-the-scene deals or arguing cases not made in this forum is no lasting substitute for reasoned debate in this chamber. I would rather see the processes that are taking place in the corridors brought into the chamber, with fewer deals and more debate.

**Mr ELLIOTT**—As a young child, I read stories of kings and queens, princesses and princes—the latter of which appeared to be interchangeable with frogs. As far as Australia is concerned, I do think the place for kings and queens really is within storybooks and history books, certainly no longer within the Australian Constitution.

Many people have talked about symbolism over this last week, and I think we should look at the symbolism of having the British monarch within the Australian Constitution. The monarchy is inconsistent with the fundamental beliefs of our society. How can it be justified that a head of state shall be British, shall achieve that position by birthright—and, even then, in such a way that a man will be preferred before a woman—and shall be a member of the Church of England, and as well that the spouse of that person will also be from the Church of England? In Australia, it is now illegal to discriminate on the basis of race, gender or religion. We can no longer tolerate within our Constitution that which we will no longer tolerate under the laws of our nation.

In a modern, democratic nation, the concept of inherited power is anathema. We all know how the British royal family first obtained its power, how it was sustained—apparently with some help from the Garlands—and how, occasionally, it breached its own rules of succession. Australia is a nation in which religious tolerance is one of our major strengths, and we have seen that demonstrated in the debate today. No such tolerance exists in the selection of the monarch. There is a belief within our society that there should be gender equity, and in fact motions again have been passed in this place saying that we believe in gender equity. No such equity exists in the selection of the monarch.

As we approach our centenary of nationhood, it is a source of mystery to other nations that we should have a foreign monarch, certainly not impressed by the legal fiction that she is the Queen of Australia—because it is that, it is a legal fiction. Yes, we have benefited a great deal in terms of inherited political and legal institutions and tradition from Britain. It was the dominant source of migrants in the early years of migration. However, we have been a nation for almost 100 years and we cannot ignore that the indigenous and non-British migrant groups are a significant component of our population. We are Australian, not British. Ethnically, I may be substantially of British race, but I also have coursing through my blood Portuguese

and German. Importantly, I am consciously and proudly Australian.

I do not wish to deny our history and I am proud of our history, but it is time to continue to look to the future. Monarchists cannot go on defending the indefensible, defending discrimination on the basis of race, gender and religion and defending its continuing existence within the very cornerstone of our democracy, the Constitution. I am not suggesting that all monarchists are consciously defending this position, but that is the effect of their defence of the monarchy. Some are simply allowing sentiment to cover their own intellect.

What are their stated justifications? In essence, they claim that we are not able to change the Constitution without destroying civilisation as we know it. They claim that we cannot remove the Queen from the Constitution without creating chaos. I do not accept that proposition. I do not believe a majority of the delegates at this place, nor a majority of Australians, support that proposition, but I rather see it simply as an excuse to justify their own position.

There are before this Convention propositions which will give us a truly Australian head of state without destroying our civilisation. It is not a simple task, and we can all see that, but it is an achievable one. There is no one model that does not have aspects that I do not like, and I think most people would honestly be in the same position. The task is to identify those aspects to see whether or not those aspects are indeed fatal flaws and to see if they are capable of amendment.

A number of delegates who have identified aspects they do not like in models different from the one they support have treated them as fatal flaws, and that has been true among republicans. I think that some of the debates that have gone on have really been debating points. People have more often than not overstated their case on both sides on many of the arguments that have occurred. I must say that it really is an intellectually corrupt approach. In most cases I am afraid people are guilty of having made up their mind before they have heard the arguments and have set about justifying their own position

and have not been prepared to listen, although I think in the last 24 hours there has been some sign that people are now starting to do so.

If we are to consider becoming a republic, the first and most fundamental question that must be answered is: what powers do we want the head of state to have? I think every other issue that needs to be resolved can only be resolved after we have answered that question. There are some who want to significantly enhance the powers of the head of state. This appears to me to be driven by a frustration with the current political system and a desire for change. These people, for the most part, support a popularly elected president. In my view, a popularly elected president with enhanced powers will do nothing to tackle the inherent deficiencies of the current political process but will, as a representative of one of the major parties, complicate the system without improving it. More so than even the parliamentary process, it is a winner takes all situation.

I have a great deal of sympathy for those who are very upset with the current political process. It is deficient in many ways, but I do not think a popularly elected president with enhanced powers is going to improve the situation. In fact, I suspect it will make it worse. It is the single member electorate system combined with party discipline and factions that have corrupted our parliament. It is a point with which I am sure Liberal and Labor members would disagree, but they would, wouldn't they?

In relation to constitutional change, I support a generally minimalist position. I do not seek to extend the powers of the head of state or to significantly reduce them. I am comfortable with retaining the name 'Commonwealth of Australia'—in fact, I note that that has been unanimously supported today—and believe it appropriate to maintain the title of the head of state as Governor-General. I think that is important because of the potential for misunderstanding in terms of role, and I will return to that point a little later. I think the reserve powers should stay the same. I support the need for partial codification. I am not going to lose sleep if people

go for full codification, but I do believe on balance that partial codification will do the job.

If there is one area where I do have concern, it is in relation to the Governor-General's powers of assent. I do not believe it is appropriate for a Governor-General to refuse assent, not if you are adopting a minimalist approach anyway, because you are giving a significant power to a person to say, 'I don't like this legislation.' I believe that what we should be looking at is giving the power to refuse assent only on the basis that the head of state is satisfied that the bill's passage has in some way not obeyed the conventions of parliament, not because the head of state does not like the contents of the bill. In that way, I think that is one of the places where political power could be abused. By convention, that power has never been used to this point in Australian history, to the best of my knowledge.

Having adopted the minimalist position in terms of powers, the question is: how do we go about selection? Two or three days ago I climbed into a bus coming to the Convention. I was chatting to the bus driver and he said, 'If I were president, I would reduce the price of beer.' A noble sentiment, of which many Australians would be very supportive. In fact, I think you could have a landslide victory on such a platform.

**Mr TIM FISCHER**—That's the middy model.

**Mr ELLIOTT**—Yes. But what he did was reflect a misunderstanding that I think is out in the community generally about what republicans are saying about what sort of head of state they want. I believe the overwhelming majority of the republicans are saying that they want a president with the same powers as the Governor-General, and certainly not in a position to decide the price of beer. But I think that is also what is driving the 80 per cent support in the public for popular election. The term 'president' has been used in the debate quite frequently up until now, and the president that most Australians are familiar with is the President of the United States—and that president does have some significant

powers. It is important then that we tackle that misunderstanding.

I think also that once we tackle that misunderstanding—I think we would tackle it by the use of names—‘governor-general’ rather than ‘president’—and that is one reason I am strongly supporting the term ‘governor-general’. Once we have done that we do not have such problems with selection. Popular election really is not going to deliver us very much, and certainly is not going to deliver to some people what they thought they were going to be getting. Once they realise that we are really getting a governor-general and not a president, I think the call for popular election would dissipate quite rapidly.

I am looking for a method of selection which gives us the best chance of not politicising the position. It is for that reason the proposition for election of the head of state by a special majority of the parliament has my support. I think that is the best chance that we have of getting somebody who is not going to be party political.

There has been some misunderstanding about the way in which this two-thirds selection process would work. Some people seem to have the view that the Prime Minister is going to come into the parliament and put a few names on the table, that then there will be an assassination of a number of these people—that they will be put through a very thorough scrutiny on the floor of the parliament and have their reputations severely damaged—and as a consequence we would not get good people. That is not the way I would expect it to happen.

I would expect it to happen in the way that a number of government appointments happen now. The Prime Minister would go to the leaders of the other parties and say, ‘I am considering this person and this person. Do you have a view?’ I can tell you, as a member of the state parliament of South Australia, that a couple of times a year the Premier will come and discuss an appointment with you beforehand. Nobody in the public knows that it is being considered. There is no suggestion that a name is going to get put on the floor of the parliament where that person’s reputation could be destroyed in any way. I would

expect in fact that the Prime Minister would bring forward a single nomination and would already know the numbers were there before the vote was ever taken. And I think the Prime Minister would be very careful to choose somebody knowing that the opposition party or parties would not view that person as party political.

Some people have suggested that the head of state chosen by a two-thirds majority of parliament would perceive himself or herself to have a greater mandate than the Prime Minister. This person knows that at the end of the day it was the Prime Minister who first approached them and offered them the job. I really think it is a nonsense argument. It is the only mechanism, I think, that realistically produces a non-partisan head of state.

I support dismissal by a simple majority of the House of Representatives. I am not concerned about governments abusing that particular power because they do have to face up to appointing the next governor-general and they need a two-thirds vote. There is no way known that a prime minister is going to be aggravating and behaving in a deliberately political fashion in removing one person, knowing that they have to face up to an appointment with a parliament that then could be very much off-side. In the real world—and I have lived in the real world—of politics, I believe that this mechanism will work extremely well.

Popular election is not going to help deliver anything but a party political head of state. For what purpose? I understand the purpose if you want this person to have more powers but, realistically, very few people are actually pushing that proposal. So for what purpose? People are coming up with all sorts of mechanisms now, still trying to involve the people. I think it is a bit of a nonsense. We do not vote for Supreme Court judges, we do not vote for heads of police; there are a lot of positions of great importance in our society that we do not vote for. From the American experience we would say, ‘Thank goodness we do not!’ Look at the role that we are giving to the head of state, to the Governor-General. If you do that, you will see that popular election really does not have an

important role to play. I can live with a model that adopts it, but I just ask: what is the point?

**CHAIRMAN**—We will now adjourn debate on the general question until Monday afternoon. I understand from Professor Blainey that he did not speak on the general address, so he can move the motion which he foreshadowed. I table a note from Mr Julian Green appointing Kate Jackson as his proxy for Monday.

I thank all delegates and all the members of the Australian public who, in this gallery and around the nation over the course of the last week, have been very much part of our deliberations. We thank you for your support

and we look forward to a positive outcome at the end of next week.

**Mr WADDY**—We should not close without thanking you, Mr Chairman, for your magnanimous chairmanship in very difficult circumstances.

**Mr JOHNSTON**—I wish to amend the amendment I put earlier and address the legal questions that were raised. I move:

That the preamble affirm that the Australian flag not be changed unless it be approved by the Australian people under section 128—referenda.

**Sir DAVID SMITH**—I second the motion.

**CHAIRMAN**—We will take that on board and it will be debated and voted on on Monday.

**Convention adjourned at 4.52 p.m.**