

# CONSTITUTIONAL CONVENTION

[2nd to 13th FEBRUARY 1998]

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TRANSCRIPT OF PROCEEDINGS

**Tuesday, 10 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 QC MLA (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  
Ms Rodgers  
Mr Withers  
Mr Green

### **PROXY**

Senator Minchin  
Mr Iemma  
Mr FitzGerald  
Mr Griffin (6 and 11 February)  
Mr Hodgman  
Ms Webb  
Mr Burke  
Ms Jackson (4, 5 and 6 February)  
Mr Hannaford (3-6 and 9-10 February)  
Mr Abbott (2-6 February)  
Dr Dean (All, except 11 February)  
Mr Foley (4-6 February)  
Mr Milliner (9-10 February)  
Mr Barnett  
Professor Flint (5 February)  
Mr McGuire (5-6 February)  
Mr McLeay (from 3pm, 5 February,  
6, 9 and 11 February)  
Mr McMullan (10 February, 9.00 am to 2.00 pm)  
Mr Martin (10 February, 4.30-7 pm)  
Ms Doran  
Mr McCallum (6 February from 4 pm)  
Mr Paul (6 February from 3.30 pm)  
Mr Nockles (6 February, afternoon)  
Mr Melham (9 February)  
Mr Castan (6 February)  
Professor Flint  
Mr Mackerras  
Mr Paul (9 February)  
Ms Jackson (9 February)

Senator Bolkus	Mr McLelland (9-10 February)
Mr McGauchie	Dr Craik (9 February)
Mr Anderson	Mr Abbott (as necessary)
Mr Costello	Senator Campbell (9 February, from 3 pm)
	Mr Pyne (10 February, 9.00 am to 3 pm)
Senator Hill	Senator Payne (10 February)
Mr Andrew	Mrr Slipper (10 February, 2-4 pm)
Dame Leonie Kramer	Professor Flint (11 February)

COMMONWEALTH OF AUSTRALIA

# CONSTITUTIONAL CONVENTION

Hansard

1998

OLD PARLIAMENT HOUSE, CANBERRA

2nd to 13th FEBRUARY 1998

*Tuesday, 10 February 1998*

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

**CHAIRMAN**—Professor Blainey wishes to raise a point of procedure.

**Professor BLAINEY**—I hesitate to raise the question of how we proceed, especially since I, like many delegates, admire the way in which you and Mr Jones have carried out your duties—the patience, the tolerance and the courtesy. I do applaud you both. Late yesterday afternoon there was increasing concern amongst delegates that so few delegates were here at the debate. After discussion this morning with quite a variety of people, there was a feeling that urgent consideration should be given to this question. My belief is that the debate on the republic on some important questions is still in its infancy. Listening to the arguments here, I am conscious that from time to time there are important arguments which I have not heard and there are arguments that people with other views have just not heard. Somehow in the remaining four days I think we have to devise a way where the time is used slightly differently.

Yesterday afternoon, when it came to the voting, many delegates were conscious that there was no way, given the shortage of time, that they could put their view, no matter how pithily. I am not a parliamentarian and I do not know the answer to this, but I wonder

whether we need to set up a quorum. In that way the working parties would restrict their meetings and perhaps meet only at certain times. Those members of the republican groups who have to come together to sort out differences would select different times. At one stage in the debate yesterday evening there were only 15 people present and that is quite unfair for a matter of such importance. I pass this on to you for your urgent consideration.

**CHAIRMAN**—Thank you, Professor Blainey. It is a matter that all of us are aware of—how we are able to accommodate the various demands that are on us. We only have four days left and I intend to go through the proceedings in a moment. We are all concerned at the degree to which a number of speakers who have not spoken to the Convention were speaking to very few of their fellow delegates. It is not only an embarrassment to them, but it certainly is necessary that those other proceedings take place.

**Ms HOLMES a COURT**—I wanted to support Professor Blainey 100 per cent. I was here until 7.30 last evening and there were some marvellous speakers, some wonderfully thought out, great performances and explanations that people really need to hear. I believe it is a great shame that the effort and time that people have put into preparing their speeches is in a sense being wasted unless people read the *Hansard* report in the morning.

**CHAIRMAN**—We recognise the problem. At the same time, we also have a discipline

which needs to be understood, that is, there are certain resolutions that have to be put to the Convention. They need to be prepared. One of the items I wish to identify at the moment is the requirement for the deadline for submission of proposed models, which is, as you will recall, to be at 2 p.m. today. That is certainly going to require a good deal of work. We shall take on board the comments of Professor Blainey and Mrs Holmes a Court and see whether something can be done in future, certainly for addresses in reply. I would like to proceed to the various items.

**Mr RUXTON**—You are brushing over it. I think there should be a quorum of some sort. We should have started on this at the beginning of last week. It is not fair. I have sat in this chamber for as long as I can, but the emptiness of it is appalling considering that there are 152 delegates. I think Professor Blainey and Mrs Holmes a Court are right on the ball. I really believe there should be a quorum. I move that there be a 25 per cent quorum.

**CHAIRMAN**—I take on board those comments. I do not want to proceed with it, but we all register it. While I call on all delegates, I point out that many are not here at the moment. Some of those whose absence you are concerned about are not with us at the moment. I trust all delegates will take note of the remarks made by those few speakers this morning.

**Mr WADDY**—It would be helpful if you were to point out to the people of Australia watching this on television day in and day out that a vast amount of work is going on outside the chamber. We have met every morning at 8.30; now we are meeting at 8 a.m., as the ARM does. I would not think that Mr Turnbull and I had more than 20 minutes to half an hour to be in the chamber yesterday. The last meeting I had was at 11.30 last night.

It would be quite wrong for the general public to think that the work of this Convention is only happening when it is in session. It is impossible to bring forward resolutions and concentrate the mind of the Convention unless there are working groups. You cannot have working groups unless the people go to them. As a public relations matter and a

matter of fairness, people should know that delegates are putting in 12- to 14-hour days working in the precincts and cannot be televised. I might add that the burden on you and the Deputy Chairman is equal.

**CHAIRMAN**—The other thing that people need to understand is that, unless we have those working groups, it is not possible to produce the resolutions and facilitate debate. Yesterday, we had at least five meetings of the Convention which were essential. While some of them could take place during meal breaks, essentially we are meeting most of the time and there has to be some opportunity to complete those obligations.

Reconciling those two objectives is not easy, but I urge all delegates, if they are not involved in meetings, to sit in the chamber when possible and for as long as possible. There are some excellent contributions, and it is certainly a pity that there is not a larger audience here to hear them. I assure the wider community that the delegates have committed themselves universally to the task. I commend you all for the way in which you have been so assiduous in the pursuit of your obligations.

I have three proxies: the Hon. Leader of the Opposition, Mr Kim Beazley, nominates Bob McMullan for today from 9 a.m. until 2 p.m.; Senator Robert Hill nominates Senator Marise Payne as his proxy for today, Tuesday, 10 February; and the Treasurer, the Hon. Peter Costello, nominates Mr Christopher Pyne as his proxy from 9 a.m. to 3 p.m. I table those proxies.

In view of the number of speakers on the list to speak on whether Australia should become a republic—the item that the point raised by Professor Blainey dominantly concentrated on—I propose that we sit until 7.30 p.m. tomorrow night. That will give us more time to hear those general addresses. I also propose—as I indicated yesterday—that we return from lunch at 2 p.m. each day. That gives us another 15 minutes in here to hear those addresses.

I also remind delegates that, in accordance with the resolution passed yesterday, the deadline for submission of proposed models for circulation is 2 o'clock today. Models

must be provided to the secretariat by that time. They will be circulated as a set as soon as possible after that.

Each model should address the following specific matters: the proposed nomination procedure; the proposed appointment or election procedure; the proposed dismissal procedure; the definition of powers, including the extent as compared with the status quo and whether any codification is proposed; and the term of office. Delegates will then be able to subscribe to one of the models and each model—or any other models—having the support of at least 10 delegates will go forward for debate on Thursday.

The secretariat will maintain lists of people subscribing to the models. I should remind you that there have been working groups taking place in terms of each model, which ensures that a lot of work has gone into them. I do recommend that people have their models lodged with the secretariat because it will facilitate both the debate and the processing of them.

I now draw your attention to today's *Notice Paper*. We are going to go through the working group reports first this morning. We are then going on to addresses by delegates on the general question. Voting will be at 3 o'clock. Then we will resume our general debate in this place. The working group sessions on how should the links to the crown at a state level be handled will be conducted concurrently with the general debate. While I know that some will be involved in those working groups, I again pick up the recommendation of Professor Blainey that as many as possible participate in the chamber during those addresses on the general debate.

I have been asked to make two other housekeeping announcements. Delegates are reminded that glasses of water are not permitted on the desks in the chamber due to heritage considerations and because of the damage which could be caused if there were spillages. Water coolers are located outside the chamber. There is also a jug of water and water behind the Speaker's chair. Further to my announcement of yesterday, delegates are reminded to respond this morning for Thursday night's dinner to be given by the Deputy

Chairman and me so that final numbers can be settled.

**Mr RAMSAY**—Just one question on procedure: given that 2 o'clock today is the closing time for models, when could the delegates expect to have copies of those models circulated to them? Will it be before the debates commence or will we have to wait until tomorrow?

**CHAIRMAN**—It would be my intention to ensure they are distributed to all delegates as soon after that time as is possible. I would think that they should be distributed by 3 o'clock this afternoon, subject to how complex they are and how long the printing takes. But they will be available to all delegates this afternoon.

Also, following suggestions made yesterday, we intend to arrange for copies of all the motions that we need to debate this afternoon for voting to be distributed to members again in the chamber, providing that amendments are lodged in time for them to be prepared. So after you have had the working group debate this morning, if you have any proposed amendments, I urge you to try to prepare them so that they can be lodged and they will then be available for the session this afternoon. We are having the debate this morning. You should be able to lodge your amendments by lunchtime so that they can then be printed and be available for our voting at 3 o'clock.

We will now proceed to speakers on the four working group reports from yesterday.

### **Working Group I—Process and procedures for ongoing debate on Constitutional reform**

#### **RESOLUTION**

That this Convention resolves that the Government incorporate in legislation the following process for ongoing constitutional change:

- (i) The establishment of a broadly representative Constitutional Committee consisting of no more than one third of serving State and Federal Members of Parliament and two thirds community representatives, appointed by the Government.
- (ii) That this Constitutional Committee oversee a three year community based ongoing process of consultation about constitutional

change leading to a plebiscite on concrete constitutional proposals.

- (iii) This Committee and its consultations should be resourced by the Federal Government's Federation Fund.

Matters that should be considered in this process would include:

- . The role of the three tiers of Government.
- . Rights and responsibilities of citizenship.
- . Commonwealth environment power.
- . System of governance and proportional representation.
- . Review the mechanism of constitutional change (Section 128).
- . Constitutional aspects of indigenous reconciliation.

**Ms DELAHUNTY**—Thank you, Mr Chairman. Good morning, delegates and citizens. In introducing this report, I would like to gently remind delegates of the overwhelming vote of this Convention on day one for ongoing constitutional change. That was one of the highlights of day one: overwhelming consensus for a process of ongoing constitutional change. That strong support for continuing civic conversation was well in evidence at our very large working party last night. Delegates saw a window of opportunity opened by the escalating interest in this Convention, and the delegates in our working party do not want to lose that opportunity to continue the conversation. We were reminded many times of the eminent and august bodies of constitutional reformers who had met many times over the last few decades. Their work was considered skilled and well researched but, sadly, their efforts have been left languishing in government filing cabinets. We do not want that to happen with the momentum here.

I think quite clearly the great difference between those processes of constitutional change—or attempted processes—and this one is that there is at this Convention more than an embryo of public ownership and certainly public interest. The other difference—and this is quite critical to any success at referendum of any process of constitutional change—is that this Convention was supported by the government of the day and the government of the day wanted a tangible result that could be

put to referendum. They are the two points that informed our long discussions last night about the best way to continue the process: we wanted to keep public ownership; we also wanted to keep the pressure on the government of the day and bring them and keep them on board. This is a very different dynamic for constitutional change and it is one that has not been enjoyed by Australia thus far. This Convention is not a shot in the pan and many Australians will feel cheated if we do not continue a process of constitutional reform.

On the 'how' and the 'when', our discussions were very broad. There was early consensus for the community voices to continue to animate the process; that it would die if it did not have that input. There was also an early consensus for the appointment of some sort of ongoing constitutional committee to oversee the process and for that process to endure for at least three years.

The model that we boldly painted—and it is in the form of a resolution that you will have later on today—is this: that this Convention resolves that the government incorporate in legislation the following process for ongoing constitutional change. Firstly, the establishment of a broadly representative constitutional committee consisting of no more than one-thirds serving state, territory or federal members of parliament and no less than two-thirds community representatives, all of whom would be appointed by the government. We played around with numbers. We did not want to be too prescriptive, but I think it is important that the Convention knows that we moved towards a number something like 27, which would not be unwieldy but would involve representation across the states and across various communities.

Secondly, that this constitutional committee oversee a three-year community based ongoing process of consultation about constitutional change leading to a plebiscite on concrete constitutional proposals with the results of that plebiscite to be converted into a constitutional amendment proposal by a joint house committee and put to referendum. So you can clearly see that the model we are looking for is ongoing community consultation, but

ending up at the pointy end of a referendum where all Australians have the opportunity to vote 'yes' or 'no' on the specific issues.

Thirdly, that this committee and its consultations around the country be resourced by the federal government's Federation Fund. Without money the voices will be silent. We did draw up a bit of a wish list and there was quite an amount of agreement, so we have included that in the resolution. I will run through it now. It is not meant to be exhaustive, but indicative.

The matters that should be considered in this process include: the role of the three tiers of government, particularly the role of local government; the rights and responsibilities of citizenship; a Commonwealth environment power; a system of governance and proportional representation; a review of section 128; a review of the mechanism for how constitutional change occurs; and the constitutional aspects of indigenous reconciliation. That is the model.

Let me speak to that and give you some of the arguments for why we moved that way. There was strong representation, particularly from Professor George Winterton, that this is incorporated in legislation—that this is not whistling in the wind; that we actually have the government of the day on side. That is part of the reason for this Convention's success and interest. We believe there should be a large component of the community involved and that it should be well resourced.

There were four options for this ongoing constitutional committee, if you like—a form of administration of constitutional change. Firstly, the appointment by federal parliament of groups, which is perhaps the hybrid we have adopted; secondly, the fully elected group, which was knocked off very early; thirdly, an ongoing executive from this Convention. Perhaps this Convention could spawn the process of constitutional change and that delegates could be elected from this Convention to compose the constitutional committee. There were strong arguments against this notion on the basis that this Convention was created to address the question of the republic. Depending on how we go in the next few

days, I suppose it might also be slightly presumptuous.

This process, whichever way we go through the community consultations, gives the committee the ability to call another convention if that is deemed to be the best way to go. If that convention were to be called we recommended that it be at least 50 per cent elected. The fourth model of constitutional committee that would run this process of change is a joint subcommittee convened to run the process. This was attractive to some members because it had the imprimatur of parliament though many felt it might be subject to the whims and passing priorities of the parties. They also felt that a citizen component of this committee was absolutely critical to its success. So after debate the group moved towards the form of model that I have just outlined—a broadly representative constitutional committee consisting of no less than two-thirds citizens and no more than one-third serving state, federal or territory MPs.

I have spoken about the number. That is not meant to be prescriptive. I should say that the group is indebted to the work on this particular model by Catherine Moore. We propose that this constitutional committee drive the process of community consultation around the country which would lead either to another convention, if that was deemed necessary, but certainly to a plebiscite on the matters raised by this community consultation to be converted into a constitutional amendment bill and put to referendum.

The funding was an important topic. As I have said, without the money the voices are silent. We believe that the appropriate funding is already there sitting in a pot. What better way to use the bountiful funds of the Federation Fund itself. Let us not build monuments and statues, let us use some of the money there to continue the civic conversation. Let Australians talk to us and to others about how they want their Constitution renovated to reflect the way we are now not the way we were.

The second point to elaborate on is the community consultation. This should be based in our community and involve local government and even small scale citizen forums and

meetings. The process should place a strong emphasis on those who might otherwise feel excluded from this chat about constitutional change because they feel some educational, geographic, gender or socioeconomic disadvantage.

There was also the belief that this proposal for the process of ongoing constitutional change could incorporate and should incorporate the return to our school syllabuses of civics education. As you are probably aware, delegates, there has been bipartisan support for the return of teaching the rights and responsibilities of citizenship and the way our political process works. There is support for returning that subject to our school children and giving them some understanding of how governments work and indeed what process of constitutional change they can be involved in. We felt there was an excellent argument to incorporate civics education with the process of ongoing constitutional change.

So, delegates, when you see this resolution, I do commend it to you. It certainly, I hope, puts some flesh upon the bones of that overwhelming vote on day 1 that said that this Convention wants some process for ongoing constitutional change, and we should not lose the momentum of the escalating interest in this Convention. It is to be encouraged at all costs.

**CHAIRMAN**—Before I call Mr Ruxton, I table a proxy from Dame Leonie Kramer appointing Professor David Flint as her proxy for Wednesday, 11 February.

**Mr RUXTON**—I was very interested to hear Mary Delahunty. This is what we have been saying for a long time—that the republic is just a vehicle to crash the Constitution. She said that on day 1 we had decided to do this and that; we decided just the opposite. We decided just to talk about the republic. That was all. That was passed by this chamber.

Yet now we are going on and we have this constitutional committee—the revolutionary committee, we may call it, for goodness sake. I suggest that this is going to be the problem. The Australian people have to wake up because they are going to get a Constitution that is going to contain things that are going

to be detrimental to the freedom of this country. That is the way I see it.

**CHAIRMAN**—Thank you, Mr Ruxton. Before we proceed to debate on these reports, I have a long list of people who want to speak on each of the reports. It would probably be better if we spent a little time on each report and then moved on. I will call Ms Jenny Doran, who is the first on the list of speakers, but we will not go through the whole list before we get all the reports.

**Ms DORAN**—I am pleased to rise to support the resolution that has been put before this Convention by Mary so ably and to respond to some of the criticisms that have just been made. It is quite clear I think at the outset of this Convention that there are a whole range of broader constitutional issues that people are concerned about. The decision that has been made is that this Convention is not dealing with those issues, so the concerns of Mr Ruxton and others who might be opposed to them are not borne out in fact. The Australian community will not have hoisted upon it any measures or proposals for constitutional change that it is not fully aware of and has not been broadly involved in developing. That is the entire purpose of this resolution and this procedure that has been outlined in Working Group I.

The importance of this Convention for all of us who have been involved in it—who came to the Convention probably not knowing what it was going to be like, wondering whether it was going to be effective—has been that it has exceeded most delegates' expectations in terms of it being a very important forum. The diversity of its delegates, the breadth of experience we have here and the exchange of different, deeply held views in a very civilised way have been very important.

Most importantly, for those of us who have been involved in discussions about broader constitutional change for a number of years, this Convention has finally engaged public attention on constitutional issues. This might be because it is a unique event—it is the first time we have had such a convention—and obviously the media focus on it for that reason has been important. But it is clear,



once the media is focusing on it and giving it attention, the public itself will be very interested in these issues. Once they have information before them and are familiar with the issues, people want to be involved. Therefore, a discussion about broader constitutional change can really address our citizens' engagement in the political process; addressing, to some measure, that feeling of alienation from the political process that many in the community have. I think it is an opportunity to reinvigorate representative democracy—talking to the community, asking the community what they expect of our political process.

The ACTU's affiliates have run a range of arguments about broader constitutional change, in particular, centring on the rights and responsibilities of citizenship. We are looking at rights to services accruing from citizenship such as rights to a basic quality public education system, which is a campaign that has been run by the Australian Education Union. A leaflet has been distributed to all delegates in relation to that matter. The Public Service unions have been raising issues relating to the role of the public sector and the delivery of services to our citizens as part of the constitutional debate.

We also, of course, have an interest in the Bill of Rights and the protection of particular basic human rights such as the freedom of expression and the freedom of association. These are very important broader constitutional issues that we believe demand to be discussed in the broader community. We want to take the opportunity arising out of this Convention to endorse an ongoing process—and I think it is very important that this Convention endorse such a process—of engagement with the community about these broader issues. It is for those reasons that I strongly support the resolution that has come from Working Group I and I urge the Convention to support it. Thank you very much, delegates.

**Professor PATRICK O'BRIEN**—I support the general principle of Working Group I but with grave reservations about the actual wording, because we are told again that this working group, this permanent working group

on constitutional change, will have its membership appointed by government. I found it amazing, just as I found it amazing yesterday, that certain people wanted to exclude the word 'democracy' from the preamble of what I thought was going to be a democratic constitution. I was amazed to hear Ms Mary Delahunty say, 'We must listen to the people. We must open the process to the people.' Well, Ms Delahunty, Mrs Janet Holmes a Court, Mr Malcolm Turnbull, and Mr Eddie Maguire—who spoke about a reality pill—

**Mr RUXTON**—What about me?

**Professor PATRICK O'BRIEN**—the people have spoken. Once again, the poll published in today's—

**Senator WEST**—An eminent professor like you should know better.

**Professor PATRICK O'BRIEN**—That is what the people want. If we are going to have just another process here in which the people speak and are not listened to, then it is not worth having it. Therefore, what 'education program' often means to people with partisan viewpoints who have track records of not actually doing what the people ask them to do is simply brainwashing. 'Let us force them into accepting our point of view' is in effect, what they are saying.

If the proposer of this motion really meant what she said in her address supporting it, then this Convention would already have a consensus that a president of a republican Australia would be directly elected by the people. I find it quite extraordinary that the people who doggedly, in face of the reality pill talked about by Eddie Maguire, resist and refuse to give the people the right to elect their president, still talk about community consultation, for God's sake! Therefore, I would oppose this motion, though I support the very idea—

**Ms DELAHUNTY**—Ha, ha!

**Professor PATRICK O'BRIEN**—Don't you laugh at me, Mary Delahunty. It was a member of my group that was responsible for getting this Convention going.

**Mr RUXTON**—Get stuck into her, Paddy.

**Professor PATRICK O'BRIEN**—It was Jonathan Harms who got the proposal on to the agenda of the Western Australian division of the Liberal Party as policy, because he listened to the people. So he went to his party and put on the agenda in 1993 the proposal for a people's constitutional convention. It got through that convention by one vote, was sent to the federal council and John Howard, when he got the leadership, then incorporated it into his political party's platform. That is real community consultation.

My simple point is this: let us be true to what we say. If we are serious, Mary Delahunty, about community consultation, then let the people speak. Let them elect their delegates to such groups. You people over there have closed your eyes to the reality, you who are spitting upon the graves of those Australians who did the great things in this country, because you will not give them the right to vote. Therefore, I will oppose this until it says that the people will have the final say. Thank you very much.

**Councillor LEESER**—I believe that this Constitutional Convention represents the culmination of what I shall term the *Absolutely Fabulous* effect, for the republic is the by-product of the *Absolutely Fabulous* generation. For those who do not know, *Absolutely Fabulous* is a TV show where two middle-aged baby boomer women swarm around drinking copious amounts of alcohol, smoke pot and try to relive the hedonistic days of the 1960s and 1970s. One of the women has a daughter called Saffy who is about my age and is an infinitely sensible and studious girl who is enormously embarrassed by the antics of her mother and her best friend.

I believe the republic is the *Absolutely Fabulous* baby boomers' last hoorah, their last tango in Paris, the zenith of a generation who value style over substance, to whom touchy-feely, kumbaya motherhood notions are more important than results. Whilst the baby boomer generation has made some achievements, like all great social movements, they have gone too far. So I cry out to Saffy and all the other Saffys there in the tradition of youth rebellion: stand up to the Ab Fab generation, stand up to them and their vacuous republic.

Whilst I stand up to the Ab Fab generation, I do not believe that they have a monopoly when it comes to the issue of constitutional change. As Justice Kirby has said:

I support the reform of society and its laws, but reform means more than change. It means change for the better.

There are two things I wish to discuss: firstly, the question of future constitutional reform; and, secondly, the methods for discussion of that reform. Whilst I support the place of the Crown in the Constitution, and I am unswerving on that, I acknowledge that there are areas of the Constitution which are crying out for reform. I believe that there are two broad areas of constitutional reform that need our urgent attention: firstly, federalism and, secondly, rights. Since the Ha judgment was handed down last year, there has been a pressing need to revisit federalism. Do we wish to continue as a federation? If so, I believe we need to amend section 90 of the Constitution to allow states to levy exercise duties.

We cannot continue with the meaningless legal fiction of the Dennis Hotels exception. Whilst states provide many of the governmental functions, they collect almost no revenue, and this imbalance needs to be addressed. I also believe that we need to look at the Constitution in the light of changing social circumstances and give the Commonwealth more power to make laws in relation to de facto relationships and the adoption of children so the whole question of the family unit is regulated by one level of government. There are other matters which are too voluminous to go into here.

Given the trend of judicial activism, we also need to look at the place of rights in the Constitution. We need to consider whether a Bill of Rights would be beneficial in indicating to the judiciary fundamental values or whether it would merely lock future generations into the ideals of our age. I do not believe that these issues are exhaustive. However, I believe they are worth thinking about.

As to the method of discussing these matters, I believe a Convention like the one that we have had here is the most effective

method of achieving this. The idea of the Convention originally did not come from Alexander Downer or John Howard, but it was mooted in 1993 by a brilliant Australian who is given far less credit for his contribution to this country than he deserves, and that is Mr Bob Ellicott QC. Ellicott maintains that his 1977 referenda had been successful because they were dealt with by a Convention not like the 1988 Constitutional Commission which had eminent persons contained in it.

A convention is the best solution because like this one it is half appointed and half elected. It would provide for popular legitimacy as well as encouraging stately and academic minds who would not otherwise put themselves up for election. One thing is for certain: there is no need for more wasted money on royal commissions and the like into the Constitution. Since 1929 there have been no fewer than six telephone book like commissions, which have produced telephone book like results, where the Constitution has been examined with a fine tooth comb and there are enough recommendations as a basis to start constitutional change.

If, however, we are going to have a convention it should be held only on an ad hoc basis. It should not necessarily be a recurring thing, and it must have bipartisan support for whatever is proposed. Otherwise, the only thing that a convention will do is provide dusty volumes and irate taxpayers who believe their money is not being well spent—on an extremely difficult process which is vexed with hardships. Therefore, I propose constitutional conventions on an ad hoc basis whereby partisan support exists for a particular proposal.

In conclusion, constitutional change requires the wisdom of Solomon. We all know that. We need to acknowledge the difficulty of the process. As my great grandmother used to write in her diary every year: 'Lord, grant me the knowledge to accept the things I cannot change, the courage to change the things I can and the wisdom to know the difference.'

**Reverend TIM COSTELLO**—That quote from Reinhold Neibuhr is one I agree with. In terms of having the knowledge to discern the things we can and cannot change, it is quite

important to understand that one of the reasons we cannot change certain things when it comes to the Convention—

*An incident having occurred in the gallery—*

**CHAIRMAN**—We understand your feelings in the public gallery but unfortunately you are not a delegate and therefore I am afraid we cannot give you a voice.

**Reverend TIM COSTELLO**—I was just agreeing with the Reinhold Neibuhr quote that the last speaker finished with. The things we cannot change in discerning a difference are not things we cannot change because Australians do not want them to change but because for constitutional reform it has to be driven from parliament. There has to be really bipartisan support, as we know, and interest and inclination to attend to these matters. In 1988 the freedom of religion referenda and the one vote, one value initially had a lot of popular support out in the community. But when there was not bipartisan support for it, as we know, which happens with all referenda, it went down.

In terms of supporting the resolution of Working Group I that Mary Delahunty reported on, it has to have politicians on it. It has to have I think, a third of the politicians on it—of a number of panels around, we have suggested, 27 or 30—because they must own it. Parliamentarians have to be in the process in a bipartisan way to say that these things coming through are also our concerns, that they are the concerns that grassroots people have fed back to us as their concerns.

I think we must responsibly ask: how do we channel the extraordinary interest in this Convention in the future? How do we harness what is quite remarkable not just Australian interest but also international interest? International commentators have said, 'Isn't it interesting that ordinary delegates can sit down with their politicians and in fact talk about changing to a republic and changing their Constitution?' I was speaking to a Liberal state minister from Victoria last night who said to me that he predicted that by day 2 of last week there would be no more interest in what was going on here this week in this chamber, that people would be bored and

turned off. He said, 'I am totally wrong. I am amazed at the level of interest, how people are following this.'

This is an historic opportunity to actually draw citizens who have felt passive and, in my view, locked out and disconnected from matters of their Constitution into a vitality, a sense of participation, that actually reignites some active citizenship. As other speakers—certainly the one before me—said, there have been quite outstanding resolutions for constitutional reform from other Constitutional Centenary Foundation groups, et cetera. The problem is that there has been no political commitment to those resolutions. This Convention is working, delegates, and I think we all know why: because there has been political commitment; a promise that what comes out will be put to the people. That has breathed life into this process. For any ongoing conventions to harness citizenship and interest—which I think is absolutely critical to the way forward for a vibrant democracy—we also need some politicians committed to the ongoing Constitutional Committee to actually carry the numbers in their party and say, 'These things are important.'

I would have to say that, for me, the ongoing processes from here are actually even more important than the result of what happens in these two weeks, because the things that concern most Australians, at the end of the day, are not particularly the head of state and the postal address of Buckingham Palace or Yarralumla—and I say that as a republican who wants it to be Yarralumla or at least an Australian head of state—but how the system works for them, makes sense for them and gives their children hope, participation and empowerment.

Therefore, for mine, this resolution may be the most critical decision or vote that we actually take at this Convention: to invite others to be part of the process that I have enjoyed here and I hope others have also. So I strongly support, as we move to Federation, us inviting citizens back to understanding their Constitution and feeling they can participate in it. I hope you will support this ongoing Constitutional Working Committee.

**CHAIRMAN**—Thank you very much. We have quite a number of speakers who want to speak on this working group. I am conscious of the original time allocated. I will call two more speakers on this working group and then I will call on Working Group J. Those other speakers, hopefully, might be able to speak in the residual time on any one of the working groups. That will enable all the working group reports to be considered adequately. We will now have Mr Clem Jones and then Ms Sallyanne Atkinson. This is on Working Group I.

**Dr CLEM JONES**—I think one of the problems we face is that it is a human characteristic for those charged with the responsibility of advice to seek wherever they can to advise on how things cannot be done rather than to seek ways of doing them. For those in public office this characteristic creates the biggest problem in giving public service. Over the last few days we have heard over and over again how we cannot do things; the highlight being, of course, the catchcry day by day in relation to the codification of powers. After this Convention is over, people will go on talking about how we can improve our parliamentary system, how people can participate more in our government. Unfortunately, we will be told over and over again, as we have been told during this week and last week, that you cannot do it because of established factors, because of convention, because of High Court decisions and so on.

Mr Chairman, delegates, they can all be changed. That is why we are here, to try to change things—and we have. We, in conventions of this kind and through our parliaments, can change anything we like. There are not preordained things that we cannot do. We are all here to make things different in the future. If the things of the past do not let us, then let us get rid of the things of the past—and, indeed, perhaps some of the present too, where it applies. We are here to make change. Let us have the courage to do it. I am sure my Aboriginal friends will agree that much of the past is bad. Let us get rid of it. If it does not suit the requirements for a better Australia in the future, let us get rid of it. Let us decide what we want.

Today is a good example of the people of Australia telling us and the parliament what they want. The poll today, in the *Australian* showed clearly the attitude of the people. We would be recreant to our trust here if we did not take notice of what has been said. But, if we want a directly elected president—and I certainly do—if we want him to have certain powers, reserve or otherwise, let us say so and put them in the golden book of words, the Constitution.

Let us hold regular referenda in the course of the years ahead. Let us always hold those referenda with the idea of letting people have a say in the government, in the future, in the way we run this country. Let us determine the powers, codify them, but, please delegates, do not make the president the puppet of our politicians now or ever. Let us make the president the people's guardian of the people's Constitution. Surely we can do this without destroying the supremacy of parliament.

It is our belief—mine and that of my own colleagues from Queensland—that, when the president is eventually chosen, he should have powers of consideration of legislation and referral back to the parliament. That is not the proposal that has been put forward by the direct election group. We accept that because in the process of change we should consider all aspects and the majority view should prevail.

I am very much concerned that a great number of the things that we are doing here were preordained. Today we should not be preordaining what people of the future are going to do and say in considering the changes that could be made to our present Constitution, but I do deplore the fact that some of the decisions that are going to be made here in the next couple of days were preordained by others than those perhaps who are sitting in this room.

I would like to make it finally clear that I am totally dedicated to a republic, but it must be a real republic, a true and fair dinkum Australian republic, not a republic which establishes a purely ceremonial head of state who is literally a functionary of Canberra

appointed by politicians. I will not vote for a pseudo republic with a puppet head of state.

**Ms ATKINSON**—Thank you, Mr Chairman and delegates. I support the recommendations of this working group for ongoing constitutional change because what we are talking about here is putting in place some mechanisms for an ongoing review of the Constitution, and I think that can only be a good idea. This Convention has very much signalled the concerns of this nation. It has very much shown that it is of its time. The first conventions—those earlier ones 100 years ago, or that led up to the one 100 years ago—were representative of the needs of Australia of that time of that day, but they did not address the issues that we have seen brought forward like the environment, women, rights of indigenous people.

This Convention is comprised of representatives of all Australians—elected people and unelected people. It is very much of Australia today. The people who are here include women, mothers, grandmothers, young people, indigenous people. I think too we understand that public consultation is very much part of the process of the Australian way of life. It is something that people take for granted now. That Convention drew up a Constitution for its time which, as I think all of us have agreed, has served Australia well. But now it is time to take stock, to evaluate, and, of course, I think it is very appropriate that we are doing this at the beginning of a new century, at the start of a new millennium.

We are putting in place some mechanisms for the future. This is what ordinary people do at the start of a new year. It is what businesses do when they constantly evaluate and reassess their performance and their program. I believe that we need to put in place these mechanisms now for dealing with the evolution of Australia in the years to come and, because things move much faster now than they did 100 years ago, I do not think we can afford to wait for another series of major conventions at the end of the next century. We need to work out a framework and a structure that will deal with changes ahead. We need to be ready to deal with those

changes as they come forward and we need to be far more flexible than in the past.

One aspect that does not seem to have been touched on by the Convention, particularly by my friends on the monarchy benches, is that we have talked about the monarchy as it is now, as we have always known it, but we have not discussed—probably it has not been appropriate to discuss—how we would plan to accommodate any changes that might occur in the monarchy of Great Britain, if that should be the way that this Convention decides to go. I think it is very important that we lend an ear or pay some attention to the changes that are being discussed in Great Britain at this time—the review of the monarchy there, the different forms, the different changes that are being looked at.

Again, I support the resolutions of the working group. I believe very strongly that it is important in a sane, rationale, reasonable, structured, constructive way, to put in place the mechanisms for dealing with the relevant constitutional changes that may be necessary from time to time to reflect the will and the aspirations of the Australian people.

**CHAIRMAN**—I propose to draw off the debate on that particular working group at the moment. We have three others to do and our time is going to be restricted otherwise. On Working Group J, the convener is not present but, Professor Blainey, you might like to speak—I notice your name on the speakers list.

#### **Working Group J—The Oath of Allegiance of the new Head of State**

##### **RESOLUTION**

1. The Working Group agreed that the new Head of State should swear, (or affirm) both an oath of allegiance and an oath of office.

2. The new Head of State should swear an oath of allegiance, the wording of which should be the same as that for any other person required to swear an oath of allegiance. The wording of the oath should be modelled on that provided for by the Australian Citizenship Act, as follows:

"[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."

3. In addition, given the importance of this new office, the new Head of State should swear, (or affirm) an oath of office as follows:

"I swear, humbly relying on the blessing of Almighty God, (or I do solemnly and sincerely affirm and declare) that I will give my undivided loyalty to and will well and truly serve the Commonwealth of Australia and all its people according to law in the Office of the President of the Commonwealth of Australia, and I will do right to all manner of people after the laws and usages of the Commonwealth of Australia without fear or favour, affection or ill will."

**Professor BLAINEY**—Mr Chairman, I apologise for Mr Edwards's absence. It was resolved by the working group yesterday that the new head of state should swear or affirm both an oath of allegiance and an oath of office. The new head of state should swear an oath of allegiance, the wording of which should be the same as that for any other person required to swear an oath of allegiance. It should be modelled on that oath provided by our act of citizenship. In addition, it was recommended that the new head of state should swear or affirm an oath of office as follows:

I swear, humbly relying on the blessing of Almighty God, that I will give my undivided loyalty to and will well and truly serve the Commonwealth of Australia and all its people according to law in the Office of President of the Commonwealth of Australia, and I will do right to all manner of people after the laws and usages of the Commonwealth of Australia without fear or favour, affection or ill will.

The working party was conscious that there may be legal implications and this is simply a recommendation, but the main resolution was that undivided loyalty must be sworn by the head of state or by the new president. It was not sufficient simply to have the simpler, less emphatic oath that new citizens take when they become members of our nation, but that is the essence of it. I should add that I would like a much stronger oath and affirmation.

**CHAIRMAN**—Would you like to speak to it? Your name was listed to speak. Would you like to say anything about your own views on behalf of the committee?

**Professor BLAINEY**—My own view is that when we ask for a president, if we do,

we are saying that this new person is the symbol of a nation and the focus of the loyalties of the whole nation. We are asking that this person act for the whole nation as a spokesperson and as a symbol of their unity. It seems to me absolutely essential that such a person on taking office should not only pledge undivided loyalty to the nation but also forswear allegiance to any other nation.

I am not saying that the president should forswear allegiance to any other culture or any other religion; I am saying that this is our nation and that there must be an emphatic forswearing of any other loyalty. Otherwise, we are left with the position that so many of the present republicans complain against that our present monarch has divided loyalties. It would be strange if we moved from the system where that is the complaint to a system where we do not demand of the new president loyalty of the highest order—loyalty complete and undivided.

**Mr RAMSAY**—I would simply point out that the wording of the suggested oath of office has been put forward on the basis that Australia has become a republic and ceases to have the Queen in her position, and the Crown has been removed from our Constitution. The reason that the word ‘president’ appears in that oath of office is in line with the decision of this Convention yesterday afternoon.

I would strongly support the observations just made by Professor Blainey that an oath of office or an affirmation of office made by the head of state of Australia should be quite unequivocal. It should be a full and total commitment to the welfare and security of our land. It needs to be something much more than any other oath of allegiance that may be made.

I too would support Professor Blainey in his comment that the final wording of such an oath should require forswearing allegiance to any other nation. I know it raises some difficulties as many of our Australians today do have the privilege of dual nationality but, when it comes to the head of state of our country, someone who will be the commander in chief of our armed forces, there should be no doubt at all. I believe the example that

should be set by our head of state requires that strongest affirmation or commitment to our country.

**Mr WEBSTER**—I too would like to support Professor Blainey’s comments. I am reminded of Winston Churchill when he planned his funeral down to the nth degree, right down to the most minute detail, he titled the whole plan ‘operation hope not’. In agreeing to the wording of this particular part of the working group report on the oath of office, I agree that it is an oath or an affirmation of tremendous significance and that it needs to be absolutely comprehensive in all details.

A strong point was made that, in view of the fact that we as a convention seemed to be fairly well agreed that the preamble should contain a reference to ‘humbly relying on Almighty God’, it is not out of place where a president is taking an oath to include that in it. I commend that wording to the Convention body with regard to the oath in particular.

**Brigadier GARLAND**—Last evening I had a number of telephone calls from migrants to Australia who were very concerned about some of the things going on in this Convention, particularly in relation to the matter of the oath of allegiance. Many of those people said to me, ‘We came to Australia in the years immediately after World War II. We were subsequently naturalised and we made an oath of allegiance. Where are we going to be if you decide to change the system?’ From their point of view, an oath of allegiance is not for Christmas but forever. An oath of fealty is something which you cannot put on and take off like a pair of socks.

I suggest that millions of Australian have taken the oath of allegiance to the Crown. All politicians in the federal parliament take that oath. I wonder where their fealty really lies. Was that oath of office that they took as politicians just something to allow them to sit in the chamber, to draw their pay, or were they serious when they took that oath of allegiance? The same goes for police, Defence Force members, public servants and judges.

What is the purpose of an oath? Is it the same as that put forward by Adolf Hitler during World War II when he said that a

treaty is only a piece of paper? Is an oath only a series of words? I would suggest that it is very hypocritical of people who have taken an oath of allegiance to then start proposing not the minimal changes that we had been told were going to take place, but fundamental changes to our society and our way of life.

Mr Lavarch took great pains yesterday to tell us that when he became a minister he took an oath of allegiance to Australia. What he did not tell you was that before he became a minister, when he became a member of parliament, he took an oath of fealty to the Crown. It seems to me that we are being hypocritical when we start talking about taking oaths unless we actually mean what we say. Have a look at the people sitting next to you and ask, 'How many of them have taken an oath to the Queen or to the Crown, and are they upholding the oath that they took?' I would suggest that many of you treat it just like a set of words—something of no consequence.

**Mr EDWARDS**—I want to say from the outset that, as someone who formerly swore an oath as a member of the armed forces, I do not feel one bit hypocritical. Indeed, when I joined the armed forces, if I had had the opportunity, I would have sworn an oath of allegiance to Australia first and to her people first, rather than to the Queen, but I did not have that option. I want to reiterate that I do not feel one bit hypocritical in my stance as a proud Australian who supports a republic. I am comforted in the knowledge that I have many friends in the RSL who feel exactly the same way that I do, and as strongly.

The oath of allegiance of the new head of state and the oath of office are the consequence of some consensus between a group of people who came from fairly different points of view but felt that the new head of state should swear the same oath of allegiance as any Australian being appointed to any position requiring an oath of allegiance. However, we also felt that, given the high importance of this office, there should be a subsequent oath of office that reflected the importance of that position. What we see here is a consensus of that working group. I

commend it to the Convention and I ask people to support it.

**CHAIRMAN**—There are still a number of people who wish to speak on that working group report. However, I want to finish these, if we can, without getting too much behind schedule. I call on Sir David Smith to present the report for Working Group K. The next speaker on that issue will be Mr Bruce Ruxton.

**Working Group K—Entrenchment of the Australian national flag and of the Coat of Arms of the Commonwealth of Australia.**

**RESOLUTION**

We recommend that a provision be added to the preamble to the Constitution which would ensure:

- that the Australian national flag and coat of arms of the Commonwealth of Australia may not be changed without a national vote of the Australian people;
- that passage of any proposal for change to the flag or the coat of arms should require a special majority of the kind required under section 128 of the Constitution; and
- that the submission of any proposal to add such a provision to the preamble be at a time to be decided by the government of the day, but subsequent to any referendum on a republic.

**Sir DAVID SMITH**—The proposer of this resolution and the convenor of this working party was Mr Adam Johnston. I was proud to second Adam's motion. Unfortunately, he could not take part in the committee proceedings. Therefore, I present the report of the working group on his behalf.

Working Group K recommends that a provision be added to the preamble to the Constitution which would ensure, firstly, that the Australian national flag and the coat of arms of the Commonwealth of Australia may not be changed without a national vote of the Australian people; secondly, that the passage of any proposal for change to the flag or the coat of arms should require a special majority of the kind required under section 128 of the Constitution; and, thirdly, that the submission of any proposal to add such provisions to the preamble be at a time to be decided by the government of the day but subsequent to any referendum on the republic.



We have reached a stage in our growth as an independent nation where our fundamental symbols around which we have constructed our identity need to be constitutionally entrenched to protect them from being altered or done away with without the approval of the people. Our fear for the flag in particular is heightened by the launch of a campaign by a private organisation, sponsored and supported by foreign companies and republican delegates to this Convention and timed to coincide with the holding of this Convention.

We recall the way in which the symbols of the Sovereign and the Crown were treated by the previous government. These symbols of the constitutional monarchy were diminished or removed altogether by the Keating government on the arrogant assumptions that the republic was inevitable, that the approval of the electorate at a referendum would be forthcoming and that it might therefore be anticipated. We do not want this to happen with the national flag or the coat of arms. Every visitor to the new Parliament House is struck by the prominent display of these two symbols: the national flag flying above the parliament and the coat of arms mounted above the forecourt.

Our young people visiting Australian war graves overseas in search of Australia's story and national identity in ever-increasing numbers carry the flag on their backpacks and look for the flag which flies over these cemeteries and which identifies these sacred places that marked our progress towards nationhood in the fields of battle. At the other end of the spectrum, the national flag has almost entirely displaced the boxing kangaroo wherever Australian teams confront other nations in fields of sport. Has anyone ever tried to tell the Country Women's Association that the Australian flag could readily be exchanged for another design?

The coat of arms has also been threatened before. I recall the occasion when the Australian designer of our decimal currency, Mr Stuart Devlin, who had been chosen by Prime Minister Whitlam to design the insignia of the Order of Australia, presented his first models of the insignia to the Governor-General and the Prime Minister in the drawing room of

Admiralty House in Sydney. In the centre of each piece of insignia, Mr Devlin had placed a small enamel disc depicting the Commonwealth coat of arms in full colour. As soon as the Prime Minister saw the pieces laid out before him, he pointed angrily at them and said that the coat of arms would have to go. When Mr Devlin asked what possible objection there could be to the coat of arms, the Prime Minister replied that the arms contained the emblems of each of the states and that he was not going to have the states depicted on his insignia.

The coat of arms is the most potent symbol of our Federation and for those of us who have witnessed the way in which the political representatives of the states have voted consistently at this Convention to put down their states for the sake of the centralist republic—and there is no other kind of republic—the coat of arms may soon be the only remaining symbol of the Federation. The flag has evolved into our most potent symbol of nationhood and the coat of arms has evolved into our most potent symbol of the Federation. Accordingly, the working group strongly recommends that these two symbols be entrenched to protect them from being altered or replaced without the approval of the Australian people, that such approval should require the constitutional double majority and that the matter be dealt with separately from and after the holding of any referendum on the republic.

**Mr RUXTON**—I would like to support the report given by Sir David Smith, and particularly those remarks concerning the Australian flag. I find it rather odd that there is opposition to the Australian flag being entrenched in the Australian Constitution. Surely to goodness, if the republicans and those who want the flag changed are so sure of themselves why don't they allow it to go into the Constitution. Are they trying to get rid of the flag by other means?

I find it odd too that when I spoke on a television debate with Neville Wran and Malcolm Turnbull some time ago they said, 'The flag has got nothing to do with this debate.' They could not get rid of it quick enough. I made the comment that if there is

a republic tomorrow the flag will be gone the next day. I also think that what has been put forward about the Australian flag by Ausflag is deceitful. They say, 'It has been changed before. It was a red ensign and then a blue ensign.' You cannot make up your minds.

What they have not got the guts to say apparently is that it is a Union Jack in the corner of the flag. It does not matter whether it is a red or blue ensign. Having said that about the blue ensign, there is a photo taken at Polygon Wood on 20 September 1917 with the blue ensign going up. There is a photo of the blue ensign on both sides of the front page of the Anzac book printed at Gallipoli in 1915. I too feel rather ashamed that Nick Greiner and Nicholas Whitlam are the co-chairmen of Ausflag.

I am also ashamed of the sponsors. I cannot believe, as Sir David said and as Digger James said last night, that there are two foreign sponsors of Ausflag. They are Fuji Xerox of Japan—they could not get us in 1942 but they are having a shot now—and Apple of America. Could you imagine BHP or some other Australian company going to America and funding some dissident group to change the Stars and Stripes. Think about it.

I say to Janet Holmes a Court that her company is also a sponsor of John Holland industries. I am quite sure Sir John Holland, that famous engineer from the war and the famous Z special unit leader, would not want his name attached to it. It is rather a shame what business does. I say in all sincerity that it should not bother anyone in this chamber to put the Australian flag into the Constitution because if the flag is to be changed, it will take the vote of a majority of the people. That is all we want. That is what everyone in this chamber, republicans and all, should want. The Australian people will not forget if you eliminate this from their Constitution.

**Professor BLAINEY**—My understanding is that most leaders of the Republican Movement believe that the present Australian flag must go. They themselves are mostly restrained in criticising it because, understandably, their first priority is to achieve a republic. But, if they finally achieve a republic,

they will then argue forcefully that a new republic calls for a new flag.

Initially I had some sympathy for the crusade for a new flag that gained momentum just after Australia acquired its present national anthem. I remember that in the early 1980s when I was teaching undergraduates, many of them were enthusiastic that Australia, like Canada, should devise a brand new flag. I even subscribed to the new Ausflag organisation, carefully pointing out to Ausflag that I would subscribe for only one year. After a year, there was no flag of merit. There is still no new flag of merit.

A few years later, I began to look at the history of flags, and I suddenly realised a few simple facts: these are the facts

A national flag is not necessarily an up-to-date information sheet to be altered every 100 years as the nation itself changes. By this test, many of the world's oldest flags are hopelessly out of date. I am not impressed by the republicans' argument that our flag is tainted. They say it is tainted because it carries relics or remnants of the flag of another nation, yet about four-tenths of the flag of the United States, a noble flag, consists of the British red ensign that flew in North America two centuries ago. Should we therefore tell the United States to design a new flag?

I believe that, if we become a republic, we should retain the present flag. The flag of republican France is seen as one of the most appropriate in the world, but even it embodies royalty—the white on the French flag stands for the French monarchy, which vanished a century-and-a-quarter ago. I am conscious that many Aborigines would like to alter the flag. Although I have not thought it through to the full, I see some merit in placing another star, an anonymous star like all the other stars, on the flag to signify their long presence and history. But the call for the wholesale re-designing of Australia's flag seems to rest on the mistaken knowledge of the history of flags.

I am not in the least persuaded by the persistent argument that Australia needs a new flag just because it resembles the flag of New Zealand. That is New Zealand's problem. In fact, a host of national flags are look-alikes.

The flags of Ireland and Italy are breathlessly alike; so, too, are the flags of Holland and France. Should those nations summon the flag doctor?

I tender a simple conclusion: for too long we have been brainwashed by the cry that Australia must find a new flag. May I suggest this, Mr Chairman. If republicans are to show a real desire for national unity, they should come together and agree upon an essential concession: that they will accept the present Australian flag, even embalming it in the Constitution so that it cannot be easily changed.

Whenever I speak on the flag, I get so many letters of interest. Here is a letter written in 1992 from Little Raglan Street in Ballarat by somebody who was obviously well into her 90s. She says, 'I lost my husband and two brothers in the world wars, and I know they would like me to stand by the flag.' The flag is not perfect, but it links the living and the dead. It has flown over so many of Australia's triumphs and not a few of its tragedies. Above all, it is our flag and it is the chief symbol of national unity.

**Mr FOX**—At school academically I was a disaster, but the thing that vividly stands in my memory is the Monday morning assemblies, where there was the roll of the kettle drums, the unfurling of the flag and all the students standing to attention with their hand on their heart repeating, 'I love God and my country. I'll honour the flag. I'll serve the King and cheerfully obey my parents, teachers and the laws.' They are the only things I clearly recall of school and it was something that came out every Monday morning, where it was a commitment and an obligation. Today, I guess it is companies like Coca-Cola and McDonald's that get to the kids and give them a theme to look forward to—not that there is anything wrong with Coca-Cola; we deliver most of it.

I spoke to Professor Geoffrey Blainey yesterday. Our flag was put together in 1901. The Union Jack in the corner is symbolic of where we came from. The Southern Cross represents the land on which all of us live below. I do not support the motion for the entrenchment of the flag. However, I support

retaining the flag, and the only way of change should be by national vote of all the Australian people.

**CHAIRMAN**—I call Archbishop Hollingworth.

**The Most Reverend PETER HOLLINGWORTH**—I travel around this country a good deal and I travel around my own diocese of Brisbane a good deal and I listen to what a lot of people say. On these great and momentous issues before us, there is a good deal of discussion and I think delegates would be greatly heartened to know how much interest is being generated by the events in this chamber.

On the matter of the flag and indeed of our national Coat of Arms, the issue of symbols and signs is a critical thing. I believe there is no support of any substantial nature anywhere in Australia to change our flag. I also believe, with Sir David Smith, that we have an outstanding Coat of Arms which manifests and entrenches the Federation, and that too should stay.

I was part of the working group that discussed this matter at some length and detail last night. I support the entrenchment of both these powerful symbols for one reason, and it is this. As with the general issue of the republic, so with the flag and other national symbols, if this divisive, media catching, sniping activity continues, our national institutions will continue to be undermined. We must have a referendum as quickly as possible to settle the matter of whether we want a republic or not because we will continue to haemorrhage, and the same thing applies to the flag. If this matter is not settled and settled quickly after the referendum, that matter will continue. I have seen no flags in all the ones offered by Ausflag that even approaches what we have today. I believe the matter should be settled once and for all.

**CHAIRMAN**—I call Graham Edwards.

**Mr EDWARDS**—I want to urge delegates to give some serious thought to this matter of the flag. I want to point the Convention to the position of both major political parties, where there is bipartisan support for the view that there should only be a change to our flag if

the majority of people in Australia vote that way. I want to suggest some caution to the supporters of this resolution that is before us today. That is, if we were to put the entrenchment of the flag to a referendum, you may run the risk of losing it. I urge you to give consideration to that position. I urge you to give consideration to the legislation which has passed before the House of Representatives but is yet to go to the Senate. I urge you to look at what is contained in that legislation.

The most significant feature of our flag, as far as I am concerned, is the Southern Cross. I have felt that for many years, but I strongly support the view of the many ex-servicemen and ex-servicewomen of this nation who feel that the current flag means something deeply emotional to them. I do not necessarily agree with them, but I respect the sacrifice that those people have made for this nation. For that reason, I will support their point of view. For that reason too, for those people who feel that our flag should not change, I urge you again to give support to the legislation that has gone before our House of Representatives and that will go before the Senate. That legislation says that the flag should not be changed without a majority of people in Australia supporting a change.

**CHAIRMAN**—I propose to call Ms Janet Holmes a Court on that matter. We still have quite a long list of speakers and we are not going to finish them all in time. After Ms Janet Holmes a Court has spoken, I propose to proceed to the next working group. We will then allow a little time for people to speak on any one of the four working group reports before we proceed to the general addresses.

**Ms HOLMES a COURT**—I have never resiled from my position that I support a new flag for Australia. How could I—I am a director of Ausflag. I believe we need a flag which represents us now—one which people will recognise as being ours. I have a daughter who represented Australia in many international competitions. She said, ‘Mum, they don’t know where we come from.’ We need a flag which shows our pride in our nation. A Finnish girl of 17 years, who was being taught by a friend of mine, looked at our flag

and said, ‘Don’t you people have any pride, having someone else’s flag on your flag?’ We need a flag which informs that we are no longer a colony. An Asian cabinet minister assured our ambassador to her country that her people would support us in our struggle for independence.

We need a flag which even the staff at Parliament House up the hill recognise. At a dinner for the Laotian foreign minister, the floral arrangements on the table contained beautifully arranged flags of New Zealand and Laos. However, Mr Chairman, it was my understanding that we were not coming here to speak about our flag but about whether Australia should become a republic.

In 1953 Sir Robert Menzies decided that a red ensign may indicate to other people that Australia was a communist country and, without reference to the Australian people, changed to our present blue ensign. It is Ausflag’s position, unlike Sir Robert’s, that the flag be changed only by a plebiscite put to the people in the same form as Malcolm Fraser’s plebiscite on the national anthem in 1977.

There is great interest in our flag. On 25 January this year, the day before Australia Day, Ausflag opened two exhibitions of potential flag designs. Since that time we have had over one and a half million hits on our web site. I believe we did not come here to discuss the flag, and therefore I do not support the entrenchment of our flag. But the ARM will be moving this afternoon to adopt the position of both political parties in this country—that the flag should be changed only with a national vote.

**CHAIRMAN**—I propose now to call on Mr Kevin Andrews and then Dr Baden Teague to present the report on dual citizenship. We will then allow a limited period of time for other speakers on those four working group reports, subject to there being nobody else wishing to speak on Working Group L’s report.

**Mr ANDREWS**—I should say at the outset that the content of this report from Working Group L is broader than the issue of dual citizenship and it might be more appropriately characterised as a report on the eligibility

conditions and the conditions of disqualification of a head of state should Australia become a republic. I should also say at the outset that Dr Teague seconds the proposal from the working group but does not propose to speak at this stage.

We have, as delegates will see from the paper which has been circulated to them, divided this issue into two parts, the first being those conditions for qualification or eligibility of the proposed head of state and the second being whether there are any conditions upon which the head of state should be disqualified from office. I will take them in turn and explain the position which has been reached by the working party.

In relation to eligibility, the working party was of the opinion that the head of state must, firstly, be a citizen of Australia and, secondly, be eligible to vote in an election for the House of Representatives or the Senate at the time of his or her nomination. So the two requirements for eligibility are simply being an Australian citizen and being one who is eligible to vote in an election for the federal parliament. That, by definition, imposes a certain age restriction, namely, if a person is below the age of 18, they would not be eligible under this proposal to be the head of state of Australia.

In terms of eligibility, we looked at a number of other possible criteria which might be included but, after discussion, rejected and resolved not to forward them as recommendations to the Convention. However, for the sake of completeness, I propose to briefly mention those matters for delegates. One was a question of whether or not a person should, for example, have been born in Australia in order to be the head of state. We decided against making such a recommendation. It seemed to us, if for no other reason, that it could be potentially unfair. One could imagine a situation where a person came to Australia, became a citizen of Australia, had been here for many years and had contributed in many ways and in many walks of life to the wellbeing of the people of Australia and then to turn around and say that this person is not eligible would seem unfair.

There could also be an accident at birth, that is, a child could be the child of, for example, parents who had been overseas to study and born overseas, as happens from time to time. Why should that person, for all intents and purposes, as an Australian be excluded from in the future being considered as someone who could be nominated and possibly elected to the position of the president? For those reasons and for some others, which I will not go into given the time, we rejected the notion that a person had to be born in this country in order to be considered for the head of state.

There was also a proposition, which in a sense was picked up by a motion I believe from Mr Ruxton yesterday, that there should be a minimum age requirement in order for someone to be considered head of state. Again, we have not brought that proposition forward for a couple of reasons. While there is some sympathy for the view that a person should have obtained a certain status in order to be put forward as a head of state, we thought it was unfair to simply choose some arbitrary limit. In fact, the sympathy for perhaps imposing an age limit was not, I think, the reason advanced by Mr Ruxton and, with all due respect to the former Governor-General, Mr Hayden, who is not here in the chamber at the moment, the question on our minds was, 'What do you do with former Governors-General?' It is a bit like, 'What do you do with former Prime Ministers?' They rattle round the system and we do not seem to have found any particular role for them.

There was a concern that if, for example, a person was made head of state at the age of 40 and finished that term by the age of 45, then what does that person do and what role do we have for them, institutionally or otherwise, within the nation? Therefore, we thought it best to leave it to the good sense of those who are making the nomination and who are ultimately making the choice, whether by election or otherwise, to take these sorts of considerations into account and not to impose in any strict sense an arbitrary limit in terms of years which one must have met in order to be considered the head of state.

We also looked at the question of whether or not one had to be a resident at the time of nomination and, for reasons similar to those advanced in relation to birth, we decided that that was an unusually harsh condition. To take one topical example—and without advancing this particular person but simply to use it because it is a topical example—would that mean that Mr Richard Butler, the Australian diplomat with the United Nations, could not be considered a head of state for Australia because he happens to be working overseas at the present time?

**Mr RUXTON**—What about Mr Hughes?

**Mr ANDREWS**—Or for that matter Mr Hughes or, Mr Ruxton, perhaps I can take you down a path which you would like to go—perhaps Ms Germaine Greer or others. We can all make our assessments about people. But, Mr Ruxton, this is not a matter of prejudice; it ought to be a matter of principle. The principle which we are putting forward to you and other delegates to decide about is whether or not a person who happens to be temporarily or otherwise not resident in Australia should be excluded from any consideration for nomination. We do not believe that that is the case.

There was one issue though in which we agreed there should be a further qualification and that related to members of parliament. There is widespread discussion—and there has been even in passing at this Convention—about whether or not a member of parliament or a former member of parliament should be able to be nominated and, in time, elected as a president should we become a republic. We decided that there should not be a complete exclusion upon members of parliament being president, but there ought to be a cooling-off period, if you like, between a person being a member of parliament and being nominated for president.

**Mr WRAN**—So they can redeem themselves.

**Mr ANDREWS**—You qualify, Mr Wran, so it is okay. Mr Chairman and delegates, our recommendation is that there ought to be a cooling-off period of 12 months between the period of resignation as a member of parliament and the nomination according to which-

ever model is chosen. There ought to be a period of 12 months in which a person has left their elected office before they could be considered for nomination. That proposal is put forward in the papers which have been circulated.

We also considered whether that disqualification or qualification, however you characterise it, should apply to membership of other bodies—for example, political parties—and we thought that ought to be left to a matter of convention. For that matter, how do you decide between those bodies which a person should not be a member of and those that escape the net. For example, do you say to people who are members of registered political parties, such as the major parties and the minor parties in Australia, should be disqualified; but if you are a member of some other group which has a political activity—to name two from different ends of the political spectrum: the Fabian Society or the H.R. Nicholls Society—that is okay and the disqualification should not apply? Our view was that ought to be left to a matter of convention, and there should only be a cooling-off period in relation to actual members of parliament.

May I turn then briefly to the disqualification provisions. I say by way of background that we are recommending that the disqualification provisions that exist in the Constitution at the present time in relation to members of the federal parliament should apply to the head of state. I will not go through it all in detail because it is on the paper which has been circulated but, by way of explanation, section 44 of the Constitution provides a series of matters by which a person can be disqualified. These include having allegiance to a foreign power; being attainted of treason or convicted and under a sentence which carries a sentence of imprisonment of one year or longer; being an undischarged bankrupt or insolvent; holding an office of profit under the Crown; or having any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth.

Our recommendation is that those provisions currently contained in section 44 which relate to members of the House of Represent-

tatives and the Senate should apply equally to the head of state for the time being. Having said that, I make delegates aware that there is a proposal, which was a report of the House of Representatives Standing Committee on Legal and Constitutional Affairs, on section 44 of the Constitution. The proposal was tabled in the parliament last year. It is proposed that section 44(i) and section 44(iv) be amended by way of a referendum. Provisions in section 44(i) currently relate to disqualification for any person who:

Is under acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power;

The proposal is that that provision be deleted and be replaced with a provision that simply says the a person must be a citizen of Australia, but that the Commonwealth parliament may, from time to time, pass legislation which relates to any adherence to a foreign power. So the proposal is that the constitutional provision be that one must be a citizen of Australia and that, if you are not a citizen of Australia, then you would be disqualified, but if you are a citizen of Australia you would meet the provision of section 44(i).

We have also proposed that section 44(iv) be changed. This is the office of profit under the Crown provision. I think everyone would agree that the wording is an anachronism and is very difficult to interpret. Even the High Court has, from time to time, had some difficulty in interpreting that. We propose that that provision be changed and that there be a three-part categorisation in relation to what I might broadly call public servants.

Those categories are that, firstly, those who hold judicial office must resign that judicial office upon nomination. Secondly, certain senior office-holders, such as the Director-General of ASIO or the Governor of the Reserve Bank, will be deemed to have vacated their office if they nominate for election. And, thirdly, the great bulk of public servants in Australia, whether they be members of departments and officers in departments here or teachers or whatever, would only be deemed to lose their office should they be elected at an election. This proposal

is to overcome the problem which Delegate Cleary had as a member of the House of Representatives.

I say that by way of background, because that is a proposal which had the unanimous support of the House of Representatives Legal and Constitutional Affairs Committee which reported last year. The government has accepted those recommendations and said that, provided bipartisan support continues, it will put, by way of a question for a referendum, those issues that were reported upon by the Legal and Constitutional Affairs Committee.

Let me summarise the disqualification provisions. The proposal is, in relation to the head of state, that the current disqualification provisions contained in section 44 of the Constitution apply equally to the head of state as they are written at this stage. Therefore, those matters which are set out in the paper would apply. But I am saying, by way of information to delegates, that there is a proposal which has bipartisan support, and which was accepted by the government last year in its response to the Legal and Constitutional Affairs Committee, to put to the people for alteration of the Constitution changes to sections 44(i) and 44(iv). Those are the matters which were considered by the working party. I commend the report to delegates.

**Brigadier GARLAND**—I rise on a point of order. I would like to correct the misinformation given to the Convention by Mr Andrews in relation to the nationality status of children born overseas to Australian parents. Any child born overseas to Australian parents only has to have their birth registered at the embassy or the high commission and they are Australians. My eldest boy, who was born in Thailand, falls into that category. It is very wrong to suggest that children born overseas of Australian parents are not Australians.

**Mr ANDREWS**—On the point of order: I am not denying that, Brigadier Garland, but, unless that registration takes place, they are left in a lacuna. My comments are in relation to those children, for example, whose parents do not register them. Are they to be excluded? In any event, that was simply one reason put forward by the committee in relation to

this matter, and the principle which the committee maintains is that there should be a twofold qualification—namely, that one should simply be an Australian citizen and eligible to vote in a federal election.

**CHAIRMAN**—Each of the matters we are considering this morning are extraordinarily important. We have about 20 speakers listed who have not been called. We have the difficulty that, if we exhaust that list, those who have not yet given a general address, and many of the delegates have not, are going to be inhibited in so doing.

Dr Tony Cocchiario is the first listed speaker who wants to speak on this matter. Do you wish to speak, Dr Baden Teague? I was going to propose that we go through to 11 o'clock. There will then be a limited opportunity again this afternoon when the resolutions are being put to speak on these matters, but I am afraid we have to make our choices. I think that it would be better if we had a limited number of speakers now until 11 o'clock and then we will go onto the general addresses. So I will call Dr Teague, and then speakers, when called, may speak on any one of the working group reports.

**Dr TEAGUE**—Mr Chairman, I will be as brief as possible. I fully support all that has been set out in the resolution for Working Group L. Technically, it is only the first few paragraphs down to 'other issues raised'. The resolution to be adopted does not include the second half of the text under that heading 'other issues raised'. They are, therefore, reporting.

I concur entirely with Kevin Andrews's summary of this matter. It is this: there are two qualifications being recommended for any head of state of Australia—one is to be an Australian citizen and the other is to be eligible to vote in House of Representatives and Senate elections. There are two disqualifications—one is related only to members of parliament, that there is a 12-month cooling-off period and the other is that disqualification set out in the Constitution of Australia right now in section 44, which relates to all elected members of the House of Representatives and the Senate. We believe that no less

a test should be placed upon the Australian head of state.

The final element is that we are conscious that there has been an inquiry in the parliament about section 44 and that the two contentious matters—that is, subsection (i) and (iv)—are subject to careful report. This has been a bipartisan finding in the parliament and it is one which the government has flagged it will support in due time.

I would like to clarify that we believe that the disqualifications set out in section 44 should hold for any head of state of Australia and that they should continue to hold with any amendment to section 44, should that be put in a separate referendum. There is no intention to have the section 44 matter subject to a referendum as part of a republican referendum. I fully commend this resolution for delegates to support.

**Dr COCCHIARIO**—I support the report of the working group on dual citizenship, but I do note that there is a House of Representatives report with bipartisan support for a referendum to amend section 44 so that dual citizenship will not be a bar to standing for parliamentary office in the future. I look forward to that happening, and I expect that to happen.

The critical point should not be 'previous or other citizenship'. Australians should not be penalised if they or their parents were born elsewhere. Once they have taken the step to become Australian citizens—and really there is no other reason to do so other than out of a feeling of civic responsibility and pride at the current moment in Australia—they should be valued just the same as any other Australian.

I would also like to advance the premise that only Australian citizens should be able to vote on issues to do with national identity. Australian citizenship is not to be taken lightly. The majority of Australians by virtue of birth have probably not thought deeply about what it means to be a citizen. Being a citizen implies responsibilities, duties and benefits. One of the very important responsibilities is taking an active part in civic life. It is my strong belief that Australians who have gone through the process of naturalisation



have thought about the issues and then have made a conscious decision to take on the duties and responsibilities of citizenship. I must say that I was quite distressed for all those Australians who have made this important decision to hear Mr Bonython, who leads the Constitutional Monarchy ticket in my own state of South Australia, say:

. . . it distresses me when such people—

he was talking about migrants to our country—

have been welcomed into our community with open arms, then start to advocate changing our form of government—

That is what he said. Delegates, I put it to you that taking an interest in the affairs of our country should be the duty of every Australian. Those Australians who chose this country and chose to become citizens should be commended and valued, not put down.

I was also in the chamber last week, and I must say I was moved to the point of tears, to hear that great Australian Mr Neville Bonner lamenting his people. He was clearly saying that he could not see his way to change because he had been caged for so long by the ideas rammed down his throat by his mates, the monarchists. Have hope, Mr Bonner. If not for yourself, have hope for other Australians who may have been in your position. You are, Sir—

**Mr BONNER**—Mr Chairman, I rise on a point of order. I object to the things said about me. Nobody, just nobody, rammed anything down my throat. I am an Australian citizen. I am proud to be an Australian citizen. No-one, as I said earlier, rams anything down my throat.

**Dr COCCHIARO**—I apologise, Mr Bonner. I was just outlining my understanding of what you were saying in the speech. My understanding also is that you—

**Mr BONNER**—Let me ram down your throat what you are saying.

**CHAIRMAN**—I might suggest we try not to engage in personal condemnation.

**Dr COCCHIARO**—I did not mean it as any sign of disrespect. I saw what you were saying as being like a magnificent tiger that has been caged in a zoo or institutionalised

for so long that you could not cope with release or the more progressive points of view. In conclusion, therefore, if we agree that the president should be an unambiguous Australian—and I fully agree with that—then, in much the same way, voting on matters of national significance such as our identity or the head of state should be available only—

**CHAIRMAN**—I am afraid your time has expired, Dr Cocchiaro. We have one more speaker and then we are going to go on to the general address. I call Mr Sutherland.

**Mr SUTHERLAND**—Thank you for the courtesy and the opportunity to speak. I will be very brief. Firstly, on Working Group L, the one concerning dual citizenship, may I say that I am quite disquieted by the proposition that there would be no age limit. I draw your attention to the United States Constitution, which has an age limit of no younger than 25 to be in Congress, no younger than 30 to be in the Senate and no younger than 35 to be President. I think we may hold ourselves up to ridicule if we say that, at age 18, you are eligible to be president of the nation. I believe that ought to be looked at for members of parliament, too.

I can well remember sitting up there as a citizen many years ago and watching someone who was referred variously as a political accident in the chamber—I will not say ‘sitting in the chamber’, because he seemed to spend most of his time walking around in the chamber—elected on a great swing against the Labor Party. He was there for one term and has never been heard of since. He sank like a stone. So they are considerations, I think, that need to be taken into account.

I also think it is rather demeaning that members of state parliament are disqualified if they have not stood down 12 months in advance. Why, in the name of Heaven, would you want to say that? A member of state parliament has no influence on the decisions and business of the federal parliament. I think that ought to be removed. If Mr Butler from overseas is eligible to stand, why shouldn't someone in the state parliament be eligible? In fact, I would say that anyone in the federal parliament should be eligible too, so long as they disqualify themselves from the business

of choosing who should be the Governor-General. I think we are demeaning our members of parliament and doing the great institution of parliament in this nation a great disservice in the process.

Briefly, on the flag, I have three things to say. The citizen cringe here today has to be answered. Don't we have any national self-respect? What about the flag of Hawaii? The flag of Hawaii has the Union Jack in its corner and that does not seem to worry President Clinton or the 300 million United States citizens. Certainly it does not worry the citizens of Hawaii. They are proud to fly it because it is part of their constitutional monarchy history. On the question of identity—this is one of the most spurious arguments of all; it was raised here this morning and it is raised ad nauseam—let me say this: what does it matter if our flag and New Zealand's flag are not identified? That is because people are ignorant. Our flag is blue and theirs is red. If people are colour blind or ignorant, that is their problem. Besides, remember this: in the constitution debates in 1901, there was provision for New Zealand to be incorporated and become part of our constitution and part of our nation if they so chose.

Also, Professor Blainey has referred to the Netherlands and another country having a very similar flag. He could add to that the flag of the Russian Federation. Let me remind you of this: when the terrible criminal totalitarian state of the Soviet Union was finally dismantled on 31 December 1991, what was the flag that was raised? It was the imperial flag of Peter the Great, which is a copy of the flag of the Netherlands which they have had for 200 years. They reverted to that and they also reverted to the imperial coat of arms.

If you look at the flags of the countries at the top of South America—Colombia, Venezuela and Ecuador—they are virtually identical. They have a small different symbol in the middle of the flag. I ask anyone here to go out and ask any members of the public to identify the flags of Finland or Italy—which have been mentioned here today—or France, for that matter. I defy anyone in the public generally to quote accurately more than five

flags from around the world. It is only important for one class of people to identify the Australian flag—and that is fair dinkum Aussies.

In conclusion, the flag does three things: it reflects our history, our early development from colonisation on; it reflects our quiet and orderly conversion, without revolution, to the constitution that we now enjoy; and it reflects where we are, as was said earlier. I am a member of the Australian Flag Association. We have had the same flag since 1901—since the first Prime Minister, Sir Edmund Barton, raised it here in the national capital. Hopefully we will have it forever. If the people wish to change it they may, but let it be done by constitutional change. Let the changing of the symbol of the nation be done in a way that is agreed by the majority of the people. Certainly do not slip it through by some plebiscite. The Labor Party in New South Wales already has a policy to change the Australian flag. I commend the flag. The last thing about it which is important is that it makes an institutional statement that we are a federation with its six points for the six Australian states and one point for the territories. The Canadian flag, with due respect to it, does virtually none of that.

**CHAIRMAN**—I apologise to the 20 delegates wishing to be called on the working group reports whose names are still down. There really is a major problem that, if we do not start now with the list of speakers on general addresses, those who have not spoken at all at this Convention—and there is still a considerable number—may well be denied the opportunity to do so. I do not think it equitable, therefore, that we proceed with this debate. There will be a limited opportunity after 3 o'clock, when these matters are back before the Convention, for speakers to speak for a limited period of time from the floor. I now propose, therefore, to proceed to general addresses.

One other thing before we do: if any delegate has amendments they wish to propose to any of those working group reports, again, I urge you to lodge those amendments before lunchtime. The earlier they are lodged the easier it will be for us to distribute them and

to avoid the difficulties we had yesterday afternoon. The working group report resolutions will be submitted to the Convention at 3 o'clock this afternoon. If you wish to propose an amendment, I urge you to lodge that amendment with the secretariat no later than 1 o'clock. We now move to speakers on the general address.

**Ms KING**—I feel very privileged to be here. This is a serious issue and I believe that we can and will reach a practical solution. I believe this because of the evidence of my own experience. Contrary to the personal attacks that unfortunately receive so much attention, what I am experiencing in the Australian Republican Movement is a group of people who have come together in a shared belief that Australia should become a republic—a group of people who like everyone here have formed an opinion on how we should do this, a group of people who are committed to achieving a practical outcome and know that this can only be done with give and take. This Convention is democracy in practice. Let us treat it and each other with respect. Part of that respect is listening to everyone's opinion, and this is mine.

If I had to explain to someone who had lost their memory that Australia's head of state was not actually Australian, I would feel utterly ridiculous. Take away the historical connection and the concept is absurd. No-one is asking this nation to lose its collective memory nor to deny the importance of Britain in our history. What we are asking is to examine our future, to explore our values and reassess whether our current Constitution reflects those.

This is a question that I grapple with. It seems that a main argument against Australia becoming a republic is a fear of change, a desire to maintain the status quo rather than take the risk to develop something better. This desire concerns me greatly. Think of all the developments that have improved our lives, both tangibly and intangibly, that would have been lost had this attitude prevailed. Apathy is the enemy of progress and progress requires change.

I believe that Australia is one of the greatest democracies in the world. I share the

commitment to maintaining this. I believe that it is us as Australians that can take the credit for our harmonious society, not the Constitution itself. Becoming a republic is one enormous national pat on the back. Generations of Australians past and present have created a fantastic country, but it is not from the wording of our Constitution, however good those words may be, but from the way we as citizens put these words into practice.

The Constitution plays a role in protecting that. However, it could be argued that strict interpretation would have you believe the Governor-General, as the Queen's representative, makes the most important decisions, whereas the government which must have the confidence of the lower house, the people's house, in order to govern could be seen mainly as a debating forum. We know this is not actually the case. In practice, it is our government that makes the decisions with the Governor-General acting on ministers advice. The fact that the main power comes from the government, which is elected by the people, is more a result of convention rather than the actual wording of the Constitution.

We as voters protect our democracy. This is one of the main reasons that I support a two-thirds majority of a joint sitting of parliament to appoint our head of state, not because I want to eliminate the people's involvement in the process. I believe it is fundamental that we have our say in this, but we already do. It is we who elect our parliament and we who they have to answer to. We place our belief in them to govern our nation. Can we not also trust them to make an appropriate appointment?

It seems to me that there is an overwhelming feeling that all politicians care about is power. Well that, my fellow citizens, is our protection. In order to stay in power our politicians must stay in our favour, particularly in a Westminster system. I also believe that the electorate has the ability to judge who they want as our head of state, just as they have the ability to judge who they don't want. This being the case, it is political suicide to lose favour with the voters by making a clearly inappropriate choice.

It is for this reason that the system works at present. Prior to this debate about Australia becoming a republic, no-one seemed to mind that they did not have a direct say in who the Governor-General was—that ostensibly it is a decision made by the Prime Minister with the monarch acting as a rubber stamp. The discussion to change this has understandably produced much concern, because we place faith in the idea that a separate body—in this case, the Queen—prevents the choice from being unsuitable. But, if you think about it, she is not really much protection from partisanship as she only acts on the Prime Minister's advice.

This is where I believe that the two-thirds proposal is actually an improvement. I believe it leaves us less vulnerable to a political choice than the present system. Instead of the Prime Minister alone making the recommendation he or—hopefully one day—she will have to seek the support of the Leader of the Opposition—a requirement that is not currently in place. Within the current system, the Governor-General plays an important role—that of a constitutional umpire. We place our trust in this person to behave as impartially as possible. That is why it is so important that the new head of state represents the nation as a whole and not just a political party.

The events of 1975 proved that there is much ambiguity in our current system—that the umpire role of the Governor-General can be called into question. In this event, the presence of a constitutional monarch did not protect us from the politics of the situation. The Queen did not interfere and Kerr went ahead with his course of action. Whether you believe it was right or wrong is a matter of personal opinion.

The desire to maintain the Queen in her current role is a desire to maintain stability. It is a desire I understand but, given the reality of our operational independence from Britain, it is a desire that cannot be filled by the Queen. It is imperative that if our current system, complete with its ambiguities, is to remain the same, we must maintain the balance of power between the Prime Minister and the Governor-General. We could remove the powers the Governor-General has and

make the head of state purely ceremonial or we could add powers and make them much more than an impartial umpire. Both of these are radical changes to our current system of government.

I do not want to throw the baby out with the bathwater. Although I share the sentiment that becoming a republic is a chance to get people more involved via a direct election, I am concerned as to how this would operate in reality. I would like to express my support for the amendment made to the two-thirds model by George Pell for the parliament to make a provision for wide consultation with the community concerning possible appointees for the head of state. The public would be invited to put forward nominations. The list would then be published. You as a citizen could be as proactive as you wish by lobbying your local member of parliament and the media for the person that you have nominated. It allows for both the community and their elected representatives to work together. It allows for all of us to have a voice in the political process, including those who usually do not have access, such as indigenous people, women, minority groups and the young.

Many people have expressed passionately their fear of giving more power to politicians. I understand this, but I worry that a direct election may do just that. The only people able to campaign successfully for this position, if not politicians to start with, certainly would be able by the time they were appointed.

Many people who support direct election have noted the difficulty in campaigning for this Constitutional Convention, but only the so-called 'glitterati' were able to get attention. This problem would be magnified in a direct election of our head of state. It would not be an ordinary Australian—it would be either someone who knows how to manipulate the media or can buy their attention. It would not be the quiet achievers who have traditionally been our Governors-General that would be successful. A new head of state with a mandate from the people is a much greater mandate than that of our Prime Minister and opens up the potential for a great deal of conflict.

Most of us believe that effectively we are a republic. Many say the change to a republic is purely symbolic. If this is the case, let me pose this question with all due respect: why keep this particular symbol? You may say because of a special bond that we have with Britain, a bond that I am sure is a lot more meaningful to many of my elders than is possible for me to understand. Nothing can break that bond, not even becoming a republic, but it does mean that we can stand on the world's stage alongside Britain proud of our past ties but excited by our own future.

It is almost the new millennium, the year 2000. I hope it will be a millennium characterised by the wisdoms of hard lessons learnt in the past—the lessons of greed and destruction and, most importantly, the lessons of discrimination. Everyone is excited by the developments and technology, but what I am excited about is the developments in human nature. This Constitutional Convention is an example of how far Australia has come. Unlike the last discussion of this kind almost 100 years ago, we now have all Australians represented here. We have people from different backgrounds, cultures and religions, all of us united by the experience of living in Australia, an experience we all want to protect. Some argue that they want to protect it by maintaining our Constitution. I am here to listen to their views and I respect their passion, but I would like to ask them this: how do we explain to future generations that we place our faith in a citizen of a country other than our own? How do we explain to them that no matter how hard they work they can never be part of a monarchy? How do I explain to the children that I may have one day that they have been lucky enough to be born into a country where anything—anything—is possible except to become our head of state?

**Mr GREEN**—In dealing with this general question of Australia becoming a republic, I would like to make a few comments about the position of the states under any future Australian republic and to address in particular the question of the states wishing to retain links with the Crown through the appointment of the governor by Her Majesty. I will also

touch on the powers of the future federal president in relation to the states in respect of this matter.

A state maintaining links with the Crown poses a dilemma for the Crown and not for the republic. For Her Majesty to appoint a state governor on the recommendation of the state Premier would involve Her Majesty in a domestic political and constitutional issue which may divide or is symptomatic of a division in a state and in Australia. The palace has always adopted the correct position of not intervening in domestic political and constitutional issues.

If such a request was made to Her Majesty by a state Premier when there existed a republic at the federal level, such a request puts Her Majesty in a very difficult position. Such a request would be legal but in my opinion not proper under the Australia Act to fill the constitutional requirements. For example, the Tasmanian Constitution states that the parliament consists of the governor, the Legislative Council and the House of Assembly. The office of governor is an essential element in the legislative as well as the executive side of the Constitution of that state. The position is similar in other jurisdictions. The request therefore to appoint a state governor by Her Majesty where there exists a federal republic would, in my view, be properly declined by Her Majesty thereby putting the issue clearly back in the court of that state concerned and the federal government to resolve.

In my view, a request to appoint a governor, whilst legally correct, would be constitutionally improper. Her Majesty would not act in such circumstances to effect an appointment. In order to prevent the situation arising, a referendum on an Australian republic must deal with this aspect, put it beyond doubt and put it clearly to the people. If the republic is carried out at a referendum, there is no scope for a state to retain links with the Crown. If necessary, supremacy should be given to the federal government to legislate to put this issue beyond doubt. Such an approach would resolve a potential constitutional hiatus involving the office of governor in the state.

Under any legislative mechanism to achieve a republic at the federal and state levels, a vigilant approach needs to be adopted to ensure that the federal government and the federal parliament not use the opportunity of the change to a republic to give the federal president power to appoint state governors or state presidents. I say this as a warning because, during negotiations and discussions on the Australia Bill in 1984 and 1985 in which I was involved, the Department of the Prime Minister and Cabinet pushed for the appointment of state governors by the Governor-General. When that push failed, it was then proposed that nominations for the appointment of state governors be made through the office of Governor-General and then passed to the palace. That, too, was not agreed.

The appointment of state governors, state presidents or whatever they may be called under the states jurisdiction must, under an Australian republic, remain the province of the state. Some states may wish to dispense with the office of governor as a separate entity and, in rewriting their own Constitution, combine the functions of the governor with some other existing office. That is an issue for the states to determine alone.

Therefore, any step in bringing Australia to a republic must remove the false hope, under an Australian republic, that a state be able to retain links with the Crown through the appointment of the governor on the advice of the state premier. But, importantly, the federal president should be kept out of appointments at the state level. Federal involvement in such appointments would be unacceptable.

**Professor CRAVEN**—The giving of a speech on whether or not Australia should become a republic, I suppose, is one of those rather personal moments in an otherwise institutionalised Convention. I had hoped to treat the Convention to a delightful account of the psychological curiosities that have led me to my present odd position on this matter. However, as we are now so deeply into models, I suppose that one should talk about the matter in terms of models and reflect upon where we are going at the moment.

One difficulty with speaking on this general issue is that everything changes so quickly. You discard your speeches before they are given. I have done that on a number of occasions. The one thing that has survived of my thought on this matter is what I said a couple of days ago about the criteria that every model has to satisfy in order to be adopted by this Convention. I really wanted to look at those matters in terms of some of the models and some of the courses we have.

Some delegates might recall that the first thing I suggested was that a matter had to be practical and have clear details, no obvious holes and no leaps of faith. Second, it had to be consensual. It really had to be able to get a strong majority of this Convention, not 50 per cent plus one half. Third, it had to be saleable. It had to be something that was able to get up at a referendum.

I have heard nothing in the past couple of days that has changed my mind on those basic criteria for selecting an option. As regards practicality, I likewise have seen nothing that would suggest to me that the direct election option is practical, notwithstanding the enormous amount of work and compromises that have gone into producing such an option. I think the option before us still has the danger of producing two competing poles of popular power. While I can accept the emotion that gets some people to say it is an exciting model, my own view is that constitutions, like brain surgery, are not about excitement but precision.

As regards the ARM model, my view is that, on the point of practicality, it is a good deal better, although there are some questions I want to ask. What happens if the joint sitting of parliament does not agree on a single person to go forward as the head of state? How does one deal with that? Those types of technical questions have to be answered. After seven days of this Convention, I am still of the view that, on the point of practicality, the McGarvie model is ahead. It is ahead because it is effectively the present system, and we know exactly how it works.

With all due respect to the proponents of arguments against the McGarvie model, including my friend, colleague and employer

Dr Tannock, I find those arguments unconvincing. I have heard the argument that the Constitutional Council is boring. The comprehensive answer to that is: who cares! It is meant to be boring. It is not meant to be a head of state. It is not meant to execute exciting functions. It is, as the Queen is, a postage box for the appointment of the head of state.

We have heard that it is elitist. It is not doing anything that requires a popular input. It is simply acting upon the present system where the popular element is the Prime Minister, who is elected by the people. That is the popular element. I note that the McGarvie model has the advantage of being a stem model. It has influenced a number of other models in this Convention. We have, for example, the hybrid McGarvie model—the idea of appointment by a two-thirds joint sitting, but removal by the McGarvie council. That model is live.

I would go further than that and say that McGarvie—both the model and the man—has made a great contribution to this Convention. The McGarvie model has explained to us that the method of appointment and dismissal of the head of state must reflect the central truth of our present system. That central truth is that removal and appointment occurs by prime ministerial initiative, mediated through parliamentary democracy by a Prime Minister accountable to the House of Representatives and, through the House of Representatives, to the electorate. That is the essence of the existing arrangement, and that essence must be maintained in any model.

I believe that that has been recognised by the ARM model in proposing that the head of state could be dismissed by a 51 per cent majority of the House of Representatives on the motion of the Prime Minister. It is the same principle, though a different expression. I accept, and I put it to delegates, that even if the McGarvie model were not to find favour with this Convention, the principle remains the same. This principle of prime ministerial moving, in relation to appointment and removal, mediated through parliamentary democracy, inevitably is the way forward. Non-McGarvie models may come forward on

the McGarvie principle, and I will consider them.

In relation to consensus, we have to face certain facts. Even the media have to face certain facts. There is no possibility of consensus for a directly elected president in this chamber. We all know it. There is no consensus or possibility of consensus for the maintenance of the status quo. The greatest chance of consensus is either the McGarvie model or, if not McGarvie, then the McGarvie principle that appointment and removal should be via the medium of parliamentary democracy.

I mentioned a further criterion, and that was saleability. I believe we have to think long and hard about this. There is much loose talk thrown about as to how easy it is to convince the Australian people of this or that option. Do not believe it. I have spent my misspent life looking at the results of referenda on the Constitution. Of 44 referenda, eight have succeeded. All eight of those referenda share certain characteristics, with the exception of the referendum on recognition of Aboriginal people, which is in a category of its own. Those characteristics are that they are modest, confined, contain no extraneous matters, do not affect states rights, arouse little or no political opposition and, above all, are not opposed by the reigning federal government. That is the criterion for a successful republican amendment here. Ask yourselves which model delivers it.

As an opponent of popular election, I looked with delight upon today's *Australian* which said that there was a 56 per cent majority for it in the electorate. The majority for freedom of religion in 1988, at the beginning of the referendum, was 92 per cent. It received 27 per cent on the final day. My prediction for popular election is 17 per cent. That poll finally kyboshes the strongest argument for popular election in political terms.

The question we have to face is how we go on from here. I do not think that I would get away with claiming that I was a monarchist—although, I note that there are few monarchists present to challenge my claim. But I would like to say why I would not get away with that claim.

My belief is that we face a grave decision. The choice for us is not between the status quo or a republic; the choice is between types of republics. I believe the choice those of us who, like me, I would call forced republicans must face grimly is this: if we do not get a resolution now then in the words of scripture we will be taken to a place that we do not wish to go to; we will be taken to the republic we do not want and we will be taken to the add-ons that we do not want.

I believe that a solution is critical. I do not believe we can afford another five years of destabilisation. I do not want to watch the Constitution tortured like a fly having its wings pulled off by nasty children. I will look for solutions and compromise over the next two days. I know that many delegates will do likewise. On a slightly less stentorian note, revealing a much more pleasant characteristic than I have usually in this Convention, I wish my son, John, a happy 16th birthday today.

**Mr RUXTON**—We are now in the second week of this Constitutional Convention costing those who pay tax—and I emphasise those who pay tax—millions of dollars. Even the republican movement in New South Wales has been recorded as saying, ‘Thanks to the courage of Australians, this is the best country in the world.’ So why this Convention and why this drive to become a republic?

There have always been republicans in Australia just as there have always been monarchists in Russia. The relentless howl for a new head of state is without foundation unless there is another ulterior motive. I believe it was Paul Keating and his unprovoked attack on the British in the House of Representatives that really started the debate—British bashing to the extreme. He never gave multicultural Australia a thought in his drive for a republic.

It was his own personal hatred of the British which was quite obvious with his distortion of history—that is, how the British left our soldiers behind in South-East Asia notwithstanding the 130,000 of their own soldiers they left behind. It is interesting to note that in December 1941, the United Kingdom was under the threat of invasion yet the UK, together with her dominions and

colonies, carried the can for the world against Nazi tyranny, remembering that the Americans had only been in the war nine weeks when Singapore fell. To compound his lack of history, Keating wanted British and American conscripts to come thousands of miles to defend this part of the world when Australian conscripts not in the AIF could not be sent outside Australia and its territories.

Maybe I am a muppet as the godfather of the republic, Mr Turnbull, said, but I am not a Maximilien Robespierre with the attending knitting ladies and trundle pushers. Robespierre had a real cause. Mr Turnbull’s cause is just anti-British.

Obviously, the argument for a republic is the perfect way of attacking our existing Constitution. You have seen a bit of that this morning. It falls apart if you take the Crown away from it. What is there then to save our entire common law with all its splendid and freely inherited rights and liberties? After all, it is the Crown which is the direct link to all of these things. Furthermore, the monarchy is stable and perpetual. There is no dispute regarding the correct line of succession. On the contrary, a republic with its presidents drawn by various means are always at the mercy of sordid political campaigns and disruptions of all kinds.

The rules can easily be changed by governments when wielding power in a republic, but a constitutional monarchy such as ours can act only under the authoritative call of the people. Under the constitutional monarchy, the institution of the Crown is paramount; it is not hero-worship of some man or woman in London. The constitutional monarchy gives the ordinary citizen an added freedom in that it can act as a safety valve on behalf of the people. As long as we retain the Crown, the common law and the Constitution of this country above our parliaments, that is our extra freedom. If they ever fall under the parliaments, we have lost a freedom.

For example, if a governor or governor-general dismisses a parliament, he does not run away to Buckingham Palace with the parliament in his pocket: he must give it back to the people of Australia to decide whether his actions are right or wrong. This actually



took place in 1975 when Sir John Kerr dismissed the federal parliament under the powers of the Crown. This meant that a general election had to be called, and it was at that general election that an opposition party won a 55-seat majority; the largest majority in the history of our parliament since Federation. In other words, the people of Australia confirmed the action that was taken. That is the reason the constitutional monarchy should remain.

Seven of the eight longest serving democracies in the world are constitutional monarchies. The eighth is the United States of America, which was born of the same mother—the United Kingdom—as Australia, New Zealand and Canada. The other three are the Scandinavian kingdoms of Denmark, Sweden and Norway. The arguments for and against have been numerous and the pro-republican arguments are less convincing.

The continual cry for an Australian head of state is a cunning and attractive ploy to gain votes from Australians not well versed in constitutional matters. Remember: civics went off the agenda over 30 years ago. ‘Get rid of the foreign dominance,’ they scream, yet they know there is no foreign dominance by the Queen. I find it is sad that, whilst this republican debate has been raging, no-one seems to be worrying about the \$200 billion we owe foreigners. Getting rid of that foreign dominance should be the top priority, together with getting rid of the disgusting unemployment figure of nearly three-quarters of a million people in a country of 18 million. There is an overabundance of politicians from both sides of the house attending this Convention. They should, in my view, be attending to more important matters.

As to the three models for electing a president, a two-thirds majority of both houses of parliament for a candidate selected by the Prime Minister—the Prime Minister does so now to the Queen—seems good on first read. But I say this most sincerely: this method of appointment will be politicised even though it appears the best option. One could imagine the pork-barrelling that would take place. Agreement by a two-thirds majority is, I believe, nigh on impossible. Conceding that

this method is the best of the three major republic models, the second model of a popularly elected president, the model that most Australians want, would be worse. It would become highly politicised and money would play a major part, with the likely winner coming from New South Wales or Victoria.

The McGarvie model is good, but I think it is doomed because the ARM will not wear it. Any of these choices could result in Australia being on the edge of a dark age. There are no minimal changes suggested by Keating and the ARM. The Australian Constitution would have to be ripped up and a new Constitution drafted, as suggested by so many, including delegates here, Mr Whitlam and others.

The codifying of a head of the state’s powers is not the answer either. This could lead to a debacle. The flexibility of power which now lies with the Governor-General is the greatest protection for the Australian people. A general election to appoint a president would demolish the Westminster system of parliament—the best in the world—and it would end the power of the Senate.

The Irish system has been mentioned often and, again, it is not for us. A ceremonial head does not ensure that democracy is paramount. Eamon de Valera, when framing the Irish Constitution around 1920, made sure that the President did not have reserve powers.

The Crown, being paramount and representing all peoples, had to be removed in South Africa, as it was in the early 1960s, and in Fiji a decade ago. The nationalist government in South Africa had to become a republic to carry out its apartheid policies. Likewise, Rabuka of Fiji had to create a republic when he disenfranchised part of the population from the electoral roll. Is it just plain British bashing or plain absurdity? The former Chief Justice of the High Court claimed the Bodyline series in the 1930s caused him to become a republican. There is an intelligent reason!

Other issues include the flag and changing the names of the states, and on this matter I was not joking when I interjected in the speech made by Peter Collins last week. There is already a move in Victoria to have the name of that state changed—the unknown agenda. However, there are other issues we

must canvass. We have not debated whether the President will be the commander-in-chief of the armed forces. Heaven help us if the Prime Minister is the commander-in-chief of the armed forces.

We are going to talk again this afternoon about dual nationality, which did not really come up this morning, and about the minimum age. We also have to speak about the appointment of a vice-president, which I do not think has been canvassed yet, the protection of the states, and so it goes on. It was once said, 'It is a monarchy that enables Britain so surely, unself-consciously and effectively to practice democracy. It was the unity under the Crown during the world wars that bound all people together whether of colour, religion or race.' Be careful before we send this freest country on earth into the unknown.

I am against Professor Patrick O'Brien wanting democracy inserted in the Constitution. It never has been here and it never has been in the United Kingdom, yet we are the greatest democratic organisations on earth. Those who have mentioned democracy have usually been former communist countries.

Remember, too, that Australians sensibly rejected referendum proposals in 1988 as mentioned by Professor Craven, all of which were cloaked in deceptive motherhood terms. Australians are likely to recognise the same smell of snake oil cloaking a hidden agenda in many of the arguments for constitutional change that are now being debated. The snake oil pedlars are to do a cure-all for a change in Australia that is now politically stable and the most democratic nation in the world.

There will be winners and losers who will divide the nation as never before. This republican dream of bringing Australians together is a fallacy. As in politics, a greater division in this country will be the order of the day.

**Mr WILCOX**—Before I speak on the main question—namely, republic or not, because I have not spoken on that yet—I wish to make a few observations and comments generally about the Convention. Firstly, there is a certain irony in my speaking immediately after my colleague Bruce Ruxton because I have always agreed with eight and a half or

nine things out of 10 that he has said, and that is about the way we went this morning. But, in true Australian tradition, we have agreed to differ where we need to. The other ironic thing I should mention, by way of lightness, is that it has been pointed out to me that when the *Australian* ran our names and our photographs last Saturday week, or whenever it was, there were a couple of errors. The error in my case was that the photograph was that of Sir Henry Bolte. He has been dead a while. A man wrote to me from Western Australia and said, 'You've got shorter and more rotund.'

The other irony is that a professional writer in the *Age* newspaper in Melbourne last Sunday sought to correct it. Do you know what he did? He corrected that part but he referred to Vernon Wilcox as former Victorian Attorney-General and now a Real Republic delegate—you know, Mr Costello's mob. So there you are. You cannot win sometimes but, Mr Deputy Chairman, I am going to try to win a few here.

I am fascinated by this amazing collection of delegates from around Australia. It is quite unique in our history. Most of them are fair dinkum. They are a cross-section, but of course we do not agree on all the issues before the Convention. Having said that, I think I should mention that I see the republicans as being very well organised—and no doubt they are still manoeuvring. That is why there are not many in the chamber right now. Okay, there are some working parties doing some genuine work but there is also a lot of manoeuvring. The republicans are well organised. Indeed, I believe they have taken a great hold on the Resolutions Committee. That is clear to me. With all respect to you, Mr Deputy Chairman, I am not talking about you.

I would like to make it clear that I am not a republican and I am not a monarchist; I am a constitutionalist. This makes it difficult, particularly for the media, as it seems necessary in Australia to put people in one pigeon hole or another. If you do not fit in, you worry them. At this stage in my life I am not here to be politically correct, to seek any preferment. I am afraid there are a few here to advance their careers by whatever means.

Of course, I have seen that before in my years in public life, and I have never liked it. But I want to add quite clearly that I do not join in much of the criticism of today's members of parliament, because it is a tough job. I think it is tougher than it used to be. It is all very well for those on the side who have never put themselves on the line to say all sorts of things.

Most delegates are sincere. Although they have a barrow to push, they come as Australians very interested in our future. That is clear. I have no particular barrow to push, simply to safeguard the future of the people so far as the Constitution can do so. Bruce Ruxton and I were elected on a ticket *Safeguard the People*. It is still a pretty good title. There must be safeguards against any all powerful government. History shows that governments can become all powerful. Some delegates will be well aware of this.

I have had a fortunate life in a variety of careers. One of them is farming, extending over three states from time to time. I am not here to speak for the farmers, but they are a very important part of the nation and I would not mind if there were a few more here. I am only a small farmer but farmers are very down to earth people.

I am here for my grandchildren and future generations. Do not sell them short by looking for a quick fix. This is not an instant coffee job. Everything has to be instant today. An instant syndrome is very active in every sphere of life that you can think of. I remind you again that the founders of the Constitution took two decades. I do not want to take two years to get this matter resolved, but I think two weeks is pretty short. Do not come up with something half baked. I do not want a long time but I would like a little more than that available to date.

It is worth remembering—I know it is one of those things that people say, but they are sometimes lost—that anything worth while takes time. That is quite the contrary of the instant community. I wish to repeat what I said last week: I am not against change. No system of government stands still forever. I expect that Australia will become a republic, and I do not mind that ultimately if that is

what the people want, but I do not mean next week or even next year. Any changes proposed by the government, and it is the government that has to propose them, will need to be made very clear to the people—what the changes are and what they mean.

Delegates, there is no magic in the year 2000 or any other year. Indeed, it may be a little childish to link a huge constitutional change with the Olympic Games or any particular year. I am afraid I cannot support any of the models put forward to date. There is, I believe, a need for more work to be done beyond this Convention on the matters before us before any model could be put before the people with the prospect of it being accepted. We ought to bear that in mind. There are flaws in all the models presented so far. There may be more to come.

The business paper comes every morning when you get here and you are not sure what is on; then there are a few more things added. I have not been used to that. I come back to the parliament again. At least we had a *Notice Paper* there. I know the difficulties you, Mr Deputy Chair, and the Chairman have had. I know them well. I am sorry for you. But we did have a *Notice Paper* in the parliament. By and large, you stuck by it and you knew where you stood. It is very difficult here.

There must be someone or some body over and above the government of the day to protect the people. The dilemma here, to me, and I am sure to other delegates, is that we are trying to latch a republic on to the Westminster system. As much as I like the Westminster system, there are sometimes difficulties in parliament keeping a reign on the executive, particularly in these days of strict party discipline. Goodness me, it is happening here. We have a couple of parties—ARM, ACM—out there. Fortunately, I do not belong to one of them so they cannot catch me.

There is one particular safeguard at present in the Constitution. I have not heard much about it and it must be carried forward. It is the exercise of a royal prerogative. It is the power of the Governor-General to prorogue parliament, to dissolve the House of Representatives. You must have checks and balances. Why is it that a Prime Minister always

calls an election within the stipulated period? It is because the Governor-General can prorogue parliament. You see, there is someone over and above even the parliament in that case. I have not heard much about it. It is a vital safeguard. It must be preserved.

There are of course other safeguards. The federal system in itself with its division of powers is another vital safeguard. I come back to the fact that 54 per cent of electors did not vote in the election of the delegates, which is more than half. Yet the most ardent republicans and the media—the media virtually without exception—keep acting as if there were a huge majority of Australians waiting with bated breath for a republic. The consequence of this attitude is that the reporting of the Convention continues in the same vein. I have met a number of younger delegates. Some are non-republicans and they are very good, but they do not get recognition in the media. Similarly, I have heard speeches from real thinkers with experience behind them, but they are treated in the same way because they are not republicans.

I refer now to the models and amendments to the Constitution. Some speakers have argued that to alter the Constitution you just have to press an electronic button and all will unfold. As a lawyer and as a parliamentarian, I sound the warning: those with experience know that so often when you change not just a clause but even a word you can cause endless litigation. With today's propensity for litigation, anything can happen. So I would like more time to be taken to look at some of the republican constitutions in other countries, if that is what they want.

People with legal and constitutional knowledge, like a number of the founding fathers—erudite people—could be appointed to look at the matters set out in the issues on the *Notice Paper* from day to day. I repeat that there is no magic in the year 2000. Finally, I do hope that the government, when it considers the recommendations from this Convention, will take into account the need for a much closer look at anything which might be put to the people.

**Senator FERGUSON**—Thank you, Mr Chairman. I welcome the opportunity to

address this Convention this morning, even if I am one of that overabundance of politicians that Mr Ruxton referred to. I presume that when he said he was under the pretence he is not one himself. Delegates, unfortunately I was unable to attend the first week of the Convention owing to the death of my brother, but I had some time to spend an hour or two watching the proceedings on television and listening on radio.

Can I say that in listening and in watching on radio the same people seemed to be popping up at regular intervals to use this forum to promote their own particular point of view. I notice that there were a lot of what I would call silent delegates at that time waiting for the opportunity to speak. I certainly hope that as this Convention proceeds all of those people who have come here, whether they be appointed or whether they have been elected, will have the opportunity at some stage to address this Convention because I know many have remained quiet saving what they want to say for the address that they intend to make to this Convention.

Since the move to a republic gained some momentum a couple of years ago I have often asked myself: if I were to wake up tomorrow morning and find that Australia was a republic, would I feel any more Australian than I do today? The answer quite simply is no, I would not. As a fourth generation Australian, whose family came to this country over 140 years ago, I feel as independently Australian as I can possibly feel, regardless of any national symbols or system of government.

So to all of those delegates who have said that we need to become a republic because we need to grow up, because we need to show our independence or, as I think I heard Poppy King say the other day, because we remain diminished in the world's eyes, I would say poppycock. We have done all of those things under our current Constitution. Any delegates who have had the opportunity to travel as Australians throughout the rest of the world know that you are treated as Australians and are looked on quite independently as Australians, not as some nation that is under the yoke of a foreign power.

It is so easy at forums such as this to allow emotion and emotionally charged clichés to get in the way of the practical difficulties that arise from many of the proposals that have been put forward so far at this Convention. I think particularly of constitutional change as it may relate to the states and their powers. Why do you think it took so long for our founding fathers to agree on the current Constitution? It was because they knew that in order to take the people of Australia with them, to take the six colonies that existed at the time with them, they had to get it right and get it right they did.

I took some time this morning to read the proposals that were put forward by the direct presidential election group. I think in that context I would like to comment on what I think are some of the more absurd propositions that they have come up with. Firstly, let me comment on their nominating and short-listing system which could come up with literally thousands of potential candidates. If any citizen can nominate or nominate someone to be a candidate for the presidency, how many, particularly in the first instance, do you think would be nominated?

How do they expect each member of the federal parliament—and because they do not want any politics to be involved in the selection of a president of the country I can only assume that each member of the federal parliament would be given a free vote—to determine who are the best candidates to go forward as eligible nominees for an election in a direct election of the president? What if, as Professor Craven said earlier today, the two-thirds majority cannot be gained? Because in a free vote with an enormous number of candidates how on earth could you expect two-thirds of the parliament to come up with the candidates?

Do they in their proposals seriously believe that the parliament can effectively regulate campaign expenditure by or for a candidate contesting an election? It is all very well to put it in words on a piece of paper that you will limit the expenditure that a candidate may spend and that there will be public funding of any campaigns, but the parliament,

as we have seen in the past, cannot effectively regulate campaign expenditure.

Then we come to the issue of tenure of office and the timing of a direct election. The proposal brought forward was that a president should be elected for two terms of parliament. To the best of my knowledge, over the past 30 years the duration of the terms of federal parliaments have varied greatly from about 18 months to just over three years. Can you imagine the scene at Yarralumla one cold frosty morning in July when the Prime Minister of the day calls on the president and requests the dissolution of both houses of parliament and the president of the day says, 'Hang on a minute, mate; I have only been here for 3½ years. My predecessor had six years because the parliament ran its full term. You are trying to do me out of my job.' He might even say, 'Go back and sort it out and you can have an election when I have finished my term.' That is just one of the propositions that has been put forward.

If presidential elections are to be held simultaneously with general elections, does that mean that a general election cannot be called by a Prime Minister of the day unless he or she has already made sure that presidential candidates are in place? If the mood is to have a president, who is supposedly above politics, why would you want to have a direct election for a president amidst the hurly-burly of a general election where politics is at its most intense level.

Perhaps the *Australian* newspaper this morning in its polling could have got past the simplistic questions, which they inevitably ask to get the result they want in the polls, and started to help educate the population on some of the difficulties that arise from seemingly popular elections. The headline this morning was 'Voters rule: No election, no president'. It was grandly handed around by Professor Patrick O'Brien. I wondered whether the headline should have read 'Newspapers rule: no election for president'.

If the *Australian* was to present the full picture it should have asked the question: if there was the possibility of 1,000 candidates for popular election, if the candidates were to be eliminated by your federal members of

parliament to leave three, if the term of office was anything from two years to 6½ years and if the election of the president were to be held in conjunction with a sometimes emotionally and politically charged general election, do you still direct election is the best method of determining our future head of state? If that question was put by the newspapers then perhaps we might get a different answer to the poll that we saw in the *Australian* this morning.

I listened intently this morning to the comments by Mary Delahunty from the working group on ongoing constitutional change. From my point of view, you would think that we had a current Constitution that was failing the population if we have to have continuing consultation on constitutional change. In fact, there is general agreement amongst, I think, all delegates that the current Constitution has served Australia well and is serving Australia well. The major bone of contention, as far as I can see, that has been brought before this convention is whether or not we should become a republic and whether or not the role of the head of state should be changed, not whether there should be ongoing change to the Constitution which has served us so well.

There seems to be an enormous number of delegates who are sure that they know what the rest of Australia wants. I can tell you that some of the views that they have put forward do not concur with what people have said to me when I have gone about my daily life and what people where I live have said the rest of Australia wants. I do not pretend to know what the broader community actually wants and so I am not going to say that they want ongoing change, they want the environment in the constitution, they want everything else in the Constitution. I have been told more than once, as I have spoken to those people who elected me to the Senate, that there are far greater problems in Australia's community today causing them concern than spending an inordinate amount of time and money on constitutional changes. I see that there is no need for change in the status quo and I intend to support that position.

**Ms MOIRA O'BRIEN**—'First with your head, then with your heart': take heed of these wise words of Bryce Courtenay, a top Australian author, sourced from his inspirational and enchanting novel *The Power of One*. 'First with your head, then with your heart.'

I feel we must also use this approach when we are looking at the issue of changing to a republic or retaining the constitutional monarchy. Too often in this debate, we are being ruled by our emotions, thinking with our hearts and not our heads. Firstly, we need to know all the facts to be able to objectively assess their strengths, weaknesses, opportunities and threats. Then, once all this information is known and understood, people's ultimate judgment will be one that comes from the heart—one that sits well with their moral fibre but is soundly based on facts.

I have tried to approach this debate with a purely open mind. I have tried objectively and logically to assess all options. I must admit that this by no means has been an easy task. In the past week, we have had the honour of listening to some truly brilliant speakers, all eloquently and persuasively stating their cases. My opinions have continually saw-sawed. One thing that I am certain of is that compromise is necessary, and that this most definitely should not be seen as a weakness. As most reasonable people will admit, compromise is an extremely important attribute in all walks of life—business, personal and political.

The first and most important question we need to ask ourselves is: what is the underlying issue? Why are we considering change? National unity and a search for Australian identity springs to mind. The republicans say that we need an Australian head of state to do this. Will we achieve this by change? How can we do this without affecting our stable system of government and open democracy?

Let us take a closer look at the main models that have been proposed thus far. To my way of thinking, there are five main options. Firstly, there is the McGarvie model. It is simple; it is not very different; it is relatively safe. Therefore I ask: will there be any differ-

ence with people's perceptions in our national identity?

Secondly, there is the two-thirds model whereby the politicians nominate and choose the head of state—a bipartisan approach. People have a say through their elected representatives. A head of state is selected by the parliament, so therefore the person selected will be acceptable to the parliament.

Thirdly, direct election. This involves the most change. All Australians will have a direct say in the election of the head of state but, unless strict controls are put on the head of state's powers, it would result in the person selected having the largest political mandate in the country and therefore becoming a rival power base against the Prime Minister.

Fourthly, constitutional monarchy—the status quo. We are familiar with it; we know it; it has served us well.

Finally, there is a hybrid version—the combination of the best of all the above. I am a cattle girl. In cattle terms we would say that this would produce hybrid vigour—a superior animal or product. We have the added advantage here that we can carefully hand-pick the best components. We are not relying on the uncertainty of the gene pools.

Regardless of which model is chosen, I believe there are some fundamental points that must be agreed on. I stated some of these on Friday, so I will not repeat them all again now. But there must be consensus for change in all of the states and territories—all or nothing. The balance of our federation would be disturbed if we were not all united in our forms of government. If the underlying reason for change is to develop and foster unity by having an Australian head of state, an imbalance of the states would not allow this to occur.

The whole debate is a bit like our mind, body and soul. Even though we would like to be able to logically dissect them into manageable parts, it is not always possible. The powers of the head of state depend largely on how that person is to be appointed and the role of the head of state depends on how much powers they are to have, and vice versa. Just as it is not always possible to think

purely with your head and then with your heart, somewhere in there it is all unexplainably linked and a balance needs to be found.

I do not and I will not profess to be an expert on constitutional law. Many people far more eminently qualified than I can deliver the facts to you. In regard to the technicalities and the legalities of the issue, I will be guided by the experts but, by the same token, I will not be blindly led—nor will the people of Australia.

I am not politically affiliated but I do believe in playing an active role in the decision making processes that affect me and my family. I need—we all need—a feeling of safety and security. We all acknowledge that the only real constant is change; we need to nourish change. But this does not mean that we are not somewhat apprehensive of change.

We need to be assured that, if we do change to a republic, the security of our democracy and our freedoms we now experience, enjoy, treasure and take for granted are not jeopardised. The membership of this Convention is a perfect example of this. Where else would 152 people from all walks of life and of all ages be able to come together as equals, and where politicians, students, businessmen and housewives, et cetera, are all on the same level?

The Constitutional Convention is not made up entirely of people who already had firm opinions on and an involvement in the issues. I am one of the eight appointed youth delegates and I represent the Northern Territory. I did not put my hand up to be part of this process. You could say I was selected out of the hat but, in saying that, I mean no disrespect to the selection and appointment process involved. I must say that I am extremely honoured to be part of this significant moment in our history and our future.

The first I knew about the Constitutional Convention was in June last year when I received a letter from Senator Nick Minchin stating that the Convention was planned, the possible format it might take and inviting me to participate. There are two things I would like to stress: one is that I do not consider that the Convention will be a failure if we do not leave with strong consensus on a particu-

lar model; the other is the importance of compromise. I ask myself whether we should be so bold to think that we have all the answers or that we have the right to select just one particular republican model to put to the people of Australia in a referendum, and whether it is most presumptuous of us to assume that the Australian people will choose change over the status quo.

At this Convention, we have a wonderful selection of wisdom and diversity. We have seen that there are many different possible models, all of which I believe—if given serious consideration—would be able to be put successfully into place in our Australian system and still retain our current democracy. Why can't we put several sound models to the people of Australia in the form of a plebiscite and let them ultimately choose which model of a republic they want?

Over the past week we have constantly heard speculation that people want to directly elect the head of state, while those opposing that point of view have assured us that you cannot really trust these surveys or polls. We have heard each party give quite different interpretations of the same set of statistics, depending on which argument they are attempting to prove. The only way that we will ever really know exactly what the people want is to ask them specifically by way of a plebiscite. If we do leave the Convention with the verdict for a plebiscite and not a referendum, I sincerely believe that we will have not failed in our task. We will be giving the entire Australian population the chance to have a real say and choice in the future.

The Convention has been critical in raising awareness of the issue. The coverage that it has been receiving in all areas of the media has been tremendous. Everybody is talking and thinking about the issues. This would not be happening to the same extent if the Convention had not been held. It has been a wonderful education campaign. Tucked away in my back corner of the chamber, I could have mistakenly believed that I was participating in the private deliberations of a mere 150-odd people. This is far from the truth.

Every word spoken here is being seriously listened to and analysed by people all around

Australia, and internationally as well. From the country to the cities, from our harsh dusty interior to the sea, we are all learning much about our current political system and the myriad possibilities available for change. The Constitutional Convention most definitely will be a success. It has been, and will continue to be, an education for all Australians.

I would like to stress again that compromise is not a dirty word nor a weakness. It is necessary, and we need to seriously embrace it in this coming week. If we are to come up with a single model to put to the people in a referendum, compromise is imperative. We need to select the best from all the models and carefully graft them into a workable model that satisfies the majority. We have the diversity; now we need to join together in harmony to create unity.

**Ms IMLACH**—I am an appointed delegate to this Convention. As was stated in the *Australian* on 8 November last, and up to the time I came here, I am undeclared in my opinion. In that, I am one of a large group of Australians. My heart says yes and my head says no. There are four groups amongst the Australian people on this issue: those who support the Crown; those who support a republic; those who are undecided; and those who are just not interested.

The chances are that the totally committed loyalists and the totally committed republicans—those who want the retention of the monarchy no matter what and those who want the change to a republic no matter what—are minority percentages of the total population. There are big differences between broad expressions of opinion at the present time and the final ballot box commitment at the testing time of a referendum in the future when the conditions have been determined.

It is possible that in the ultimate showdown the undecided will be in the majority. If, in fact, they are a majority, they are truly a silent majority. Amongst this group of undecided Australians are those who believe that a republic will come about, but who are not prepared to put their weight behind the cause until they know exactly what the new system will be and how it will work. A typical Australian within this category believes that



the concept of an English person as head of state has run its course. He or she is happy with the idea of an Australian head of state—after all, such an idea appeals to the independence of the free spirited Australian character—but he or she will not support such an idea until chapter and verse of how it will operate is written down.

They will wait and see, and that is exactly what our fellow Australians are doing now—watching and waiting to see what we will decide. These wait-and-see people will follow their own judgments, and they are not likely to be moved by political speeches. If they form the big percentage of the Australian people, as is suggested, they will ultimately decide the republican debate. Most of them are not motivated by loyalist sentiments or by a blind allegiance to the British Crown. Their motivation is that, before they relinquish a system that has been tested over a long time, they want to be sure that the replacement system is as sound.

The duality of a fully functioning Governor-General and a Queen who has only the power to appoint and remove him may seem unlikely in political theory, but it has considerable support, because many Australians believe that it works. The primary problem facing us, the people's Convention, is to come up with an alternative head of state system that offers the safeguards, the democracy and the practical functioning which the present system will give and at least the same level of confidence in the new system which we have enjoyed under the present one.

Unlike many of my fellow undecided Australians, I have had the privilege of being here—a unique and exciting experience for which I am most grateful. I have been able to hear all the arguments and to observe the players for myself. I feel a very onerous responsibility for my fellow undecided Australians. If one of them were to come into this chamber now and sit beside me in the back row and ask me, 'Mary, what is going on?', I would tell him that I have heard the arguments for the directly elected head of state or one appointed by a two-thirds majority of parliament, the argument why the reserve powers should be codified, and so far I have

heard nothing which convinces me that there is a greater benefit to be gained for us, the Australian people, by making the change to a republic. I will tell him that we have been told that we need to change to establish our identity as a nation. Whoever thought we were not a nation? Ask those who fought for Australia in both wars, in Korea and Vietnam, those diplomats who represent us around the world and those who compete for us in sport.

We are told that it is offensive to have the citizen of another country as the head of state. Frankly, I think my undecided Australian friend, like me, finds it offensive that the owner of the media which is manipulating the mind of the Australian people on this issue of republicanism is the citizen of another country, one who gave up his Australian citizenship, his birthright. I will tell my undecided friend that, as I see it, this is a play for power by a select group which is manipulating the republican movement and, if they are successful in their cause, they will deliver a lethal blow to the Federation of Australia as we know it today.

As the Hon. Hendy Cowan said and Sir James Killen eloquently put it, people seem to forget that we are a Federation. It was not until 5.15 p.m. on the third day that the fact of Federation was mentioned. We are hearing only one side of the story: that of the Commonwealth. What we should be discussing in this country is the division of powers between the Commonwealth and states. There is nothing surer in my mind than that one of the states at least is going to reject this move to republicanism, and the framework of our Federation will fall down. That may not worry the republicans but it will worry the average Australian, because our country will no longer be one country, one nation. The founding fathers came together to unite six disparate colonies into the one great nation of Australia. This step to republicanism, if taken too hastily, will be the first in a process of disunification of our Australian nation. The Federation has been the foundation on which our nation was built. The founding fathers were truly great draftsmen, for they drew a document, the Constitution, which established a federation—something unknown to English

law—and into its fabric they built the checks and balances of the English constitutional conventions. It was probably no mere oversight that they left the reserve powers uncodified.

Probably my undecided friend will ask me, ‘Why did you come to this Convention?’ I will answer: to hear the arguments, to look for the truth and to find the best form of government for Australia in the future. Should the Australian people want to change to a republic, we must have prepared for them a model which retains all the democratic processes of the present system. I believe the McGarvie model does that. However, I would suggest that, instead of the erstwhile governors and retired judges, we appoint the six governors of the states as the committee. This would remove the elitism which we are told would not be acceptable to our fellow Australians and would put in people who are appointed by the Premiers of the elected governments of the states. This would strengthen the bonds of Federation.

The proponents of this change in the media underestimate the complexity and the difficulty of the matter. We are contemplating a fundamental change to our constitution and in that we are taking out an integral and basic element of it. To do so we will invoke section 128 of the constitution. We are dealing with real law. This is the very being of our nation and its future. A former Australian—himself a lawyer—once said, ‘You can make a politician out of a lawyer, but you cannot make a lawyer out of a politician. The role of the lawyer is to facilitate the safe progress and passage of democracy.’ Should the Australian people choose to become a republic with the amendment I suggested, the McGarvie model is the model which will ensure the safe passage of our cherished Australian democracy.

**Mr SUTHERLAND**—To paraphrase Oscar Wilde, to fall in love with one’s country and its constitution is to commence a life-long romance. Neither my heritage, pure Celt—half Irish, half Scottish—nor my adult life-long political party affiliation has enamoured me to an Australian republic. When approached by Lloyd Waddy QC and Judge Michael

Kirby, now a judge of the High Court, to join Australians for a Constitutional Monarchy as a foundation member some six or seven years ago, I did so quite willingly and without question. It has, indeed, been a long march.

Also, as the foundation secretary of the Ethnic Communities Council of New South Wales, I challenge the notion that all migrants of ethnic origin other than Anglo-Celts support a presidential republic. In fact, legions of migrants fled from tyranny, totalitarianism and oppressive republics to Australia because of its world-wide reputation for stability and justice. Irish people often approach me and say, ‘Mr Sutherland, we are not against the constitutional monarchy because we are Irish, we are not for a republic because we are Irish; we are for the system of government which will best serve the Australian people.’ The Irish are done a great disservice by those who suggest that they are automatically pro-republican.

After serving in elected office for a period spanning the past four decades, principally in city and local government, I can say I am not personally uncomfortable with a legal titular leader who lives in London, nor with my spiritual leader who influences me more intimately and resides in Rome.

The Statutes of Westminster enacted by the United Kingdom parliament in 1931, and correspondingly by the Australian government, conferred and confirmed on Australians absolute political independence in that the sovereign must act on the advice of her Australian ministers—usually the Prime Minister. The sovereign has served us well, not the other way around. The claim by republicans made at this Convention that the sovereign may, at some time, exercise the royal prerogative, which was last done by Queen Anne on legislation in 1707, must be measured against the Statute of Westminster, supported by the Australia Act of 1986, which strengthened the six sovereign states. The republican propaganda that we are not totally free must be challenged with vigour.

Conventions which have been crafted and entrenched by centuries of British history and law, with all the safeguards so bestowed on all Australian citizens, are at risk and will be

cheerfully abandoned by the republicans. A president could not be bound by them if he or she chose to ignore them. All the freedoms and human rights enjoyed from Magna Carta onwards without Australia needing to have its own bill of rights are in danger of being lost by Australian citizens.

Referenda to make substantial alterations to our Constitution were described as a 'labour of Hercules' by the then Prime Minister, Mr R.G. Menzies, when the referendum on the Communist Party prohibition was lost in 1951. How right he was! Only eight out of 42 Commonwealth referenda have been successful since Federation.

The results of four defeated referenda of 1988 sounded the death knell of the republic. Those four innocuous proposals—innocuous in the sense that, whilst they were important, they could not, I would have thought, have generated much opposition and excitement; I supported them all—were: the recognition of local government in the Constitution; freedom of religion, of worship; just terms for property acquired; the extension of the right to trial by jury; four-year maximum terms for the houses of the Commonwealth parliament; and fair and democratic elections in all Australian government parliaments. They enjoyed up to 80 per cent or more approval pre the polls, but resulted in approximately 30 per cent support for the 'yes' vote in the referenda because two major political parties opposed them. No referendum has ever been passed which did not enjoy the support of all parties. The 1967 nexus—the ratio of House to Senate members—was defeated on the lone opposition of the Democratic Labor Party and a handful of dissident government senators.

With the assured opposition of the National Party of Australia, a republican referendum is doomed. The most insidious and yet the most prevalent and nebulous claims for the republic are that 'it is time' or 'it is time to move on'. While the former, in a different context, had relevance in a very successful election campaign some quarter of a century ago, it lacks validity and credibility against our Constitution because there are no basic flaws and because there is no comparable movement from our nearest neighbours who enjoy the

same system, for example, Papua New Guinea and New Zealand. Also, Canada, which has the United States—the most powerful republic in the world—next door to it, is not inclined to go for a republic. The shared titular head of state is not at all an anachronism to them; why should it be to us? The inevitability belief is not convincing. Mr Chairman, I say to you and to everyone that there are only two certainties in life, and the republic is not one of them.

I cannot accept that an hereditary monarch lacks contemporary relevance in some special or unique way to Australia. Our Asian neighbours—Japan, Malaysia and Thailand—are not impressed with that argument, nor are Sweden, Denmark, Norway, the Netherlands, Luxembourg and Belgium. All these countries are recognised as among the most peaceful and progressive democracies in the world.

Mr Chairman, republics are not regarded by constitutional monarchists as essentially evil; rather that they have in this century provided the preconditions for the emergence of some of the most evil individuals in all history—Stalin, Hitler, Mao Zedong and Mussolini—who, between them, were responsible for the murder of 100 million of their own people, as well as millions of others, during and since World War II. To that list of dictators can be added Marcos, Sukarno, Pinochet, Idi Amin, Saddam Hussein and more in Africa. I think I would also be asked to add Colonel Gaddafi to that list.

There is a saying in Africa—apart from South Africa and Kenya—after each republic is formed: 'One person, one vote, once'. We have been chided for mentioning the rise of Nazism and Fascism in Germany and Italy, but the reality is that the most highly educated and technically advanced country in Europe, pre-war Germany, permitted Hitler to become prime minister, president and commander-in-chief of its armed forces. The rest, as they say, is history.

The most unpleasant and reprehensible incident to emerge so far at this Convention is the demeaning and denigration of Bill Hayden by certain republicans using inference, innuendo and direct reference to justify the preferred two-thirds majority of both

houses of parliament selection process to exclude politicians so that never again will someone of his intellect and integrity be chosen. Assertions that his appointment was a convenient way of removing him from the parliament are particularly hurtful and harmful to many. I trust the new republic would have more decency and courtesy than some of its more voluble advocates.

Law changes can lead to some unintended consequences and to people's rights being endangered or diminished. A recent event in New South Wales is an object lesson. On 1 July 1994, the Local Government Act 1919 was repealed and the new Local Government Act 1993 was substituted. Surprisingly, at the 1995 local government elections it was discovered that the universal practice, the requirement by law as a condition of being elected and holding office, had been removed: the requirement to make oaths or affirmations of allegiance. They were no longer required. It had been inadvertently overlooked, the New South Wales coalition government explained.

But worse was to come. The government had changed and the Labor government refused to restore the two oaths or affirmations, stating that it preferred to leave it to individual councils to arrange. I believe in the two years since none have done so. So the people lose out. There is no longer a legal requirement for those 2,000-odd councillors elected to undertake to swear or to affirm to serve the people to the best of their ability and without fear or favour. Perhaps the three delegates from New South Wales, all pro-republican—one is present in the chamber—can explain how this is satisfactory.

My conclusion is this: the republican charge would have more credibility if it were to advocate strengthening our democracy—for example, by prohibiting retrospective legislation, a provision in the Finnish constitution; by providing for citizen initiated referendum, as applies in Switzerland and many states of the USA. Proposition 13 in California, which froze tax rises, is a well-known measure. These and other similar issues such as entrenching the flag, guaranteeing the right of private property and entrenching English as the national language ought all be things that

the republicans commit themselves to. They have not.

**Ms MACHIN**—Mr Chairman and delegates, if someone had said to me 12 months ago that I would be at this Convention vigorously debating the reasons Australia should become a republic, I would have said they were kidding. If they had told me my colleagues would be people like my past political adversaries—people such as Neville Wran and Jennie George—I would have said they were dreaming. But this simply illustrates the increasingly wide and bipartisan support that the Australian Republican Movement, as the main pro-republican movement, enjoys. Even the National Party, the party to which I am still proud to belong, has other republicans who have come out of the closet, and I know there are many more just behind the door. I welcome the free vote offered to the Nats by Deputy Prime Minister Tim Fischer yesterday. I am sure that Ron Boswell is vastly relieved that he can now have that free vote.

I came here with one simple premise: to see an Australian, one of us, as our head of state—hardly a radical position and one for which I think there is tremendous unanimity. I believe that there are many reasons why Australia should become a republic and these have already been eloquently put by many speakers in the Convention. The reason that some have overlooked, however, particularly those who support the status quo, is that the Australian people now want change. The last 20 years have shown a remarkable reversal of opinion and in my view this will not change but will only grow as the debate continues and is more detailed. I must stress that, to me, this is very much about what it is to be Australian, what kind of society we are now, where we ultimately want to be and how we have changed, even in the last few decades. It is not about British bashing or some Irish Catholic plot to get even for past injustices, real or perceived. It is about us. In my discussions I believe that even British citizens understand this point.

I also point out that for many, dare I say most, republican supporters this is not about 1975. In my opinion, talk of 'keeping the candle burning' by Labor politicians is irrel-

evant and unhelpful to the wider debate. However, even the most conservative person must find it increasingly difficult to justify having at the top of our constitutional tree the monarch of another country on the other side of the world; a country that, like Australia, has changed over the years and now sees its future very much in Europe. Anyone who has travelled there recently and lined up at the 'others' queue whilst Europeans and Brits line up at the 'preferred' queue would know how that must feel.

Our constitutional head is chosen by birth-right and is only a woman if there are no boys in the family. These are simply not values that Australians ascribe to today. Our Prime Minister has correctly identified this, as have the Treasurer and many other senior figures of government.

There has been much talk of symbolism. Some have sought to dismiss this as merely symbolic change. I say to those people: when we win gold at the Olympic Games in Sydney and you see our flag run up the pole, our national anthem sung and the gold medal hung around our athlete's neck, will you not be proud of those symbols? Will you not feel a catch in your throat as our anthem is the one to be sung? Are these not mere symbols too? Of course they are and of course they are important to us. Important symbols of a society are a way of uniting the people who hold those symbols dear. This debate and the move to a republic, which involves much more than mere symbolism, provide us as Australians with the opportunity to celebrate our nation and the symbols that represent it in a way we never have before.

I drove down here to Canberra on the Sunday prior to the Convention. It was a beautiful morning and, free of my three little children, I was actually able to enjoy some quiet solitude and the physical qualities of our country. I passed through Sydney's suburbs and took a trip around the world as I did so, and then I passed into the bush. As always, I was struck by how truly unique our land is. Nowhere else in the world would you see the trees, rocks, waterways, birds and animals that we find in the Australian landscape. Nowhere else in the world smells like our country.

Nowhere else in the world would people understand why a person with red hair is called Blue or why a strapping, six foot bloke is called Tiny or why our whole nation stops and celebrates because we won a boat race. Who else would eat vegemite and enjoy it? Our current head of state cannot truly experience these Australian idiosyncrasies.

The world looks at us with envy. I believe they admire our stable democracy, and our physical and cultural environment. We are seen as a young, vital nation, often with achievements and influence disproportionate to our relatively small population. Yet some people here feel that we are incapable of drafting and agreeing constitutional change on an issue that most frankly agree is not radical, if you take my opening premise, and one that has mounting support from the Australian people.

Surely the issue is not whether or not we can, it is whether or not we will. It is indeed the art of the possible and that involves open minds on all parts and a consciousness of what is best for our country in the long term, not what simplistic opinion polls might tell us this year.

I would like to discuss one particular proposition briefly. I came to this Convention as a member of the Australian Republican Movement, elected on a clearly enunciated platform. I have been surprised at the number of other elected republicans who have come here on a particular platform but with no details. We believe our proposal is workable, easily understood and poses no threat to our system of parliamentary democracy.

Professor Craven earlier suggested an impasse if a joint sitting of both houses could not resolve on a president. I simply say that a more acceptable candidate should be presented in that situation and that, in the intervening time, the Deputy President, normally the senior governor, as is the situation now, would preside.

Prior to the Convention, we became aware of other models, particularly the McGarvie model. I also pay tribute to the contribution of that debate. It is probably the most minimal of all propositions and hence its attraction to many conservatives. But at the

end of the day it still simply rubber stamps the decision by the Prime Minister and could still give us a political appointment in the manner in which Bill Hayden was appointed some years ago.

In the last few months there has also been considerable discussion of the notion of a directly elected head of state. I would like to dwell on this in particular for a few minutes. We in the ARM have not ruled out direct election because we are a bunch of autocrats. Our movement has spent years debating all of these issues in order to arrive at a model that is deemed to be workable and likely to garner the support of both sides of politics, essential at a referendum. I would just point out as well, in response to an earlier speaker, that in Queensland, if we talk about votes, the ARM got over 3,000 votes more than the Clem Jones group, and Michael Lavarch actually outpolling Clem Jones and below the line votes. So we have support for our proposition in that state as well.

Let us look at a hypothetical direct election scenario. Following lively preselection campaigns in the all the major political parties, President Labour gets elected in the year 2003 for a five-year term. She has defeated the Liberal presidential candidate, the Hanson candidate, the Mack independent candidate, the nude sunbathing candidate and the benevolent Turnbull party candidate. The Labor candidate for president gained only 32 per cent of the primary vote but was elected with the preferences of the Hanson and the nude sunbathing candidates.

A year after that, the federal coalition is re-elected to power with 48 per cent of the primary vote but still without control of the Senate. The coalition introduces some tough social measures in the new conservative century but these are not popular with all.

One year after being elected polls show it could be defeated if an election were held. The government is trying to have its budget passed by the Senate but there is strong opposition to it from Labor and the minority Left parties, although it is generally a fair budget.

As part of the full codification of the powers of the president, the circumstances in

which the Senate can block supply have been clearly spelt out. The leader of the Labor Party quietly consults the Labor president, who, as a progressive, is a strong supporter of a more radical social agenda and indeed campaigned on this issue with some success in her presidential election.

The nude sun bathing party senators are also unhappy at the government's social conservatism, and the opposition is well aware of this. It floats the blocking of supply with the crossbenches. It is agreed between the opposition leader and the president that the Senate can block supply and under full codification the president can dissolve the parliament in these circumstances. So the opposition and minor parties combine to block supply and the president grants a double dissolution, as arranged with the opposition leader. An election is held and the coalition is again elected, although with a reduced majority, and still does not have control of the Senate.

So we have a hypothetical situation where a government with a large mandate is thrown out of office by a political deal involving a president who only garnered 32 per cent of voters' first preferences. The coalition government is re-elected with a similar mandate while the partisan president does not have to face the people for several more years and cannot, strictly speaking, be claimed to have abused her position because her actions and those of the Senate have been set out in the full codification of powers.

No doubt some will say this could never happen, but I do not believe it is such a wacky scenario. What I am trying to do is illustrate the dangers of politicising the position of president and creating the rival mandate or power base that the Prime Minister and others have talked about. To pretend that the political parties can be kept out of presidential contest is naive in the extreme and delegates here would be guilty of trying to pull the wool over the public's eyes if they suggested this.

The alternative is to strip the president of any powers. I do not believe this is desirable as Australians do not want their Constitution as radically altered as this would require. I

feel that they are quite comfortable that, in the event of a constitutional crisis, we have a figure that can act as an impartial umpire.

So, in conclusion, the Australian Republican Movement believes that stability of government and the impartiality of the head of state is the key issue. For this reason, we have devised a method of appointment that we believe ensures that political parties will be forced to put their party politics aside in choosing someone who will remain impartial. We agree with the Australian people that we do not need a political head of state.

**Mr BACON**—Delegates and fellow Australians, I say, as a Tasmanian who has noted, with some amusement, comments that the push for a republic is coming just from Melbourne and Sydney, that I am also a republican. Perhaps I could use the comment that I heard in Hobart last Friday that we Tasmanians, as residents of an island state, are perhaps tighter girt by sea than the rest of you.

In addressing the question of whether Australia should become a republic, on this the seventh day of the Convention, it would seem unlikely that a great deal new will be said. I have enjoyed the contributions from those who are speaking for the first time today, as I have enjoyed the contributions from every delegate during the week. Of course, I have not agreed with very many of the contributions. Some I have, some I have not, some I have agreed with in part and some I have disagreed with in part. But I think everyone here has come with the intention of clearly stating their views and seeking to persuade others that the views they put are right. So I do appreciate the opportunity to state my position on the general question.

I am a republican because I believe that the change involved is a crucial piece of the jigsaw picture that is our own view of Australia and an important step in clarifying the view of our country that others in the world have. Ensuring that we have an Australian citizen as our head of state is a change, in my view, which should be delayed no longer. However, I do think some of the pro-republican speakers at this Convention, and much of the public debate, at least prior to the Con-

vention, has focused more on the nationality of the head of state rather than the change from monarch to citizen.

I support Australia becoming a republic both because I want an Australian to be head of state and because I want a citizen, not a monarch, to be head of state. I cannot conceive of, let alone accept, any argument why this country should not have an Australian as its head of state. But surely that cannot be the only concern. After all, if it is only the nationality of the head of state that we are bothered about, we could simply take up the proposal contained in submission No. 241 from Tasmanian Jim Campbell to this Convention. That submission proposes that an Australian royal family be installed comprised of, it is claimed, direct descendants of George IV.

Thankfully, at least those descendants who were contactable by the media last weekend in Tasmania did not support the idea. One pointed out that, in a democracy, such a proposal was unacceptable to him and, he believed, most Australians. Of course he was right. We no longer view our ancestry as a legitimate qualification for any position, let alone one as important as the head of state.

Changing to a republic means that we must adopt a democratic process for choosing our head of state. It means adopting a system based on the sovereignty of the people. So if we want an Australian citizen and not an Australian monarch to be our head of state, the question becomes how we are to select one citizen from all of us who are citizens of Australia. On this question, I have changed my opinion since we debated it in the House of Assembly in Tasmania last year. I then supported the appointment of the president by a two-thirds majority of the federal parliament. Whilst I still believe that that model is vastly superior to either no change or the McGarvie model, I am now convinced that, without a direct role for the Australian people in the appointment of our head of state, too many Australians will feel disappointed and even cheated and may vote down a change that they feel is just not good enough.

There is no doubt that most Australians believe that a change to a republic will give

them a direct say in the appointment of the head of state. Every test of public opinion has shown this. In fact, in the paper circulated by Gary Morgan last week, he claimed that the only question his organisation had put to people for over 40 years was whether they support the monarchy or a republic with an elected president. The Newspoll published in today's *Australian* and a further Morgan poll which has been circulated verifies that that is the opinion as expressed in opinion polls. Of course, I accept the difficulties that some delegates have with opinion polls. However, I think we can accept them in the same sense that we accept speaker after speaker standing up here claiming to have the support of the Australian people. The truth is that all of us have some supporters amongst the Australian people. None of us can claim to have the support of all the Australian people.

So, are the other people who want to have a direct say in the election of a head of state wrong, confused or just plain ignorant, as at least some opponents of direct election have told us? Or have they picked up on the essential feature of the change from a constitutional monarchy to a republic, a system based on the sovereignty of the people?

I congratulate the direct presidential election group for coming up with a direct election model that satisfies the desire of the Australian people for a direct role in a republic and, in my view, answers the various problems that have been raised against the popular election model, though of course it may still be improved by further suggestions from delegates. It starts from the premise that all Australian citizens are eligible for election, excluding only those who retain allegiance to a foreign power and serving members of Commonwealth, state and territory parliaments. It specifies that the head of state cannot be a member of a political party.

It has an open nomination system and includes the right of states, territories and local government to put forward nominations. It has a gatekeeper system, as it must do. After all, we cannot have an election with dozens, if not hundreds, of candidates. The gatekeeper system would be where a two-thirds majority of federal parliament endorsed

three nominations to go forward to election. Whilst there are some strong views both here and in the community against politicians being involved, I point out that members of parliament do face election and judgment, and regularly at that, by all Australians.

The model proposes a new sort of election in my view, with expenditure, advertising and campaign support regulated and provided through a single non-partisan body. It greatly reduces the bogey of additional cost by specifying that the election for head of state would be held simultaneously with every second House of Representatives election. Lastly but crucially, it addresses the vexed questions of dismissal and partial codification in a relatively simple and straightforward way that reinforces the primacy in all necessary respects of a government and Prime Minister who hold the confidence of the House of Representatives.

Prior to the Convention, most people believed that such a model had no chance of success and of course they might still be proved quite correct. Perhaps that was because most people, myself included, grossly underestimated this Convention. It has been, for me, and I know for many other delegates that I have spoken to, a fascinating experience. Its make-up reflects the diversity of our community, not perfectly of course, but at least all conceivable points of view are represented here. For a parliamentarian used to more predictable outcomes, the willingness of many delegates to listen to opposing views and to be convinced by argument has been particularly refreshing.

Already a wide consensus has been achieved on the overdue but nevertheless welcome recognition of Aboriginal and Torres Strait Islanders as the original occupiers of our land, on the multicultural diversity of our modern Australian community and that our present constitutional arrangements have generally served us well over nearly a century. These, too, are all important pieces of the jigsaw that makes up our view of modern Australia that I referred to earlier.

The challenge over the next few days, particularly for the clear majority now on the record in favour of a change to a republic, is



to strive for agreement on the best model to put to the Australian people. As one of a growing number, I am in favour of a direct election. I hope we can convince you that not only is a republic without a direct role for the people not the best model and perhaps not even a true republic, but it is also going down a path which is likely to be rejected by the people we are all here representing.

**Mr LAVARCH**—In the next three days we will decide the fate of whether our nation has an Australian as our head of state. Make no mistake, if delegates supporting an Australian head of state irretrievably divide on the preferred model, then we will not achieve this constitutional change. A republic is not inevitable and the current momentum will stall if republicans lose sight of their principal goal. That goal—our all-embracing goal—must be an Australian head of state.

The model to achieve that goal is secondary. In this endeavour, the end is vastly more important than the means. This is because in the great sweep of time the referendum to establish a republic will give us only one final utterly irreversible outcome and that is the end of the constitutional monarchy.

Over time other things may well change; the structure of the parliamentary system will evolve; the federation may alter; a constitutional bill of rights might be adopted; and we may one day embrace an executive presidency. All of these changes can occur if the republic referendum is successful, but what will never occur is a change to restore the monarchy. There will never be a political party, a leader or a popular movement which aims to replace an Australian head of state with a foreign monarch.

The threshold question is this: is the replacement of the monarchy with an Australian head of state of itself of sufficient importance for delegates to put aside legitimate and more far-reaching reform agendas to support a consensus model? For me the answer is a resounding yes and I will explain why. Firstly, an Australian head of state would reflect our status as an independent and autonomous nation. It is symbolically important. It is a symbol which tells ourselves and the world a lot about our beliefs and what we stand for.

Secondly, Australia is a diverse nation consisting of people from many cultures but committed to one nation. Our governmental structures should reflect this and it is simply unacceptable to have the ultimate public office which by law cannot be filled by an Australian. Thirdly, and flowing from the second reason, a head of state who is a hereditary monarch is fundamentally undemocratic and at odds with basic norms of human rights. In contrast to the American constitution, which is concerned about proclaiming human rights, our Constitution through its creation of the head of state sends out the opposite message.

The rules which govern who shall be Australia's head of state are contained in the laws of royal succession. These rules are utterly inconsistent with current community values and the laws of Australia. The rules provide that Roman Catholics and persons marrying Roman Catholics are excluded from the throne, that the monarch must be in communion with the Church of England, declare himself or herself to be a protestant and swear to maintain the established churches in England and Scotland.

The framers of the Australian Constitution determined that it should be made clear that there was no established church in Australia in the way such a church exists in the United Kingdom. Whatever may be the historical reasons for the British position, no such considerations were thought appropriate to Australia even at the time of Federation. As the constitutional advisory committee on executive government observed, the fact that the monarch must be a member of the Church of England is not appropriate to Australian conditions and it is inconsistent with the spirit of section 116 of the Constitution which, in part, states:

... no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

If the head of state in the Australian republic were regarded as holding office under the Commonwealth, it would follow that the Commonwealth parliament could not impose on that office a religious test of the kind which currently applies to the British monarch

and consequently to our head of state. Equally objectionable is the requirement that if the reigning monarch has children, sons succeed before daughters—that is, the oldest male child will succeed to the throne in the place of older female children. This requirement is difficult to reconcile with Australia's long-standing and proud history of electoral equality for men and women and of the legislative recognition by the parliament of the need to proscribe discrimination on the basis of gender.

Women have achieved the highest offices of the parliament and will no doubt one day obtain the office of Prime Minister, which is the pinnacle of the executive government. There is of course no legislative prohibition to a woman holding that office. Equally, in the judiciary, women have reached the highest levels of judicial office. Again, there is no constitutional limitation on a woman performing any judicial office within Australia. In short, it could be no longer contemplated that legislation or practice would see the appointment to public office depending on the gender of the person concerned, even for the head of state and perhaps, most importantly, for the position of head of state.

These current arrangements cannot be allowed to continue. Australia must have its own head of state. The method by which this is achieved is a lesser consideration to gaining the change itself. I understand the genuine desire of some delegates to promote a republican model which incorporates direct election of the head of state. I understand and recognise that popular opinion, as reflected in opinion polls, is very much behind direct election being a central feature of the new system. However, I also believe that such a model will ultimately fail at a referendum without there being a major shift in the stated positions of the federal Liberal and National parties.

When the Keating cabinet decided upon a republican model, it rejected direct election. It did so for both policy and political reasons. The policy reasons have been well canvassed by a number of delegates, and I will not restate them in any detail. Essentially, they turn around the concern about the impact on

the structure of our parliamentary system of the creation of a separate source of political authority.

The direct election model pursued by some delegates attempts to address these structural issues. My principal criticism of the model is the manner in which it proposes to deal with conflict between the House of Representatives and the Senate over the passage of a budget. The model provides that the head of state shall not dissolve the House of Representatives by reason of the rejection of or the failure to pass a money bill unless the government begins to act illegally.

Presumably, such illegality would occur by spending money that has not been appropriated. Even then, dismissal could not take place until the High Court had determined that the government was, in fact, acting unconstitutionally. The outcome, therefore, is a political stand-off between the government and a hostile Senate which must be resolved in the political domain. That, of itself, is fine, but the prospect of the government not acting illegally, but simply not spending money by closing down the services of government, is simply not acceptable.

I will not accept public servants being sacked or pensions and benefits not being paid because people will not confront the core issue of the power of the Senate to block supply. I suspect that advocates of direct election would like to remove that power, but do not do so because of their correct political judgment that such a proposal would attract too much community opposition.

If you accept my starting point that the replacement of the constitutional monarchy with an Australian head of state is the primary aim, and that we should not be sucked in to a broader agenda of reform, then the question is: which model will get us there? It is my judgment that direct election will not. You can imagine a campaign with the Labor Party, various progressive groups in society, the ARM and some Liberals pitted against the leadership of the Liberal and National parties, the ACM and a variety of right-wing groups—the same forces which drove a starting point of 70 per cent of Australians in support of the 1988 referendum down to 30

per cent when the vote was actually taken. They would be pitted against direct election.

To an extent, those forces will be pitted against any model but, with not direct election, the mainstream political conservative parties will not be adding legitimacy to the opposition. Think very closely and carefully about this, delegates. If you want an Australian head of state, think carefully about whether you will get there with direct election.

**Proceedings suspended from 1.08 p.m. to 2.00 p.m.**

**Senator NEWMAN**—Like every other delegate to this convention, I feel very privileged to be involved in such an important task. I have found the debates and the working parties I have been involved in very valuable in assisting me to come to my position. I am part of a generation which has known the great strengths and protection which our present constitutional arrangements have afforded.

Despite some of the rhetoric which has flowed here, under our constitutional system Australia has developed into a proud, independent and democratic nation. We have one of the strongest democracies in the world. We have been, and continue to be, good international citizens, ready to protect peace and to play our part in humanitarian operations around the world. Our men and women at arms have served their country with skill and courage and with a fierce pride in being Australian.

I have listened very carefully over the last few days to the arguments being put as justification for a change in our present constitutional arrangements, but I have not been convinced of the need for change. However, our task is to frame a question which recognises the legitimate aspirations of a great many Australians to achieve constitutional change while ensuring the overwhelming merit inherent in our present system of governance is protected.

I want to make it perfectly clear that I do not walk away for one moment from my confidence in the present constitutional arrangements. They have served us well. They have enabled us to build a nation in which we

can all take great pride. But the progress of a nation is a dynamic process and we must all be prepared to listen to each other in this important debate.

My friend and colleague Peter Costello said here that he is 'for change not because of what others may think of us but because of what we think of ourselves'. I can understand that sentiment. I can understand the strong emotional pull to address what appears to be a contradiction between our sense of national identity and the issue of our head of state.

I recognise that the desire for change in our constitutional arrangements tends to be stronger and more commonplace in my children's generation than in my own. I remain to be convinced of the need for change, but, given that the nation is engaged in debate about essentially our head of state, I am passionately for the right of the Australian people to be given a responsible alternative to our present constitutional arrangements so that they may make the judgment.

It is for this reason that I believe that the proposal that we have come to know as the McGarvie model most fully meets the test of a responsible alternative to our current constitutional arrangements. In my view, the serious defects inherent in the popular election of the head of state, with its creation of a rival power source to executive government, the serious erosion of the Senate's capacity to act as a check on government and the all but impossible task of the codification of the reserve powers, are avoided in the McGarvie model.

Delegates should be under no illusions: the most effective way of ensuring that a politician becomes president is to select popular election as the means of appointment. The great cost associated with popular election will ensure the major political parties, with their infrastructure and expertise, will enjoy an almost unassailable advantage over individuals.

Also of concern would be the influence which major corporations, industry groups or single-issue lobbyists may achieve by bank-rolling a successful candidate. In other words, despite regular elections—many already feel we have them too frequently—to elect a

couple of hundred people in the Senate and the House of Representatives, we are told we still need to elect another single individual with enormous power to call the ultimate shots. I just cannot agree.

The various attempts to make the selection of a head of state by the parliament more user friendly have not greatly improved the situation. The problem for me is that the successful candidate will still be able to claim that magic word 'mandate' with all that that implies. Solutions to the mandate issue include limiting the powers of the head of state in one way or another. This inevitably would mean that there would need to be a consequent reduction in the powers of the Senate. I do not believe that Australians want the power of the Senate to be reduced—and certainly not my Tasmanian constituents—so the head of state must retain the power to act as an umpire in a situation of parliamentary deadlock.

There are two matters of detail in the McGarvie model which I would like to briefly address. Firstly, with regard to the Constitutional Council which would receive the Prime Minister's nomination, I think it is not well understood that this would be established for a short period each time a head of state was to be nominated—hardly another layer of government, as some people debating have said. It would be consulted by the Prime Minister. It would have the right to encourage or to warn, although ultimately it would either accept the Prime Minister's advice or resign. Mr McGarvie's concept replaces the monarch with a council. It has been criticised as being elitist. Why? We are all for elitism in sport. Isn't it desirable to have some of the most respected Australian citizens appoint our Australian head of state?

Secondly, I am rather attracted to a variation of Mr McGarvie's Constitutional Council, that is, by substituting a college comprised of a retired governor from each of the six states. This would provide important symbolism of the involvement of the federated states. Speaking again as a representative of Tasmania, I am particularly keen to ensure that the role of the states in our federation is in no way diminished. It would also provide

the hands-on expertise of those who have a first-hand knowledge of what the job entails. Moreover, it would ensure that the membership of the council had a deep and abiding understanding of the critical importance of the conventions which are such a strong feature of our present system.

Mr Chairman, I would like to table and commend to delegates a paper which was presented by Mr McGarvie to the Australian Institute of Management in 1993 entitled 'Governorship in Australia today: the role and function of the governor in a parliamentary democracy'. I think that many Australians would be quite unaware of what I would call the 'invisible duties' of a head of state. Fete opening is just a small part of the job description. I fear that there has not been sufficient attention given here to the important contribution which our head of state makes to the checks and balances of the very sophisticated system of parliamentary democracy established by compact between the founding states over 100 years ago.

Like other delegates, I see this Convention as being one important step in helping Australians understand the intricacies and the value of the system we already have. While this has been a great exercise, I urge all delegates not to underestimate the corrosive and counterproductive forces which may be unleashed by the inordinate delay in resolving the constitutional questions if we do not complete our task. We cannot hand it on to others, as has been suggested today.

To those delegates who feel that adoption of the McGarvie model is a difficult compromise of their position, I can only say that it is a difficult compromise of my position as well. But compromise is not a dirty word. After all, the federal compact was itself a compromise brought about through negotiation by people committed to achieving a noble purpose. After all, the small colonies like Tasmania were only prepared to sign on after they were guaranteed an equality of numbers in the Senate—and the more populous colonies were not too keen on that.

The McGarvie model's great appeal is that it maintains the strengths and safeguards of our present democracy and is least likely to

strain our federation. Although I have made it clear that I believe our existing system serves us well, I strongly endorse the McGarvie model as the most appropriate and responsible alternative to be put to the Australian people. But by way of postscript let me say that, whether Australians vote to retain a constitutional monarchy or to move to a republic, I hope that in our centenary year we will have our first female Governor-General or president as the case may be, because it is long overdue.

**Senator LUNDY**—I would like firstly to acknowledge the Ngunnawal people. I am honoured to have this opportunity to address this Convention as a representative of the Australian Labor Party. Although appointed to this Constitutional Convention, I have, as senator for the Australian Capital Territory, been elected by the people. Therefore, I would like to thank and acknowledge the support that has been forthcoming from the Canberra and regional community for the Labor Party's continued enthusiastic support and leadership for an Australian head of state and the move to an Australian republic.

The Labor Party has proudly advocated the timely progression of our country to a republic and in the course of this debate it must be acknowledged that the model initially proposed by Labor was a compromise in the first instance. The momentum behind that model, including the campaign by the Australian Republican Movement, was borne of practical acknowledgment that the Australian electorate was unlikely to support extensive constitutional change.

It is quite ironic that this Constitutional Convention was the political solution of a Liberal Party desperate to get the Australian republic off the political agenda. The terms of reference were narrowed in a deliberate attempt to prevent this Convention from venturing into areas that constitute progressive reforms. The argument presented by the government that their narrowness would help focus discussion is proven false by the clumsy construct of those terms.

Nonetheless, I feel that this Convention developed a life of its own last week and that any hope of manipulation of the outcome by

Mr Howard lies only with the truly Machiavellian strategy on behalf of the monarchists. I am referring to a scenario elucidated by a few which would see the monarchists backing a republican model that had no hope of bipartisan support and therefore little chance of success in a referendum. I am heartened by the vehement rejection of such a notion by many monarchists and will be watching with interest, as will many, in the remaining days of this conference.

We must not forget that this Liberal government has officially opposed the republic until now, where we have witnessed the most profound backdown by the Prime Minister in his authorisation of a conscience vote on behalf of Liberal Party members. But he had no choice. Such is the power of this place; such is the power of the people at this Convention.

With its unique—and contentious in the first instance—method of selection and election of delegates, this Convention has managed to harness the imagination and the interest of both the mainstream media and the people of Australia—put whichever one you like first. Hence, this Convention is arguably the most significant single contribution to civic education that this nation has ever experienced. On this basis alone, I acknowledge *ex post* justification for the whole process and hope that it can be a guiding light in further active participation using an elected model such as we have experienced here.

To educate citizens about their democratic rights and political institutions is to empower a community. It is the confidence that comes with understanding these rights that creates the active citizen. The challenge before Australia's political leaders is to inspire everyone to want to partake in such an educative process and, failing this ideal, to ensure that everyone at least has the opportunity.

This brings me to one of the greatest contradictions in this debate. I am compelled to address it, as it goes to the heart of how I rationalised my decision to stand for public office. I know that place that is so familiar to generation X—the complete rejection of the institutional structures that have guided our democracy; what could almost be described

as genetically programmed cynicism determined on the basis of generation. In retrospect, I think I understand what makes the difference.

In my attempt to analyse this sentiment in the context of this debate, I returned to my years prior to being elected to public office to look for clues. It was not the system or my perceived alienation as an individual; the basis for my cynicism—and it was extreme—could be found in my frustration with how things were. The solution was to try to change things.

My social conscience developed from my experience on a building site. I had no understanding of social theory, let alone political science, but getting involved through politics—initially in the Labor movement and then as a community activist—gave me the words, the concepts and the means by which I felt I was contributing meaningfully and positively to the pursuit of the notions that formed the basis of what my ideals were and are.

The contradiction I speak of can be found in the argument that the panacea for this pervasive decline in the confidence of Australians in our parliaments and politicians is to have a direct election for the republican head of state. We have heard that this outcome is the only one that will restore the confidence of citizens in their democratic system and that citizens are crying out for greater participation in the democratic processes of Australia.

I put it to you, delegates, that this contradiction can be found here. Those who argue for increased democratic processes are inherently criticising the existing democratic processes. Where is the consistency? I contend that the answer lies in the policies, the politics, the issues; what the governments are there to do, to enact; what they represent. The policies and the ability of the government of the day to service the needs and satisfy the aspirations of all Australians is what guides this degree of angst.

The push for a direct election is more about politics than it is about active democracy. Consider these points. If it is the current political system that is alienating Australians,

why is this system so resistant to change, as is evidenced by the failed referenda of the past? If it is the politicians themselves, why are perceived non-performers continually returned to parliament? That is a broad statement, and I do not want to make too fine a point of it, because there are obviously some specific problems in some quarters.

I think it is time to put the politics back into this debate. Do you think that the polls that indicate a call for a president with broader powers may bear any relationship to the perception that our current leader is lacking with respect to leadership? Think about it. I argue that it is the policies and the conduct of governments and individual politicians that create dissatisfaction, disillusionment, disenfranchisement and, ultimately, cynicism. This will not be solved by the shallow distraction that a glamorous presidential election process will create.

I do not believe it is appropriate that the process of becoming a republic should be used in this way. No-one knows this game better than the minor parties and independents. It is no surprise that the most vehement attack on the system and the parliamentarians comes from these quarters. So I say: get off the grass; be not spoilers. People are looking for dignity and pride, and it is here and it is passionate. But under a government whose policies alienate, that energy is disparate, negative and fuels discontent.

Australians will not be patronised. I know I am not the first person to utter those words in this place. The most blatant example I can see of patronising Australians would be to embark upon an elaborate exercise to elect a president who will have no political power to effect change. The message given is, 'Please understand, we are humouring the angst and discontent that you may have for our political processes, but if you vote for a powerless and symbolic president, you might be fooled into believing that things might get better.'

I do not think this is good enough. There are many models for achieving a republic that will serve adequately. Since this Convention did develop a life of its own, I am confident that an outcome—a hybrid model that captures the strengths of all the ideas put before

us—will emerge to unite the republicans. This Convention will then be in a position to provide guidance and direction to a government that is lacking in these attributes.

The time is so right for Australia to become a republic. There are many positive reasons for embarking upon this process. I would just like to go through a couple of points that this opportunity presents: it is an opportunity to acknowledge the original occupants of this land; it is an opportunity to provide for proportional gender representation; it is an opportunity to assert our national identity in an increasingly global economy; it is an opportunity to rectify dangerous ambiguity in the reserve powers of our head of state; it is an opportunity to lock in an ongoing process of constitutional reform and rights; and it is an opportunity to address the irrelevance of the monarchy in Australian society. In closing my remarks, I want to thank each and every person who took the time to write or e-mail me about their views on the republic debate: you are active citizens and as much a part of this process as all the delegates here.

**DEPUTY CHAIRMAN**—Before calling Mr Eric Lockett, I draw the attention of the Convention to the presence of a most distinguished South African jurist, Mr Justice Richard Goldstone, in the chamber. Mr Justice Goldstone was born in 1938. He was appointed a judge of the Appellate Division of the Supreme Court in 1989. Since July 1994 he has been a justice of the Constitutional Court. As many delegates will remember, from 1991 to 1994 he served as chairperson of the Commission of Inquiry regarding Public Violence and Intimidation which came to be known internationally as the Goldstone Commission. And from 1994 to 1996 he was the Chief Prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda. Your Honour, we are honoured by your presence and you are very welcome among us.

**DELEGATES**—Hear, hear!

**DEPUTY CHAIRMAN**—And now, with no hint of anticlimax, I call Mr Eric Lockett.

**Mr LOCKETT**—Mr Deputy Chairman, fellow delegates: to be or not to be, that is the question. Should Australia become a republic?

I submit that the answer is if, and only if, the people want it. If we look around the world and back into history, it is not hard to find examples of very good and very bad monarchies and, on the other hand, very good and very bad republics.

I believe the crucial factors are not whether the Constitution falls within a monarchist or republican framework but whether the constitutional provisions are well thought out and, most importantly, have the wholehearted support of the people. Nevertheless, in the minds of many here, there is no doubt that the nature of the framework is crucial. They state with equal conviction that we must or must not change. Some have devoted enormous time, energy and financial resources to promoting their ends, but to what extent do the people support those ends?

Let me take you out of the Canberra cocoon for a moment and let me take you back to the real world to a public forum organised in Hobart by the Constitutional Centenary Foundation during the election campaign. The first thing to note is that there were only about 30 people present. The second is that the only invited speakers were from the ARM and the ACM—anyone else is clearly seen to be irrelevant. The speakers in turn argued their cases that it is crucial that we do or do not change to a republic.

Then came question time. An ordinary fellow from a working class suburb stood up and told us of his problems and concerns. They were problems and concerns shared by most Australians. He then asked the speakers what difference it would make to his life if Australia does or does not become a republic. The speakers being honest people, as all Tasmanians are, agreed that in fact it would make no difference. Did the questioner finish up voting for me or did he, like 54 per cent of Australians, simply discard his ballot paper? I leave you to speculate.

It is easy with so much media attention for us to get carried away with a sense of our own importance. Perhaps it would do each of us no harm to take a look at Luke 6:26, which says:

Woe to you when all men speak well of you, for that is how their fathers treated the false prophets.

It is easy to convince ourselves that we have a mandate to impose our own views. But the reality is that for every five Tasmanian electors only one said, 'I support the monarchists,' and one said, 'I support the republicans.' The other three by choosing non-aligned candidates or more likely discarding their ballot-papers said, in effect, 'Neither of the above.'

They have heard the hyperbole from one side that if we do change the sky will fall in and we will lose all our democratic rights and freedoms and from the other that if we do not change we will be unable to hold our heads high and the country will go into economic decline. They have heard this and they have said, 'If not a 'pox on both your houses', then at least 'pull the other leg; that plays *God Save the Queen*'—or *Advance Australia Fair*, as the case may be.'

It is tempting for those who oppose a republic to call on the fear of the unknown to bolster their cause, but a timid failure to move forward for fear of the unknown would betray the spirit that built this nation. On the other hand, I suppose there has always been a streak of class prejudice and anti-British prejudice in Australian republicanism. Happily that has been largely restrained here. Prejudice is a no more acceptable motivation for such decisions than is fear. Make no mistake, we owe an enormous debt to Britain. To deny that is to deny our history.

To pick up Ms Schubert's metaphor from last week, a young adult leaving home need not renounce his or her parents. Denial of parentage is a sign not of adulthood but of adolescence. Let us not take Australia back to adolescence by, for example, deleting reference to our British origins from the flag. Let us grow up. It was notable that the displays at Ausflag last night were remarkable not so much for what they included but for what they excluded; namely, that reference to our British origins.

Most Australians are, unlike this body, largely indifferent to whether we become a republic or not. But they care passionately about our fundamental freedoms and democratic egalitarianism. They believe in a fair go for all. They do not like being pushed around

or ignored by those in power, hence their mistrust of politicians. This has been called a people's convention. In reality, it is nothing of the sort. Over 60 per cent of the delegates names were known to me before I came here, although I had met not one of their owners. That seems to me a pretty fair indication of their ineligibility for the title 'ordinary citizen'.

Delegates are diverse and have much to contribute, but we are by and large a power elite. One could talk about the over representation of politicians, lawyers and academics and the under representation or non-representation of many other walks of life. The point is that, with half of the delegates appointed and the other half elected in a contest dominated by two large power groups in which less than half the people voted, we are a grossly unrepresentative body—a grossly unrepresentative body. It seems highly unlikely that the voting pattern of such a body will truly reflect the will of the people.

There is a feeling at large that the time to cut our ties with the Queen is near but we should do so only if and when a good majority of the people are ready and on terms agreeable to them. Incidentally, I still have a lingering feeling that we should also be asking them how they would prefer their head of state to be chosen rather than presuming that we know best. Nevertheless, I will continue working towards what seems to be the most acceptable republican model. However, I will not participate in any vote which presumes to tell the people what their decisions should be on whether or not we become a republic.

Furthermore, I will do what I can to prevent the Convention from destroying whatever credibility it has built up from its very low starting point by acting in such a high-handed manner. If the people eventually approve a change, I will happily accept their decision, and I hope the monarchists will too. If the people reject it, I will be no less happy. However, I believe that in that case there should be a moratorium on any further such proposals for at least 10 years. To put it bluntly, the republicans will have spoken up, as is their right, put up and if they do not get



up they should shut up. Let us have an end to the divisions.

**Ms AXARLIS**—I am honoured and privileged to have been appointed to this Convention. I stand before you as part of that composite heritage. I have been fortunate and blessed to represent Australia in a very small way in the world of opera, to represent it in the finest opera houses of this world and to have lived for at least 23 years in some of the countries whose models you propose.

I have been excited by being able to see Shakespeare in the state of its origins. I have been charmed by the magic of the city of Edinburgh, recalling the novels that I studied as a young child in Australia. But equally I have felt magnetised by standing at Delphi in the part which the ancient Greeks called the navel of the earth as I did when I approached Uluru and was able to finally improve my education which was sadly lacking in the culture and the beauty of the indigenous people, in immersing myself in their paintings with their circles which are all-embracing of the earth and its creatures. We are a composite of all this.

To be a republic is to shed the last vestige, the last symbol. For Australia, the British Empire no longer exists. If you had any doubt, be assured the umbilical cord was cut when Britain entered the Economic Union. It is time now to complete that process. If you have any doubt, stand as I did, and as I have done many times, in approaching England either by sea or by air, in the 'All foreign passports' line—I, as an Australian, while the Germans, the Greeks, the Italians and the French were able to come through the gates quickly as members of the Economic Union.

**Ms PANOPOULOS INTERJECTING**—

**Ms AXARLIS**—Please mind your manners Ms Panopoulos. I am sorry you have such a name. Please be assured that, in the event of a republic, I can only vote for a system that assures us of the wonderful democracy we have enjoyed and which, as I said before, is envied by many nations. I cannot quite accept the McGarvie model—although I duly pay respects to Mr McGarvie because it is much easier to criticise than to set up a model, as

our delegates have realised—because it is an elitist model.

I therefore go to the other two models: the model that I came determined to defend—that is, the two-thirds majority of parliament, with a simple majority for dismissal and appointment by the Prime Minister. Then I wondered why I, as a person who so often speaks around Australia on quality management and on processes which should have the total involvement of all employees, was reluctant to vote for a direct election because, ladies and gentleman, vox populi, vox Dei—the voice of the people is the voice of God.

I return to the two-thirds parliamentary majority, and I wonder why we have such a negative opinion of our politicians. Like Janet Holmes a Court, I am absolutely in awe and respect, and my respect has grown as I have sat in the chamber for the last few days. I say that if we do have a negative image of our politicians, it is our responsibility to change that perception. I call upon the media also to do something about it. Our politicians are a truly representative body of government. We have elected them; we have chosen them. But if we keep getting negative images rather than the day of constructive work and decision making that has taken place, it is no wonder that we are getting sceptical.

We have heard some wonderful presentations here from our young delegates. I am amazed at how articulate they were, yet we have seen very little of it. I am glad that this is changing as the Convention progresses. We opened our minds and our hearts.

We really have two models: a direct model which concerns me inasmuch as, although I have been frustrated by the states in trying to establish a national system of new apprenticeships and traineeships, I must defend equal representation of all states in the Senate; I must defend the Senate. That is the only way that we will have true representation for all Australians.

Our continent is too diverse, ladies and gentlemen, to allow just certain powers. At the same time, I am concerned about another leader who would be, as we said, legitimised by a direct vote. I believe that Australians must have direct input into this process. We

must be all-embracing and we must allow the people to have their say. Therefore, I believe there are only two alternatives: we either vote for a direct election with all that that entails, or we vote for a two-thirds majority of parliament appointed by the Prime Minister after due deliberation with the public, put before the parliament as one voice with one person. There are no other choices.

I apologise, because Mr Phil Cleary was so kind as to give me his position to be able to speak without ever asking me what my opinion was, but I am concerned about dual powers in our political system.

I therefore say to you: we still have a lot of work in the next 24 hours. If you want a direct vote for our new head of state, who must be an Australian, then work very hard in order to convince me, otherwise I will take the less bold step and will maintain a constitutional democracy that has withstood the time. But I cannot accept a constitution that denies the existence of indigenous people. I cannot accept a preamble which does not acknowledge our diversity and our values. Therefore, we have a lot of work to do in the next 24 hours. We must pool our thoughts, we must pool our skills and we must work for a model. I am convinced that people want a republic: we must work for a model that will best serve the interests of this nation. I came here as a young child, but I can truly say I have always considered myself an Australian and, in the 24 years that I was overseas, I always called myself an Australian. I love this country. Don't dare mess it up!

**Ms CHRISTINE FERGUSON**—I am very privileged and honoured to be part of this historic event which is taking place almost 100 years since our founding fathers agreed on a final draft for the Australian Federation. I am particularly pleased to be able to be one of the voices for the rural people of Australia. As a representative of the bush, it is significant that those who have spoken to me in Wagga Wagga or who have approached me in the main street of Gundagai, my home town, have unequivocally supported the monarchy. These people, who have fine traditions of their own growing our primary products for our cities and for our export

trade, just as their parents and grandparents did, are basically pragmatists and strongly believe that while our present system works we should not tamper with it. I take heart in their opinions and those of members of my party, the National Party. Our party's position is quite clear. At a specially convened national conference last year, our members reaffirmed their support for the Australian Constitution.

The conclusion I have reached through consultation and careful consideration is that the Constitution of Australia works well. It has seen us through good times and bad and has allowed our nation to become the vibrant, successful, democratic country that it is. Nothing in our history has been stifled because of our links with the Crown—not in the reconciliation process, not in promoting our relations with our Asian neighbours and not in trade negotiations. Nothing has been hindered by our present system of government. I simply do not agree that a republic will give us a better sense of nationalism and unity. The further this Convention progresses, the more convinced I am that we should remain as we are.

The republicans in our midst have been debating amongst themselves just how we can effectively change our Constitution. As each republican delegate stands up and argues against the other republican proposals, they convince me that none of them will stack up at the end of the day. These republicans have not come up with any concept of how we can practically achieve the choice of a head of state or the powers to be invested in that position. I have been convinced by Malcolm Turnbull that a popularly elected head of state would not work. I have also been convinced by Pat O'Shane that neither the McGarvie model nor the two-thirds majority would work. It seems that codification, either total or partial, is a no-no.

So where does that leave my view of the debate? To my mind it leads us right back where we started, and that is to keep the Constitution we have. There can be no argument that the present Constitution will not work. We have 100 years of Federation to prove it. Through parliamentary legislation

and the legal system, our nation has evolved and adapted to the complexities of the modern world. Thanks to the vision of our founding fathers, section 128 of our Constitution has ensured that Australia is one of the very few countries in the world where constitutional change can only be achieved through a referendum of the people. The power of our present system rests with the people in Australia. In times of dispute, ultimately the people make the decision.

Building on our British foundations, Australians have one of the world's oldest and most successful democracies—a system to be proud of. We have achieved much in our short history. Other nations are envious of our system. Many thousands have chosen to migrate to Australia because of our stable and responsible system of government. We now have an independent and democratic nation and because of the statutes of Westminster, the Australia Act and other acts, we are completely free of legislative, executive and judicial links with the United Kingdom.

It is important that people understand the links of legal authority of government to the Crown. Contrast this symbolic role of the Queen with that of the executive authority of our elected governments. In particular, it must be remembered that the Queen has no direct power over the government of Australia. In reality, the Queen takes no part in the decisions that the Governor-General takes in accordance with the Constitution. The monarchy is quite apart from party politics.

Our Constitution, its head of state and the type of society it epitomises are supported by our belief and our systems and the framework of our values, which our history has shaped and our forebears have passed on to us. These systems are integral to our society. They go to the very essence of our nationhood. They are extremely difficult to establish and once ruptured they are not easily repaired. We cannot go back.

Citizens of Australia are being asked by republicans to reject the symbolic qualities of the monarchy and, as quoted by Justice Kirby, the republicans' concern is only with the symbolic link in the person of the Queen. It is the symbols not the realities that they want

to eradicate. Do we really need to change our system of government to change the symbolism? I am sympathetic to changing protocols which may have become obsolete or need updating. We changed our national anthem without changing our system of government. Surely we are sophisticated enough to simply alter our traditional formalities without any of the great risks attached with changing a system that works well. The most irritating reason given to change to a republic has been that republicans do not like toasting the Queen at official functions. I say to them: don't. The other evening at our official opening dinner, our Prime Minister toasted Australia, and everyone followed. Can I say it was relaxed and comfortable.

There has been general agreement amongst our delegates that we remain part of the Commonwealth and refer to the nation as the Commonwealth of Australia. Whilst I am extremely pleased with this revelation, it puzzles me even more why there is a need to throw out our monarchical system of government if we still feel it is preferable to remain in the Commonwealth. Under our Constitution we have seen no civil unrest but we have enjoyed a peaceful, friendly, democratic and stable society. Our Constitution has evolved and matured the Aussie way. Why change something that works and works well? There is not a shred of evidence that a republic would protect the freedoms enjoyed by Australians currently provided by our existing Constitution. Under a republic, these freedoms could be eroded and the safeguards inherent in our existing Constitution could be removed. The appointment or election of a president will add an extra political dimension to the head of state that currently does not exist. This position must not become open to conflicts, tensions, instability, divisiveness and political intervention. In the office of the Governor-General we now have someone who stands outside politics who represents continuity and unity, who is appointed to office without seeking it, without having to fight an election and defend others to obtain it, and without having to seek the support of others to retain it.

It has been interesting to read the many polls that have been conducted since this

Convention has commenced. One of the most telling polls was one conducted by the *Sun-Herald*. Question No. 7 asked: if Australia were a republic, who would you like to see as the president? 'I don't know' was a huge 77 per cent, with three per cent for Paul Keating or Gough Whitlam and two per cent for Cheryl Kernot or William Deane. The most interesting question was saved for last. Who is our present Governor-General? The answer 'I don't know' was 68 per cent. Can you believe that if the Australian people are really interested in this debate a whopping 68 per cent would not even know our present Governor-General and a huge 77 per cent had no idea who they would like as president? I have also observed that last Monday, the opening day of the Convention, the television broadcast of the cricket test attracted 121,800 viewers, while the direct broadcast of this place attracted 27,700 viewers.

Finally, yesterday's *Sydney Morning Herald* with headlines screaming 'the Australian President', referring to Greg Norman, said the people of Australia were more responsive to the reign of Greg Norman than they were to the head of state. Let us stop the nonsense of forcing the people into voting for a republic. They are obviously happy the way they are. If they were not, they would be sitting up and taking notice by now. In conclusion, I believe this nation can go forward to the next century with a stable and proven Constitution. The system of government I support is clear; what we have is what we keep.

**Ms RODGERS**—Chairman, fellow delegates, Australians: there is always a point in history where good people make a decision. Mostly it is right and sometimes it is wrong. Australia is at the crossroads of our most important decision since Federation. Will we do the right thing as a chosen few to present to all Australians? Only history will report. I ask the people of Australia: please note who at this Convention are the proud Australians, who at this Convention are proud because we know we are independent and feel secure in the knowledge that we are recognised around the world as a proud, independent nation? Who stand here today proud of our flag and respect those who fought under that flag as

the ones who should have an exceptional say? Who is telling us we are wrong?

The republicans are telling us we are wrong. I am sure the people of Australia would agree with Neville Bonner and say, 'How dare you.' Thomas Jefferson said, and the RSL constantly remind us, 'Eternal vigilance is the price of liberty.' I stand before you at this Convention as a mother protecting her children. I take my responsibilities protecting my country with the same seriousness and zeal. We in this chamber will not decide Australia's fate. The mothers of Australia will decide, as did the fathers 100 years ago. That is why I will fight to save our democracy with all my might. I will fight because I believe it to be the best democracy in the world. It is under threat by those who would offer us a symbolic change.

The republicans are using jingoistic jargon to sell their wares such as 'next millennium'. One might say they have caught the millennium bug. They hang on such words as 'independence, the Olympics, cut the apron strings, we want to stand on our own two feet'—as if we would want to stand on anyone else's. As a mother, I can recognise this. I have seen it in my four very independent and wonderful adult daughters. But what I do not see in them, which I do in my republican brothers and sisters, is their need to deny their mother or to change their name to another as a symbol of their independence.

I see the ARM as rebellious teenagers who mistakenly believe they need to shout about their independence and who talk down Australia and Australians. Those of us who know true independence know that it does not need shouting about but getting on with the living of it. I believe the majority of Australians are content with their democracy. They like Australia the way it is. This Convention is our democratic right to speak our minds. May we always live in a democracy that does not need that right written down.

Mr Beazley said: 'We are a republic in all but name.' There was a very wise man who once said, 'What's in a name?' Don't we ever learn? It is interesting to note that the biggest proponent of a republic chooses to ignore the people's wish to choose their own president,

if we are to make sense of constructed public opinion polls. Does the man who would be Prime Minister see his longed for title eroded by such an event?

Over the past few years, we have experienced a very slick example of social engineering designed to destabilise the feeling of security and confidence which Australians have in themselves. In its place we have been promised a republic to give us more Australianness as the answer to all our prayers. Those who believe the message are having the wool pulled over their eyes. Though Australia's wealth was developed on the sheep's back, we must open our eyes to what is really going on here. We have to look behind the emotional rhetoric and search for the truth. The simple truth, my fellow Australians, is far from what we are hearing from our cavalier proponents of a republic.

The ARM is pursuing its cause with all the fervour and logic of a religious sect. They sing from one hymn book not *Onward Christian soldiers* but *Don't you think an Australian is good enough to be head of state?*. Obviously, yes. Who could say no? Even, dare I say, Mr Ruxton, a woman would be good enough to be head of state.

The republicans are using a very old device: emotion. Hitler used it on the German people. He offered them pride after Versailles. Unfortunately, the German people fell for it. We will not. The republicans' mono-message, as with most propaganda designed to give us that warm, fuzzy feeling, hides a minefield. The people of Australia will look behind the rhetoric. They have good intuition and common sense and that is why the most preferred republic is the unfettered popularly elected model. They will ask why, how we will be better off and what will it cost. Will it provide one more job? Perhaps it will for the president.

The naivete of many of the proposals appals me. They are obviously put forward by those totally unaware of party political behaviour or, more insidiously, are designed to grab more power for Canberra. If I take a parochial view as a Western Australian, I would say to all Western Australians, South Australians, Tasmanians, Queenslanders and people of the

Northern Territory and Torres Strait, 'Forget it, because you'll have no say. All the say will be concentrated in the Melbourne, Canberra and Sydney axis.' My fellow Australian Lang Hancock used to refer to it as the Bermuda Triangle. Do you want to give more power to politicians? Do you want to lose your say?

So far, the debate has been run by the republicans. They have raised the funding, which has enabled them to disseminate the gospel. But let us look at the facts. At a voluntary election, 45 per cent of Australians voted. That is approximately five million people out of a potential 12 million. Three million of those supported the idea of a republican model to be discussed. Approximately two million said, 'No way. We like Australia the way that it is.' But a massive 55 per cent, which is well over half of all Australians—I would argue, the silent majority—shouted, 'We like Australia the way that it is.'

Two states had a clear majority in saying that they like Australia the way that it is. To succeed at a referendum, it is necessary for three states to say, 'We like Australia the way that it is.' The republicans are believing their own rhetoric, but these are the facts.

Their second hymn is *A republic is inevitable*. Who was it who said that the bigger the lie, the more likely the people will swallow it? I have news for my republican friends. The only one inevitability is death.

**DELEGATES**—And taxes!

**Ms RODGERS**—No, not everyone pays taxes. I do! Some other myths perpetrated by Mr Turnbull are: we don't propose to change the substance of Australia; and patriotism is beyond price. I wonder whether he read Hitler's and Stalin's speeches. I believe that the price is too high even if there is the slightest chance of putting Australia's wonderful democracy at risk.

Though we are constantly being told that we want a republic, I do not believe that the majority of people in Australia would agree. But believing in a democracy, as I do, unlike Mr Turnbull, I will wait for the voice of the people. I am just wondering whether there is anything in the rumour about why his mother

called him Malcolm Bligh. Maybe he was one of his ancestors; we all know what happened to him.

It has become quite obvious that the press of Australia wants a republic. The impression the people of Australia are getting from the press is that the decision is already taken and that there is no need for a vote. Do you really think the people of Australia are so stupid that they are not noticing how you fail to report the arguments put in support of the status quo and the concerns the ACM has with the republican proposals?

I remind the press, you have a professional duty to the people of Australia to report all arguments fairly and evenly. You would be the first to scream if you were caucused. But who amongst you do you follow? What gives you the right to play God with our future? The people of Australia would like to know.

Much has been said by the republicans about the irrelevance of our Constitution today, but I remind you that our Constitution has been revised several times since Federation. The relationship has changed from imperialism to a totally independent nation. The Statute of Westminster and the Australia Act stands at each end of this process, why change the pace of change for the Olympics or even the new millennium fervour? A question for all Australians is: Surely change should come in its own time. Why are we hell-bent on changing what no one, and I repeat no one, has been able to show is an improvement to our wonderful democracy. Mr Clem Jones echoed the voices of many republicans when he said 'let us have courage'. I say 'let us not be foolhardy' and whatever the final result of this Convention may God grant the Australian people the wisdom to know the difference. It is a question for all Australians. All republican models so far present an elitist approach, a dictatorship style or more power to politicians. I say if we lived in a country that had unstable government, clearly I would support a change. If the proponents of change could come up with a better system, clearly I would support a change. The many and various republicans have not. So clearly I cannot support a change. Let us continue to change by evolution not revolution.

**Ms ANG**—If we have come this far maybe we are willing to go a little further. I come to this Convention as the youngest delegate, as a person of ethnic background, but, first and foremost, I come as an Australian interested in designing the right republican model. I believe that Australia's future lies in a republic. As Australia paves its path into the next century so, too, will Britain progress forward. As two independent countries, the paths they take will be unique but tied weakly together by a shared monarch. However, it is Australia who owns the lesser share for ultimately our head of state, the Queen, is undeniably British.

We proclaim that our country is a multicultural nation and yet we present our head of state, our supreme symbol, as only representing our British heritage. I believe that the majority of Australians embrace and welcome their fellow brothers and sisters from overseas. I believe that the majority of Australians are proud that our country is a multicultural nation. Indeed, our national anthem embraces this idea—'For those who have come across the seas with boundless plans to share'.

However, I believe that the perceived view of our friends overseas is that Australia is dominated by and presided over by white Anglo-Saxons and that only these white Anglo-Saxons are the true, genuine, fair dinkum Aussies. That is a misleading view that the majority of Australians do not agree with. One may choose to argue, who cares what people overseas may think of us—an argument perhaps with some merits—but then how does one argue when some people here, our fellow Australians, believe the untruth that some Australians are lesser than others.

As Dr Tony Cocchiaro rightly said last week, 'Migrants have been told by all sorts of subtle messages and symbols that some Australians are more equal than they are'. Indeed, I was disappointed that a delegate chose to be more forward in his message by expressing his distress that migrants 'were being welcomed into our community with welcome arms and then start advocating changing our government in ways that could well give rise over time to the very same

conditions from which they were so anxious to escape’.

It is clear that having a white Anglo-Saxon, the Queen, as our head of state, as our supreme representative, will not dispute this view. Is the British monarch the role model we want our future generations to aspire to? I believe we should become a republic not simply because of overseas opinion but, more importantly, because of how we Australians perceive ourselves.

We the younger generation of diverse background find it difficult to embrace the idea of hereditary title. I am a member of a generation that has been taught the merits of hard work. We have grown up taking for granted that to get where we want in life requires determination, dedication, application as well as a little luck—a belief we can get anywhere in life except to have the ultimate honour in Australia of being the head of state. This position is distant and unachievable, a position that can only belong to a member of the British royal family.

To those people who argue that there is not a flaw in our current system, I say that there is something inherently wrong with having a head of state who lives in another country, is invariably a white Anglo-Saxon, must be a protestant, and must have been the eldest male son or, as a last resort, the eldest female daughter. There is a flaw in having a head of state who must feel like a visitor when she visits her own country, Australia.

Let us not be tied down by the old adage, ‘If it ain’t broke, don’t fix it.’ Australians value innovation, development and progress. Without this vision we would still be watching black-and-white television or riding in a horse and carriage. It is a logical and necessary step for Australia to move forward to a republic. If we have come this far, maybe we are willing to go a little further.

I am in no way suggesting that a move to a republic will solve the problems of racial equity, foreign debt, unemployment or acceptance of all religions, or any other major problem or, as Mrs Rodgers stated, that it will answer all our prayers. However, I do believe strongly that it will address several of the anomalies I have spoken of, and that it will

be a step forward for Australia, and every journey of a thousand miles begins with a single step. I believe that if we take on the view of Mrs Rodgers and liken republicans to Hitler, who based his lies and propaganda on his emotions, we will be taking a step backward.

There then arises the contentious issue: what sort of republic should we embrace? Many delegates have spoken of polls which indicate strong support for a direct election if Australia is to become a republic. I imagine that such polls would have run along the lines of asking the question, ‘Do you support a move to a republic?’ and then, ‘If so, do you support direct election of the head of state?’

Did these polls then go on to ask, ‘If you support direct election, do you support partial, full or no codification of powers? Do you think the Senate’s power to block supply should be abolished?’ It is these important issues that the majority of Australians have not been educated about. I am an example of most Australians in that I do not have a background in constitutional law.

I am a medical student whose only traces of constitutional knowledge stem from a grade 10 social studies class. If you had asked me six months ago if I supported the move towards a republic, I would have said yes. If you had then asked me if I supported direct election of the head of state, I probably would have said, ‘Yes, why not—after all, it is in theory the most democratic method that gives true sovereignty to the people.’ However, after doing background reading for this Convention and having listened to the deliberations of the delegates here, I have been persuaded that there are some problems with direct election. It is not because I am unambitious or that I lack vision; it is because I am practical.

I came here supporting a change to a republic, not a change in our system of government. I am not at all against the principles of direct election. I am keeping an open mind as new models are being designed which incorporate the concept of involvement of the Australian people whilst maintaining the safeguards of our current system. I am proud to be part of a Convention that is

embracing the principle of compromise. I am proud to be part of a diverse group of people who are seen to be contributing to Australia's history. Let us embrace an Australian republic and, the next time we sing our national anthem, pay particular attention to the last line: 'In history's page let every stage advance Australia fair.'

**Ms MOORE**—I apologise for speaking quickly but I have to fit it all into 10 minutes. Fellow Australians, last Monday Ian Sinclair rightly and appropriately welcomed us to this Convention by acknowledging that we are meeting on the land of the Ngunnawal people and by recognising that indigenous Australians deserve to have their culture, traditions and struggle recorded in the history of this land. I too would like to acknowledge our presence on Ngunnawal land and to apologise to the Ngunnawal and all other indigenous peoples of this continent for the great injustices of the past and the continuing oppression which Aboriginal and Torres Strait Island people experience.

Our present Constitution gives no acknowledgment to this nation's original inhabitants, and that is one of the central reasons that I—and those I represent—believe that yes, it is time that Australia started following the path to becoming a truly democratic and representative republic with a fully reformed constitution. Until we do so, the colonial mentality which has allowed us to treat this land like an unoccupied quarry will prevail and continue to divide a community that has every opportunity to be united.

Some in the community, including the Prime Minister, have expressed the view that there are more important things to worry about than the current republic debate and that issues such as government accountability and social insecurity are more important. And, given the narrow focus of this Convention, they are probably right. However, many of the daily concerns which face people would be constructively addressed if we had a constitution which protected and recognised people's rights, responsibilities and freedoms, and which provided for a fair system of parliamentary representation.

I was elected to the Constitutional Convention on a joint ticket of three parties: the Australian Greens, the Australian Bill of Rights Group and the Australian Indigenous Peoples' Party. This joint ticket came about after two years of progressive parties working to establish common ground and seeking ways to change the current political processes. And change them we must if we are to achieve a truly democratic Republic of Australia.

As I said briefly on the first day of the Convention when seconding the motion relating to women being represented on decision-making bodies, we are here and we want to be included. Someone shouted out that day that motions to have women involved were just political correctness. Why do people feel so threatened by women's involvement? We make up more than half the population and it is far more than political correctness that warrants our equal participation: it is right and just. If we truly want a real democracy, women must be involved in equal numbers and with equal influence. With our involvement, the whole dynamic of decision-making will change. Look at the way parliament operates and look at the way things have developed at this Convention in such a short time: the boys are at it again—jousting, abusing, jibing and competing for the best one liners.

We need look no further than this chamber to see the need for fundamental change. From day one, it seemed that we were becoming imbued with the elitist, self-interested parliamentary processes that took place here for decades and which continue to be practised up on the hill. We seem prone to repeating the very same processes which have made the Australian people so cynical about both politics and politicians.

It is impossible to answer the question of whether Australia should become a republic without first asking—as Andrea said before me—not only why we should but also what sort of republic it might be and how we arrive at becoming one. It seems that we have become obsessed with reaching final conclusions on the issue of our head of state to the extent that we have completely lost sight of



what sort of republican state this person would head.

The Greens believe that the Constitution, for a variety of historical and political reasons, has not served us as well as some here have stated—none of whom, I would dare to suggest, are under-privileged or live below the poverty line—and that changes to the Constitution, of which a move to a republic is one part, are a natural progression. This does not mean that we have to abandon the many admirable ideals and processes contained within our existing system—that we have to give up everything and start again—but there are serious omissions and anachronisms which do require earnest attention.

The Greens believe that our Constitution needs to acknowledge original occupation by indigenous people, to protect the environment, to recognise local government, to allow democratic participation in political decision making, to recognise the rights and responsibilities of people and to enshrine the responsibilities of governments to ensure those rights are provided. For example, if methods of environmental protection were written into the Constitution, perhaps we may not have seen Australia's recent appalling stance at the Kyoto Climate Change Convention—and I was there to witness it first-hand—whereby our government, not bound by a constitutional responsibility to protect the environment on behalf of the Australian people, acted as spokesperson for the fossil fuel industry and insisted on an increase in greenhouse gas emissions.

The closest our present Constitution comes to addressing an environmental issue is section 100, which deals with the relationship between the Commonwealth and the state in relation to the use of waters and rivers. The reason that this section was included was not in order to protect the environment but to exploit it to the point of exhaustion. As a Victorian delegate to the original convention quoted in relation to the Darling River system:

Australia would be the gainer if every drop of water were taken out of those rivers for irrigation . . . and the river beds were dry.

On the few occasions where the government has heeded the desire of most Australians to actively protect the environment—for example, in relation to the Franklin Dam—we have had to rely on the High Court to interpret favourably the foreign affairs power and to rely on international conventions. More than 80 countries around the world, from Belgium to Bulgaria, from Peru to Portugal, have included some form of environmental protection in their Constitution. Yet it has been considered too difficult to spend even one minute at this convention discussing how our Constitution should move towards addressing the very survival of people on this planet.

If local government were recognised in the Constitution, as it is in Japan, for example, where it is seen as essential to democracy and where it is established as part of the state's system of governance, we may not have witnessed the draconian dismantling and forced amalgamation of local councils in Victoria and the inevitable centralisation of decision making for more than three million Australians in that state. The restrictiveness of this debate has been disappointing, if not surprising.

**Mr WADDY**—Mr Chairman, I raise a point of order. This speaker has already appealed for quiet in the chamber so she may be heard. I draw to the attention of the Chair that I cannot hear her here.

**CHAIRMAN**—Thank you, Mr Waddy. I think the point is quite valid. Please extend to the speaker the same courtesy each of you expect for yourselves.

**Ms MOORE**—Thank you, Mr Waddy. The idea of proportional representation, which is practised by many nations and is widely acknowledged as the most democratic method of election, is another issue which has been excluded from this debate. It is highly ironic that many of those at the Convention who have been espousing high ideals of democracy and urging us to limit the powers of the head of state have not given a moment's consideration to the totally undemocratic control that the executive of the federal parliament currently has over the people of this nation.

In the rush to arrive at a single proposal in just 10 days, we have jettisoned all manner of

approaches which could provide us with a system that would serve us well for a hundred years and beyond. Yet while the Greens have many ideas and detailed plans of how the Constitution might be changed to help us achieve a fair, just and equitable society, we do not set out to prescribe the exact nature of the constitutional change required by our society. Rather, we see the key role of this Constitutional Convention as to establish a process by which the ideas we have discussed and consolidated in this forum can be brought to the community level at the earliest possible stage.

On the first day some delegates seemed to think that we were being sidetracked away from the main game, that we wandered too far into extraneous issues when delegates considering the agenda were asked to address issues of gender and broad constitutional reform. When we put our motions, especially those seeking discussion of wider constitutional issues such as a new preamble, acknowledgment of original indigenous occupation, a bill of rights and responsibilities, and an environmental head of power, we were not suggesting that we arrive at definitive conclusions here. Our privileged role is to kick off organised debate on these matters of utmost importance, to flag issues that must be explored and included in any comprehensive attempt to change our Constitution and move towards a truly democratic republic.

While the Australian community has been considering republican models since the Eureka Stockade and beyond, we are starting only now to formalise the debate and so quickly, supposedly in the name of democracy, we have bypassed discussion of the truly democratic principles and laws that could be contained within our primary legal document and have become fixed on the head of state. Those advocating direct election, including people for whom I have the highest regard, need to demonstrate that popular election would not mean that only media personalities or those from wealthy elites who can establish the prime-time profile needed would be the only ones to have a chance of being elected.

To this end, we would also need to be sure that the media was capable of changing its

methods of covering elections. The ARM has made much of its 1.6 million votes for this convention. I would suggest, however, that this has more to do with the fact that the media treated the Convention election campaign just as they treat any other election campaign—that is to say, they concentrated only on what the self identified major players had to say and effectively ignored everyone else. (*Extension of time granted*)

Clearly, there are many ideas on what sort of a republic we should have, from minimal changes resulting in nothing more than an Australian—or for that matter a group of Australians—performing the head of state role instead of the Queen of England, to wide-ranging changes resulting in a fresh document which recognises that we are a different society to the one we were 100 years ago.

With so many ideas, along with the commitment that I hope we all have to get it right, is it fair to those who elected us that we try to arrive at one model, based on frantic discussion and a fair amount of backroom dealings, in just 10 days? If the Australian people are to feel comfortable about changing to a republic, they must own the process. It is not for us to dictate the model to be put to a referendum. Australians clearly want to own the process in a very real way.

Is it so unreasonable to suggest that we take the process out to the people so that they can look at the issues, hear the arguments for and against the models which have been put forward and, when everyone has had an opportunity to carefully consider the well-examined options, we then put the issues to a well-informed public in a series of referenda? It is only then that we will have any hope of achieving, to quote from the ATSIC preamble 'a united Australia that respects and protects the land and the indigenous heritage, values the cultures of its peoples, and provides justice and equity for all'.

**CHAIRMAN**—Many of you might not know that Ms Moore's mother was hurt after she arrived with Ms Moore, a delegate to this Convention. I understand that she broke an elbow. We all wish her well and a speedy recovery. As a result of very special pleading, Professor Trang Thomas asked if she could

say a few words before we move into the next phase.

**Professor THOMAS**—After more than a week of discussion about several aspects of Australia becoming a republic, I would like now to contribute to the debate from a more personal angle. I grew up in a republic and I have no romantic notions about it. We had a model similar to the American model with a president and parliament elected by the people. We also had a Prime Minister. We had lots of elections but we had no government stability. Heads of states were frequently removed to force an election, sometimes after only five months in office. Democracy was non-existent. Leaders of the opposition were frequently sent, at worst, to gaol; at best, overseas as ambassadors. The people had a saying, ‘Duoc lam vua, thua lam dai su’ meaning, ‘If you win you rule; if you lose you become ambassador. So let’s have another election.’

I came to Australia 34 years ago. For the first time in my life, I had the exhilarating experience of living in a peaceful, free, stable environment. We are very fortunate people indeed. We enjoy the enormous benefits of our heritage, parliamentary democracy, the rule of law, the common language and the history of political stability, to name just the obvious. I love Australia for what it is. In that sense, the system ain’t broke, so why change the political landscape?

I support the idea of a republic because over time Australia and Britain have gone their separate ways—Britain into Europe and Australia into the wider world. Our national interests are not antagonistic but they are not always identical. Australia is now on its way to becoming independent in every aspect—practical and symbolic. The symbolism of a head of state who is not an Australian and is shared with other countries is outdated. We should have an Australian as a head of state, who receives full recognition wherever he or she goes.

But, in looking for change, we have to acknowledge that the success of this Convention depends largely on our capacity to give the people a realistic alternative to the status quo. By realistic choice, I mean one that

achieves the republican vision with the safeguards that preserve and guarantee our existing democracy and stability. I commend the McGarvie model for further consideration and discussion because in every way it is the republican equivalent of the status quo. The fewer complications or optional extras we add to the republican model the more we keep faith with the people. The most certain guarantee of defeat for any republican proposal is to include so many features of constitutional change that the majority of Australian people have at least one feature to object to.

My last point is to comment on an issue raised by my friend and esteemed professorial colleague Geoffrey Blainey, and it is about citizens of ethnic background. He rang the alarm bells by suggesting that not all citizens are created equal: some know nothing about the country, some have lived here for only two years, some know no English and some still have divided loyalties. I know there are many of those people because I was one when I became an Australian citizen.

The issue of dual citizenship is not an ethnic issue in this day of global travel and business. Some Australian born people have acquired foreign citizenship, and I know this issue has been dealt with in section 44 of the Constitution. I believe that every Australian citizen should have the right to take part in our political process, including the right to aspire to become our head of state.

As with many other migrants, I do not take this country for granted. I appreciate my fortune at being allowed to live here, and I have worked hard to contribute to this country in every way I can. We have no divided loyalties. Many people of ethnic backgrounds have risked their lives, the safety of their families and the downgrade of their professional careers to become Australian citizens. They are prepared to die for Australia, just as you and I. Just look at the number of soldiers of ethnic backgrounds who served during the Gulf War.

So in our Commonwealth of Australia, whether monarchy or republic, all citizens have the same rights and obligations. There are no first-class citizens and there are no second-class citizens. Let us work together for

a republic which guarantees equality and political stability.

**CHAIRMAN**—The general addresses will be adjourned to a later hour. I call on Mr Gareth Evans to the present the report on behalf of the Resolutions Group.

## RESOLUTIONS GROUP

### Report

**Mr GARETH EVANS**—I move:

A. (1) The Resolutions Group recommends to the Convention that time be allocated from 5.00pm to 7.30pm on Day 8, Wednesday 11 February, to enable debate and indicative voting to take place on

- Preamble to the Constitution
- Oath, Qualifications and other Transitional and Consequential issues not previously addressed by the Convention.

(2) The Convention notes that the Resolutions Group will circulate draft resolutions on these matters as soon as possible, and no later than Wednesday morning.

(3) The Convention recommends to the Chairman and Deputy Chairman that additional time be allocated to enable delegates who have not yet spoken on the issue "Whether Australia should become a republic" to do so.

B. The Resolutions Group recommends to the Convention that the order of proceedings on Days 9 and 10 be as follows:

#### I. DAY 9 (Thursday 12 February)

(1) 9-12 am: That debate proceed on the models for change (supported in each case by the signatures of ten delegates) which have been circulated and put on the notice paper in accordance with previous Convention resolutions. No amendments will be permitted in the course of this debate unless they have the support of all ten sponsors of the original model.

Chairman to introduce debate by indicating that he will at 12 noon be putting the following question to the Convention:

*"If Australia is to become a republic, out of the models for change before the Convention, which is the model you would most like to see put to the Australian people in a referendum?"*

(2) 12-1 pm: That an exhaustive ballot be conducted to determine, on a preliminary indicative basis, which of the models for change so debated is preferred by the Convention. This ballot shall be conducted in the following way:

#### Round 1

- Assume five models (V,W,X,Y and Z). Chairman to advise each delegate that he or she has one

vote to be directed in favour of one of these models (or abstention).

- Delegates to stand in their places, or otherwise prominently indicate their position, and have their votes recorded by tellers.
- Chairman to announce number of votes recorded for each model.
- Assume V receives lowest number of votes: V eliminated from subsequent rounds.

#### Round 2

- Each delegate again to have one vote, to be directed W,X,Y or Z, or abstention.
- Assume W has least support: eliminate W.

#### Round 3

- Each delegate to again have one vote to be directed to X,Y or Z, or abstention
- Assume X has least support: eliminate X.

#### Round 4A

- With change models now reduced to two, Chairman to put the question:

*"Out of the remaining two models, and the status quo, which do you prefer?"*

- Each delegate to have one vote, to be exercised in favour of either Y or Z, or No Change (or abstention).
- Chairman announces number of votes cast for options Y, Z and No change.

#### Notes on Round 4A:

*The "No Change" option is introduced at this stage in order that, on at least one occasion in the Convention, republican supporters will have an opportunity to express their own preference between the most referred change models.*

#### Round 4B

- Each delegate to have one vote to be directed to Y or Z.
- Assume that the higher vote is for Z: Chairman declares that Z is the preferred change model on a preliminary indicative basis.

(3) 2.15—Adjournment: Determination of final preferred change model, by debate conducted on the resolution, to be moved and seconded by the main proposers of model Z:

*"That if Australia is to become a republic, this Convention recommends that the model adopted be Z".*

Any amendment (including on the method of appointment or election) to be accepted by the Chairman, provided it has the support of either 10 delegates or the mover and seconder of the motion to adopt model Z.

*Note: The object at this stage of the process is to enable a final determination of the*

*Convention's preferred change model. In the event that a majority emerges differently from the morning's indicative exhaustive ballot, so be it. The idea is to allow for further refinements of delegates' positions and the construction—for example—of a new hybrid position, if that is the mood of the Convention.*

## II. DAY 10 (Friday 13 February)

(4) Debate to be conducted (with no amendments permitted, save by leave of the Convention) and vote taken on the resolution:

*"That this Convention supports, in principle, Australia becoming a republic."*

(5) Convention to finally determine its position on all matters other than the basic model for change, which have been the subject of earlier provisional or indicative votes by the Convention. This debate to be strictly time limited, and with no amendments permitted, except by leave of the Convention.

Such matters to include:

- title of head of state; title of country; membership of Commonwealth of Nations; timing of referendum; timing of commencement of republic; information campaign to precede referendum; content of Preamble; format of oath; qualifications issues (to extent not addressed as part of change models); other transitional and consequential provisions; implications for States; ongoing constitutional reform process.

(6) Debate to be conducted (with no amendments permitted, save by leave of the Convention) on the resolution:

*"That this Convention supports the adoption of a republican system of government on the model [resolved by the Convention at the end of Day 9] in preference to there being no change to the Constitution."*

(7) Debate to be conducted (with no amendments permitted, save by leave of the Convention), and vote taken, on the resolution:

*"That this Convention recommends to the Prime Minister and Parliament that the republican model, and other related changes to the Constitution, supported by this Convention, be put to the people in a constitutional referendum."*

Daryl Williams

Gareth Evans

Co-Rapporteurs

10 February 1998

Mr Chairman and colleagues, the document to which I will be speaking is that which was distributed recently.

**Mr RUXTON**—Here comes the snake oil.

**Mr GARETH EVANS**—It is called 'Recommendations of the Resolutions Group concerning debate in the final plenary sessions (days 9 and 10) and related matters'. As I am sure my friend Bruce Ruxton will be the first to tell me, this is not one of the most straightforward and simple sets of recommendations and, accordingly, it being my turn to move it on behalf of Daryl and myself is a somewhat dubious privilege. I hope you will bear with me, Bruce, and other delegates, because it is terribly important that we approach the end game of this Convention with a very clear idea of what the processes and procedures are and what we are designed to establish from them.

I will begin at the beginning. There are two resolutions here: they are a small one, A, on the first half of the first page and then a much longer one, B, which sets out the whole process for days 9 and 10. Resolution A is responsive to those many delegates who have been worried about the lack of time to have a detailed debate, in particular on the question of the preamble but also on a number of other residual matters like the oath, qualifications and other transitional issues which need to be the subject of some considerable debate before we get to the stage of final voting.

It is proposed that tomorrow evening, Wednesday, day 8, we allocate the new session from 5 p.m. to 7.30 p.m. for that purpose. That debate is intended to result in indicative votes on the actual substance of the Convention's conclusions on those matters. They would go forward then for final determination on Friday morning, as we will get to in a little while. It is intended that the Resolutions Group, as resolution A(2) says, 'will circulate draft resolutions on these matters as soon as possible'—hopefully this evening, but certainly no later than tomorrow morning.

We are conscious that the time of 5 p.m. to 7.30 p.m. tomorrow was allocated by the Chairman this morning for further speeches on the general issue of whether Australia should become a republic. If that time is now to be taken for this purpose to debate the preamble, it is the recommendation incorporated in A(3) that the Chairman and Deputy Chairman find some additional time elsewhere

to enable those speeches to take place, perhaps by going through the lunch hour or whatever, but that is a matter for the Chairman's recommendation. That is what A(1), (2) and (3) are all about.

We get now to B which is the real substance of this report. It is proposed that the final sessions in day 9 and day 10 be conducted on this basis. In short, day 9 would be all about this Convention refining and finally expressing a preference for a particular change model. Day 10 would take the form of some rather more general resolutions—which we will come to when we discuss day 10—but, first of all, the general resolution on the Convention supporting in principle Australia becoming a republic, then resolutions finalising our response on the whole variety of specific matters, then a resolution specifically testing, if you like, the preferred republican model directly against the no change alternative, and then a final resolution recommending that the particular preferred model and the other proposed constitutional changes emerging from our debates be put to referendum.

The concept is day 9, Thursday, to focus hard on the details of the particular republican models, reaching a concluded opinion of this Convention by the end of Thursday as to what that preferred model and then on day 10 for that model to be the subject of a series of other general resolutions of the kind I have just summarised. Let us go back to day 9 and track through carefully what is involved. I know it is complex; the Resolutions Group is very conscious of that. We apologise for that. We thought on balance it was better to spell it all out in detail, to get it right and well understood rather than to have matters left uncertain.

The morning session of day 9 from 9 to 11 would culminate in the proposed exhaustive ballot from 12 to 1. The morning session on day 9, Thursday, would proceed on the basis of a debate around the particular models that will have been circulated with sponsored signatures over the next two days. The models that have just been circulated in tentative form today and which will be made the subject of further circulation tomorrow, when they have attracted 10 signatures, will be the

subject of debate on the morning of day 9. That debate, as it says there, will proceed on the basis of being introduced by the Chairman indicating that he will at 12 noon be putting this question to the Convention:

If Australia is to become a republic, out of the models for change before the Convention, which is the model you would most like to see put to the Australian people in a referendum?

That is the general issue that will be debated on Thursday morning. People will have an opportunity to present their models as circulated and for debate to proceed about their pros and cons. Then at 12 o'clock the Chairman will actually put the question: which is the model you would most like to see? How do we get to a conclusion as to which of those before us is the preferred one? That is then what resolution 1(2) is about. It reads:

That an exhaustive ballot be conducted to **determine, on a preliminary indicative basis—**

sorry for that language but this will become clearer when we get to what happens on Thursday afternoon; the idea is to reduce however many models there are the subject of discussion in the morning down to one—

which of the models of change so debated is preferred by the Convention.

How will this ballot proceed? That is the subject of page 2 and rounds 1, 2, 3, 4A and 4B. All the way through this it is put together on the assumption—and this may not be accurate but let us assume it is—that there will be five models, V, W, X, Y and Z, that are actually before the Convention on Thursday morning.

Assuming there are five such models, the Chairman will advise, at the commencement of the vote on round 1, each delegate that he or she has just one vote which has to be directed, apart from abstaining, in favour of one of these models. Then it is proposed that the delegates stand in their places or otherwise prominently indicate their position and have their votes recorded for one or other of those initial five by the tellers. The Chairman will announce the votes that each one of those options or models has received and, assuming for present purposes, that V gets the lowest number of votes, V is eliminated then we move to round 2. That process is repeated for

four models. We come to round 3. The process is repeated for three models. In each case the one with the least votes drops out.

Basically, the point of this excursion at this point is simply to enable, if you like, the republican models to be put to republican voters and a clear choice expressed by those who want to commit themselves just to the republican cause. Those who would much prefer that there be no change will have the option in this sort of vote of voting for the status quo. There is no twisting of arms about this. If anyone is going to vote for the status quo at the end of the day but wants to use the opportunity to vote for one of the models now, nobody is going to stop them. But basically it is designed, as it says here, to give republican supporters at least one opportunity to express their own preference between their most preferred change models.

Then we get to 4B, which comes back to the mainstream of the exhaustive ballot; back to Y versus Z with just the choice between those two. Assume the higher vote is for Z, then the chairman declares that that is the preferred change model on a preliminary indicative basis. That is where we have got to by lunchtime. Now we get to what happens in the afternoon, but Mr Garland seems to be determined to interrupt.

**Brigadier GARLAND**—I would like to address what Mr Evans has said so far, and I have a series of questions to ask.

**CHAIRMAN**—I think it would be better if we let Mr Evans finish and then Mr Williams finish. They both speak on exactly the same matter. Then I will call you, then I will call Ms Glenda Hewitt.

**Mr GARETH EVANS**—I think it is important that everyone see how the whole thing comes together before we start picking it apart. That is Thursday morning.

On Thursday afternoon, you start with the product of that morning's exhaustive ballot. What we are up to on Thursday afternoon is the determination of the final preferred change model—not just on some initial indicative basis but the final preference. So the way in which this proceeds, as we turn over the page

to page 3, the resolution that will be before the chamber is:

That if Australia is become a republic, this Convention recommends that the model adopted be Z.

In other words, the basic resolution before the Convention starts with the proposition that has emerged from the morning's proceedings. Then, however, that can be fully and exhaustively debated, basically without inhibitions, through the course of the afternoon until we reach a final conclusion. The recommendation is that any amendment, including on the method of appointment or election, is to be accepted by the Chairman with just one constraint.

In order to ensure that we do not get haring off in directions that are not supported by a significant number of delegates, the qualification is that, for an amendment to be considered, it either has to have the support of 10 delegates on the one hand, so there has to be a substantial body of people supporting it, or it has to be an amendment which actually has the support of the mover and seconder of the motion to adopt model Z. The reason for the latter business is that of course there may be suggestions for improving the language or improving the way some particular proposition is expressed or adding some small refinement to it which is appealing to the mover and seconder which they are prepared to accept, and nobody wants to introduce an artificial inhibition against that. But it is designed as much as possible to narrow and sharpen the focus of debate in the afternoon, starting with the starting point of the model which has emerged from the morning process. As the note there says:

The object at this stage is to enable a final determination of the Convention's preferred change model.

It may be that a majority will emerge differently from those afternoon proceedings, as compared with the majority that was there for the morning's indicative ballot. If so, so be it. The idea is to allow for further refinements of delegates' positions during the afternoon, having heard all the debate during the day, and possibly the construction of some new hybrid position, if that is the mood of the Convention. The idea is not to inhibit or

constrain debate; it is to provide the simplest procedural way of working through this morass and getting to something which actually does reflect delegates' views.

Much more quickly, on day 10, against that background, you move into day ten and you have got the series of motions that I earlier summarised. I will very quickly go through them. Recommendation (4) is proposed to be the first one for Friday. Many delegates would, of course, prefer that this be dealt with much earlier. That is something about which there has been some disagreement, but the overall majority consensus, if I can put it that way, is in favour of having it here at the beginning of Friday. This is on the resolution:

That this Convention supports, in principle, Australia becoming a republic.

Then we deal, in a final way, with all the matters like the title of the head of state, the content of the preamble and so on, which do not go directly to the actual change model, but are part of the issues that we need to address if we are ultimately going to put anything to referendum.

Hopefully, all these matters will, by Friday morning, have been debated to the point of there being not just a very early provisional vote—25 per cent and so on—but a clear indicative vote already on the record, just as there has been already in regard to the title of the head of state, the title of the country, the timing of the referendum and so on. As to some of these matters, we have got this far. As to the rest of these matters, we hope to be that far by the conclusion of tomorrow evening's proceedings.

Resolution (5) assumes that there will have already been detailed debate and an effective resolution of all these issues. So what we are essentially doing here in resolution (5) on Friday morning is simply finalising and confirming that that is the Convention's point of view. Accordingly, with this motion—as, indeed, with all these other motions for Friday—it is not anticipated that amendments would normally be permitted. The exception there is if the Convention gives leave if there is obviously an overwhelming mood that someone be heard or should have a fair go or there is some position that everyone wants to

get to. If there is no intention to impose a procedural constraint, it is an opportunity. But basically we are trying to confine debate to the major issues on the Friday morning. So resolution (5) is about clearing that and giving an endorsement to those particular matters.

Resolution (6) is the one that many delegates will have been waiting for. This is the opportunity to finally focus on the actual preferred model that has emerged from day nine and to vote for that directly against the no change alternative. Finally, resolution (7) is the resolution that we hope, whatever our view, might attract a greater degree of consensus however much you might hate the particular model that has emerged or however much you might hate the whole republican idea. The very last proposition that we hope that we can finish on a more positive note is this:

That this Convention recommends to the Prime Minister and Parliament that the republican model, and other related changes to the Constitution, supported by this Convention, be put to the people in a constitutional referendum.

On behalf of the Resolutions Group, I move the recommendations outlined above.

**CHAIRMAN**—Thank you very much, Mr Evans. Mr Williams, do you second the motion?

**Mr WILLIAMS**—Mr Chairman, I am delighted to second the motion. Mr Ruxton has again accused Gareth Evans and me of peddling snake oil. I thought that might happen, so I have brought a little gift for Mr Ruxton: it is little bottle of snake oil for his own.

I believe that this proposal is the result of genuine attempts by the Resolutions Group, chaired by the Deputy Chairman, to develop a process which meets the terms of reference set by the Prime Minister and takes account of the competing and conflicting interests of the different points of view represented here. I commend it to the Convention.

**CHAIRMAN**—I first call on Brigadier Garland.

**Brigadier GARLAND**—I smell a gerry-mander in the air. Snake oil might be around but we have not seen the 'Gerry' yet. I notice



that in round 1 of the voting we are being presented with up to five, six or seven—whatever it might be—resolutions, but that the delegates who are sitting on the floor get one vote in relation to all the resolutions. I would think that that is a denial of one's constitutional right to vote.

**Mr TURNBULL**—But you have a vote on each one.

**Brigadier GARLAND**—If it is on each one, I will excuse them. But the way it reads to me is: 'They have one vote to be directed in favour of one of these models'. That to me means we get one vote to vote for all the models.

**DELEGATES**—No. Wrong.

**Brigadier GARLAND**—Okay, if that is not the case, if I may vote for every model that comes up, I am prepared to accept it.

**CHAIRMAN**—The intention is that every delegate will have a vote on each occasion.

**Brigadier GARLAND**—The second item which I would like to clarify is why in round 4A, before we have come down to a final republican model, two republican models are being pitted against the status quo. I would have thought that we ought to be arriving at what sort of a republican model before we started comparing it with the status quo.

**Mr BEATTIE**—Hear, hear! I agree with you on that one.

**CHAIRMAN**—Do you wish to answer that, Mr Evans?

**Mr GARETH EVANS**—As to the last point, you get to vote for and debate the preferred Convention model against the status quo when you get to resolution 6 on day 2. That is the big opportunity to stand up and vote and debate on that particular issue. The earlier stuff is simply trying to clear the ground so that there is the maximum possible information available to delegates as to where the support is coming from, or the opposition is coming from, to particular models. You do get that opportunity, Alf. It is there on resolution 6 day 2.

**Ms HEWITT**—I have two queries. The first one is purely selfish. In speaking, I have chosen to put my name down for day 9.

There is no allowance for any of the delegates to make any addresses to the gathering here as a result of this. I wonder whether that is going to be taken into consideration.

Second, I refer the gathering to the Prime Minister's words on day one, when he said:

The convention will provide a forum for discussion about whether or not our present constitution should be changed to a republican one. In particular:

- whether or not Australia should become a republic;

- which republic model should be put to the electorate to consider against

the status quo . . .

I consider it is improper for us to judge against the status quo. That is up to the electorate.

**CHAIRMAN**—We will take each of these contributions, and then I will call on either Mr Evans or Mr Williams if they wish to respond.

**The Most Reverend PETER HOLLINGWORTH**—Mr Chairman, the first matter I want to raise is a procedural question relating to the models which will be put forward tomorrow. As I mentioned to you before, I have a minor problem and I would like some guidance from you. It is this: in preparing a model, I have begun to collect signatures, and I doubt if I can get 10. The reason is that the major power blocks have declared that their supporters may not support any other models.

**Brigadier GARLAND**—Shame!

**The Most Reverend PETER HOLLINGWORTH**—I am not saying which power blocks. Secondly, as I went around amongst the non-aligned delegates, my good friend and colleague Mr Richard McGarvie had got there before me. Good luck to him. I commend him. It does raise a problem as to what we do about those propositions which may be at variance to some small degree—in other words, they are hybrids. I need some guidance—you may want to take it on notice—in the event of not being able to get the required 10 signatures by tomorrow.

**CHAIRMAN**—I will intervene at this stage. As delegates will be called on to vote on successive models, it means they have

more than a vote on each model. Therefore, any delegate can support more than one model because it will be for the Convention itself ultimately to determine the model which will go forward. Therefore, the answer from my point of view—if Mr Evans or Mr Williams wish to add to it they may—would be that those delegates who may have supported one model would be at liberty to support more than one because it will be ultimately a Convention choice.

**The Most Reverend PETER HOLLINGWORTH**—Thank you, Sir.

**DEPUTY CHAIRMAN**—I think the situation is that, in establishing whether you have 10 signatures in support of a proposition, if you allowed the same 10 people to sign 10 different propositions, it would not represent a very broad cross-section. The argument was that, if you signed your model, for example, you would not also sign Bill Hayden's model. That was the distinction. But there was no problem about people voting as they chose as the propositions came up. It was only related to signatures.

**CHAIRMAN**—I think, against that, it is essential that there is an opportunity for delegates to choose ultimately rather than to have only the 10 choosing. If there are difficulties and somebody—as in Archbishop Hollingworth's situation—has difficulty, I would suggest that people might take note of my advice rather than the deputy's on this occasion. Do you wish to add further, Archbishop?

**The Most Reverend PETER HOLLINGWORTH**—Yes, I have another two points, but I will be very brief. The second matter is—to raise again what the previous speaker raised—a problem, and it is a problem we are all going to have to live with. Many of us here—and I sympathise deeply—have deliberately held back from saying anything because we are trying to hear the debate. We are going to pay the price of that, and I do not think there is any way that can be avoided. Time is running short and we have to reach a resolution. I really do not know what one says except that it is a shame, but that is usually what happens. The strong and the powerful and the well organised have their

say and to those who are not, bad luck. The third matter—

**Mr RUXTON**—Yes, you are right. That is a republic. That is what a republic is all about.

**The Most Reverend PETER HOLLINGWORTH**—The other matter—and again this is a question about which I am confused—is that this proposes that the Convention supports in principle Australia becoming a republic and then votes on the resolution on the last day. Is that in line with the original—and I do not have the questions in front of me—advice we were given in our original invitations?

**DELEGATES**—No.

**The Most Reverend PETER HOLLINGWORTH**—I did not think it was. My understanding is—and the Prime Minister reiterated it on Thursday of last week, and I fully support this—that we as a Convention have to ensure that there are two clear choices that can be put before the Australian people. I would support fully that we do that, and I will be working hard to try to find a second alternative republican option. For some it will be the best case; for some it will be the least worst case. But I would have thought there is a slight problem about the phraseology of that final resolution which says:

That this Convention recommends to the Prime Minister and Parliament that the Republican model and other related changes to the Constitution supported by this Convention be put to the people in a constitutional referendum.

I would have thought some reference to the status quo should be there in that final resolution.

**Mr HAYDEN**—I sympathise entirely with His Grace Archbishop Hollingworth. I am having trouble getting signatures for my model. If Archbishop Hollingworth, with the support of the angels, cannot get very far, my chances, as a longstanding atheist, are not very good at all. In fact, I sought Bruce Ruxton's signature at lunchtime and he suddenly had a spasm of writer's cramp. So it is not just the republicans, I might add.

My concern is more about the exhaustive voting model. I find it quite an unusual

model, if I can put it rather gently, to suddenly, at round 4A, have introduced the status quo, with the two remaining models at that point, a vote then taken—and it does not matter what the result is—and the status quo then dumped and the vote going on to Y and Z, which would have happened in any case if the status quo had not been introduced.

The status quo is not introduced in any other part of this procedure. I might say that I had many years of experience with the exhaustive balloting system when it first came to Canberra. It was a system the Labor Party used in the caucus to select members for the shadow cabinet. I discovered it was an opportunity between rounds to do horse trading and all sorts of less than straight deals, so I am very suspicious about any fiddling with this sort of system of voting.

I wonder: if the status quo is going to be introduced there, why is it not introduced as a concretely viable part of the overall thing? In that case, it should be introduced in round one and all the way through or, alternatively, it should be introduced in the last round roughly on the principle that it is somewhat similar—the surviving republican proposal—to an amendment to the existing resolution as it were. But it should be at every stage through this process. It is not going to add a lot to it. It is going to, I think, make a lot of people here a lot happier and certainly much less suspicious than they are at the present time. I ask Gareth Evans whether he could contemplate that.

**CHAIRMAN**—I think we might call on Mr Evans to respond to those. I still have a series of other speakers.

**Mr GARETH EVANS**—In my original formulation of the exhaustive ballot process, the status quo did have a mention all the way through every stage of the exhaustive ballots. The reason why it got knocked out is there was fierce opposition to that from some of your former colleagues on the monarchical benches who took the view that they ought to have the free and untrammelled right, without the embarrassment of having a status quo option, to express a preference on which republican model should be preferred as we worked our way through that exhaustive

ballot. That is the view, for better or worse, that finally prevailed in the Resolutions Group. Nonetheless, there was a certain residual nostalgia for having a test of how the status quo stood against at least the most preferred republican models. Thus you have this little reference in round 4A which is an opportunity to expose that.

The point of the exercise, as with so many others of these procedures until we get to the final crunch, is to give maximum information to delegates about where the support is when confronted with different patterns of choice. I think you have got that combination, Bill, as a result in the way that this is drafted at the moment.

I will also quickly reply to Archbishop Hollingworth while I am on my feet. He did make the point that this general question about whether Australia should be a republic, now identified as the first item for the last day, was originally scheduled to be debated earlier in the Convention. It is not my understanding on the program as circulated. It was, in fact, the very last question that the Prime Minister and the chairmen were proposing be put to this Convention. It was certainly scheduled for the last day. What we have done is keep that on the last day on the same principle that the Prime Minister and chairmen originally had in mind: that people ought not to be asked to vote on that general proposition until such time as a clear preference had emerged from the Convention as to what sort of a republic they would be looking at. That is the reason for the sequence.

The fact that the very last resolution is now proposed to be the one about what goes to referendum is picking up, I think, what was originally a suggestion from Father Fleming that seemed to be quite warmly received around the Convention: that really resolution 7 was a proposition around which many people could unite. Even if, as I said before, they hated the idea of a republic or even if they did not like very much the particular model, nonetheless they could still give some support to the proposition that there be a referendum so that the issue could be tested. So, Your Grace, that is the reason why the sequence is as it is, and I think that still

remains a good reason for keeping things in that order.

**CHAIRMAN**—Mr Hayden, had you finished on that point?

**Mr HAYDEN**—I want to follow up on that. I do not find the explanation that Gareth Evans has given at all persuasive. It seems to me that the more you look at round 4A, where you have a vote to be exercised in favour of Y or Z or no change—and no change has not come in before—then regardless of the outcome, the status quo is dumped and Y and Z go to the final vote. It is just incongruous. If the status quo gets a higher vote than, say, Y or Z, then people are going to protest quite volubly. The place for the no change or status quo to go in would be the last round. The only reason I can think of doing it this way is, first of all, to placate those who want the status quo or no change to be included, probably all the way through the ballot. Some might have other views.

If it is put in the last round against the final surviving proposition from the republicans, say it is proposition Y, there are republicans who are making stout-hearted claims here that they will not support the ARM people, for instance, and vice versa. So, say Y is ARM and Z is the non-ARM people and Z gets defeated, Y goes into the last round against the status quo. The Z people could then throw their vote in behind the status quo. But by putting it on the second-last round and not giving a damn about it anyway, the Z people are not able to throw their support in behind the status quo. The thing has a bit of a taint about it the more I think about it. Either the status quo is thrown in at the end or it should not be thrown in at all—certainly not in the second-last round. Frankly, Gareth, if I did not know you well, I would say there is a bit of a ramp being worked up here in a way that is not unknown in the Labor Party conferences.

**Mr GIFFORD**—Mr Chairman, on page 3, item (4) states:

That this Convention supports, in principle, Australia becoming a republic.

I submit that, in respect of that, there should be a ballot that records the names and number of those who are dissenting. Then, if we turn

over to the next page, page 4, at the top of the page the resolution reads:

That this Convention supports the adoption of a republican system of government on the model . . . in preference to there being no change to the Constitution.

Again, quite a large number now have come to the preservation of the status quo, and the final recommendation reads:

That this Convention recommends to the Prime Minister and Parliament that the republican model, and other related changes to the Constitution, supported by this Convention, be put to the public in a constitutional referendum."

I do submit that, where you have a substantial body of people who will be opposing those resolutions, there should be a record which should go forward when the decision is passed on.

**CHAIRMAN**—There will be. There will be a complete record kept of every vote that is made and every dissent or those who have abstained.

**Senator HILL**—In support of Archbishop Hollingworth, I want to protest also the undemocratic structure that is being put to us, designed to suit blocks or parties—the monarchist party and the republican party—and designed to disadvantage independents. It is the first time I have ever come across a voting procedure such as this, where you need 10 votes to even qualify for an amendment. So the blocks lock you into a set of preferred options of the blocks. You are not even able to seek to amend that unless one of the blocks support you, which of course they cannot. I think, firstly, that this should be amended so that you no longer require 10 votes to be able to move an amendment. Secondly, Mr Hayden is quite correct on the issue he raised. It seems to me that the question being put is incompatible with the resolution being debated. If you look at the resolution being debated—

**Dr O'SHANE**—Mr Chairman, I rise on a point of order. Could I have some clarification on the procedures? As I understand it, in usual procedures, any amendments that have been received in writing ought to be allowed to be moved, seconded and discussed before

any amendments are put from the floor. At the outset of this—

**CHAIRMAN**—We are not at that stage, though. We are only at the point of introduction of the Resolutions Group report. We are not considering any amendments at this stage.

**Dr O'SHANE**—I am sorry, Mr Chairman, but I swear as I stand here that I just heard Senator Hill propose an amendment.

**CHAIRMAN**—No, I think he was suggesting that it should be amended. He certainly is not proposing an amendment at this stage. The purpose of this part of the proceedings is the explanation of the Resolutions Group report. At a later stage there will be amendments received, a number of which have been distributed. We will then receive any further amendments. I am certainly not taking Senator Hill's present comments as, in fact, moving any amendment to the Resolutions Group report.

**Dr O'SHANE**—May I go so far then as to move that the report of the Resolutions Group be debated?

**CHAIR**—That has already been moved. It was moved by Mr Evans and seconded by Mr Williams. We are now talking about the report before we receive any other reports. There is no point in receiving another motion on that one. I call on Senator Hill to resume his remarks.

**Senator HILL**—If you read the resolution, you see that it says:

If Australia is to become a republic, out of the models for change before the Convention, which is the model you would most like to see put—

One of the models that is being put is the status quo. It is inconsistent; it does not work.

**Mr RUXTON**—Mr Chairman, it was said once that the only honest person to enter the parliament was Guy Fawkes. I would like to move an amendment.

**CHAIR**—We are not taking amendments at this stage.

**Mr RUXTON**—Surely we can move an amendment to Gareth Evans's proposal.

**CHAIR**—If you do, you may circulate it in writing. When we get to the stage of amend-

ments, that amendment will be considered along with all those others—

**Mr RUXTON**—You are falling into the trap of Pat O'Shane, Sir.

**CHAIR**—I am going to take at this stage contributions from the floor on the general question. When we move to the amendments, if you wish to move one, you may do so. If you wish to question or otherwise pursue a general debate on the Resolutions Group's report, you may do so.

**The Right Reverend John HEPWORTH**—I would continue to seek a clarification on 4A. Could I add to that that I understood there were three terms of reference from the parliament. One was the timing. That will be disposed of. The two most contentious are whether Australia should become a republic and, if so, what model. It would seem to me that 4A is a confusion of those two. I have no problem with the resolutions towards the end which pit the status quo against the preferred model; that is perfectly obvious. It seems obvious to me, but not to Gareth, that the status quo is not one of the republican models. That ought to be obvious from everything we have said for the last week and a half. It appears not to be obvious from the Resolutions Group. I wonder whether they could clarify why suddenly the status quo is being considered a republican model. I think that I would resent it.

**Mr WILLIAMS**—This proposal is a compromise of views and I think is broadly supported by representatives of all the major groups that are represented on the Resolutions Group. It represents competing interests. Let me go straight to 4A, which has been mentioned by Mr Hayden, Senator Hill and Bishop Hepworth—three Hs. The point of 4A is that it is not part of the sequence of exhaustive ballot. It is inserted as an addition. It is an addition as expressed in the paper to give the republican supporters an opportunity to express their own preference. But this preference is being expressed at a stage in the debate where it is only a preliminary indicative vote. So the outcome will be from 4B the conclusion of the exhaustive ballot between the final two preferred republican models. That will go forward for the afternoon debate.

**Mr LOCKETT**—As I declared in my speech a little while ago, I believe it would be highly improper for an unrepresentative body such as this to tell the people how they should vote in a referendum. That leaves me in a situation where I cannot participate in the vote of resolution 4 or resolution 6 on the final day. That is something I have to live with. But I suspect that other non-aligned delegates might be also considering their position on that. I have a bigger problem with round 4A on the second last day where, in order to abstain from voting on whether or not we should become a republic, I am unable to exercise a choice between the final two models to be put to the people. I have no way to go with this procedure.

**Mr GARETH EVANS**—I can only repeat that you will get your chance to do that in 4B. The basic sequence of events is: round 1, round 2, round 3, round 4B. That is the logical sequence. You have a little bit of a brumby, as Bruce would no doubt describe it, tucked in there at 4A, which is designed to be off the main line of the exhaustive ballot. It is put in there for an express purpose which has nothing to do with getting the final preference of the delegates on an indicative basis. That is achieved by 4B and you have got that choice.

**Mr TIM FISCHER**—Mr Chairman, would it be your intention to propose rounds 1, 2 and 3 and then, as a separate question, the adoption of round 4A and so the Convention can, later this afternoon, choose one way or the other on 4A and then subsequently 4B and the rest of the paper?

**CHAIR**—Yes, I intend to put the questions individually and I have a number of amendments, of which notice has been received on nearly every point.

**Mr TURNBULL**—It is very important for delegates to bear in mind that this voting procedure endeavours to reconcile two essentially contradictory wishes. On the part of the monarchists—and I would include in that group the Prime Minister, Mr Howard—there was a desire that at every stage of this exhaustive ballot the status quo would not be included so that the final result would be a combination of what republicans felt was the

best model and what monarchists felt was the least worst model.

On the republican side, we wanted to have the status quo in at every turn. We wished to be able to respond to the challenge from the monarchists that the republicans should get their act together and come up with our best model. It is a bit hard to do that if the ‘best republican model’ is there largely with the support of the monarchists.

As all the members of the Resolutions Committee know, an enormous amount of time and effort has gone into producing what is essentially a compromise and what is unsatisfactory in ideal terms from both sides. There are motions from republicans seeking to put the status quo back into each level of the exhaustive ballot and, frankly, Wendy Machin and I, who are both on the Resolutions Committee, were of a mind that we should not support that because this had been a compromise that had been entered into in good faith. Now I see that Lloyd Waddy and Kerry Jones, who also supported this compromise, and their supporters want to take out 4A.

I say to this gathering that this document, imperfect though it is and the creation of a committee—and we know what species committees create—was reached out of a genuine effort to find compromise and to give some measure of ground to each side. If all bets are off, then we will be voting purely in the self-interests of the republicans and the other side, no doubt, will vote purely in the interests of monarchists. This was difficult enough to draft in a committee of about 12, which included a number of non-aligned delegates—Julie Bishop, Stella Axarlis, Archbishop Pell—who do not have a particular axe to grind. They all supported it.

If we are going to throw it back into the pot, then so be it. If it is going to go back into the pot, we will vote in accordance with our best interests but, speaking for myself and Wendy Machin alone, our feeling is that this Convention would be well advised to accept it, if I may use a common term, as the least worst procedure available.

**Mr HOWARD**—As a frequent user of the expression ‘least worst’ in the context of this

debate, I find myself in broad agreement with Mr Turnbull—and I stress ‘broad’. I wanted a situation whereby you had the following procedure: you had everybody involved without qualification in expressing a view on what ought to be the republican alternative to be presented at the referendum.

At the end of the day, I wanted a run-off vote between that preferred alternative and the status quo. That is what I said in the middle of last week. There are people who support the republic who say that is terrible because you might get those wicked monarchists voting strategically, forgetting of course that republicans are also capable of voting strategically as between republican models. So that was one point of view.

Another point of view was that that was not going to occur and there was a lot of discussion. I do not think people should sneer at the fact that people discuss these things. I do not think there is anything wrong with that. At a gathering like this, you inevitably have to make some compromises but, at the end of the day, you have a glide path and a method of handling it that does give people a capacity to express their view. What has been produced, whilst it is not precisely what I argued for at the beginning, is a situation where, at the end of the day, you get a run-off between the status quo and the chosen republican alternative in which all of the delegates, republican and non-republican alike, have participated. I think that is a fair and reasonable situation. I know it is not acceptable to everybody.

The alternative is to have a situation where one of two things could happen. If you put the status quo in with each of the republican alternatives at every stage, what you are doing is saying to people who support the status quo, ‘You have no right to express a view on what kind of republic Australia should be, if Australia does become a republic.’ I would regard that as a profoundly undemocratic method of voting. I would say on behalf of the government that it would be very difficult for the government to see that as a democratic expression of the views of this Convention.

I think, as a supporter of the status quo, I have a right to express a view on what kind

of republic Australia should be, if we choose to become a republic. Like any other Australian citizen, I have that right. Any process that denies me that right is profoundly undemocratic. Given the sensitivities of everybody, however tortured the methodology may be—and it is a bit tortured; it is a combination of the pre-selection processes of the Liberal Party in New South Wales for the House of Representatives and the Senate and I think some of the voting procedures of the Enmore branch of the Labor Party—it produces a fairly fair result at the end.

**Mr BEATTIE**—The difficulty with the Prime Minister’s argument is this, and this is where I agree with Bill Hayden: if you go to round 4A, effectively what happens is you split the republican vote and there is a possibility that no change will come through. What sort of signal does that send?

**Mr HOWARD**—No.

**Mr TURNBULL**—No. You are wrong.

**Mr BEATTIE**—Yes, it does. You have two models.

**Mr TURNBULL**—No.

**Mr BEATTIE**—Yes, you have, Malcolm. All the way through here you have choices between the republican model. They are pitted against one another; that is what happens. Only when you get to the end, do you get the no change model put in. That is what it says. Only at the end do you get the no-change model pitted against two republican models. That is what happens. It creates enormous confusion. The Prime Minister is partly right: it does allow the monarchists—not that they would—to vote tactically through the whole exercise. In fact, it quarantines their position until you get to 4A where suddenly no change enters the equation. That is exactly what happens.

What you end up with is the possible ludicrous position where you have republicans choosing between two models and the monarchists who largely support no change are going to vote for no change. You split the position and no change could possibly win. That will make us look absolutely ridiculous across Australia.

Bill Hayden hit the nail right on the head and I have to say, Brigadier Garland, I did not know that you and I would be on a unity ticket, but it happened today. It is a surprise to both of us. You were right as well. Malcolm says, 'Let's put it back into the melting pot.' I understand, Malcolm, that these things are difficult. I understand that you have all been working to come up with a resolution and it has been hard. I appreciate that but, frankly, this is so flawed we need to put it back into the melting pot.

**Mr TIM FISCHER**—Just vote against 4A. That is all you have to do.

**Mr BEATTIE**—I do not know how difficult it is to get through, but the problem is, Mr Fischer, that you are going to have republicans choosing between two models. So you are going to have a split of the republican vote and you are also going to have those who support no change, the monarchists, voting for no change. So you are disadvantaging those supporting a republican cause. That is what will happen.

Mr Chairman, I have an amendment with Miss Jones about this so I will not go on at great length, but one of the issues that in my view has to be determined before we get to the models is whether we want a republic or not. The bottom line is that by Thursday we would have had nine days of lengthy and adequate debate about this issue. Surely, that is the prime issue that should be determined before we get to the models. But that will be a matter of amendment. I hope we can actually change this, otherwise we will end up with a debacle.

**CHAIRMAN**—Your time has now expired. You will have another opportunity to speak with your amendment later.

**Ms PANOPOULOS**—Mr Williams and Mr Turnbull talked about compromise and how we all need to get together—how we all got together on the Resolutions Committee and compromised. Well, when there are two monarchists out of 11 on the Resolutions Committee, you do not compromise; you get done over because you do not have the numbers.

Round 4A makes absolutely no sense. The time for choosing between a republic and the status quo is a separate question in itself. It is up to the republicans proposing various models to put them up. They are testing each republican model against another republican model, not against the status quo. That decision will be made in the final vote and by the Australian people at referendum. I do not think it is quite democratic because it would deny those of us on this side, who may want to have a say in voting for a particular model, the right to have that say.

**Mr WADDY**—Mr Chairman, Miss Jones and I were the two monarchist members of the 11-member Resolutions Committee. I think it would be pretty clear that, although the majority of republicans elected to this Convention is not quite in that proportion, there are certainly enough republicans here to carry their way. I rise to support what Mr Turnbull and the Prime Minister said, and I also reiterate what I said the last time I spoke about the Resolutions Committee; that is, it is purely the handmaid of the Convention. The Convention is in charge of its procedure, as it is showing at the moment.

What we were confronted with in a minority position was the fact that the republicans on the committee in general, in choosing the republican model which is their business, wanted at every turn to put in the status quo. I want to make it quite clear to delegates that my position is very clear: I intend to vote against every republican model. A lot of other monarchists feel the same way, but not others. Others have said, 'We may have to live under a republic and we want to say which sort we live under.' That is not my position but it is a genuine, legitimate position which should be respected. I might say that, on the other side, there are republicans who will not vote for any republic and who have said publicly they are only for a republic if they get their way.

What the Resolutions Committee did was to take out in the choosing of the republican model—which I regard as a republican responsibility but not all delegates do—the status quo at every turn, because it obviously denied people who wanted the status quo but



who still wanted to say, 'If you are going to force a republic on us, we want to have a say on what it is.' Some of the republicans were extremely keen to have round 4A in. It is, as Gareth said, an excursion. They want it for a purpose which is their own; they want it, I understand, believing that anti-republicans will have to vote for the status quo, and then they will get a reading of the numbers between the two most popular models. I know of no other reasons that have been advanced as to why that should be there, but it was decided to keep it there.

In respect of day 10 we the monarchists indicate that (4) is superfluous because under (6) there is a resolution which, if a group of republicans have the numbers, they will be able to pass. It states, in part:

That this Convention supports the adoption of a republican system of government—

Therefore, we have said that you cannot have a republic in principle; you can only have a republic if you move to change the Constitution according to a set of amendments which in shorthand we call a model. I also asked that the paper be rearranged the way it is at least as a model which eventually can be pitted against the status quo and a dignified, no doubt vigorous, debate held on the last day as to whether that should be done.

That is the full background. You have heard it now from Mr Evans, Mr Turnbull, the Prime Minister and me. The Convention is now fully apprised of the background. I wish you well in your deliberations.

**Dr O'SHANE**—I have a number of points to make but the first point I want to revisit is the point of audit that I raised with you much earlier this afternoon in this discussion. It is very clear now that we are into a full-blown debate on this particular resolution, in which case—with due respect to you, Mr Chairman—you should faithfully put forward the amendments that have been submitted to you in writing as per the instructions given earlier in the proceedings of this Convention. Those amendments should be properly debated and then voted on.

**CHAIRMAN**—They will be in a moment. I am at a point of explanation as far as the Resolutions Group report is concerned which

I believe is essential. But I am sorry for interrupting you.

**Dr O'SHANE**—I just want to put this point of view: we have moved well beyond the point of clarification of any points that might have been concerning members of the Convention. I would reiterate the point that we are obviously into a full-blown debate about it.

I want to make it clear to Convention members that, as a member of the Resolutions Group, I did not support this recommendation coming forward for the reasons that have been spelled out by Peter Beattie. I got the call after he got the call. His remarks pre-empted what I was going to say. So I take this opportunity now to not only adopt his remarks but also fully endorse them and, in doing so, I endorse the remarks made by Mr Hayden and Mr Ruxton.

I take up the point made by Sophie Panopoulos that if it were the case that the constitutional monarchists should not have the no change model at any stage, then they ought not to be here. That is logically the situation that they are in, otherwise the no change model ought to be put forward at every round and voted on by all members of the Convention. Might I say in response to the Prime Minister, with respect to him, that I have not heard one person on this Convention floor, nor beyond it, say that the Prime Minister as Prime Minister or as a private individual is not entitled to have his say with respect to whether or not Australia becomes a republic. But what I personally take exception to is that we all get funnelled down the one chute to say, 'There will ultimately be no change.'

**CHAIRMAN**—I know it has been suggested that we should be at a stage of a full-blown debate. I would point out that the Resolutions Group have had considerable time to examine this proposition. It is a complex one. Therefore, I intend to allow a few more speakers before we proceed to consider the amendments.

**Senator FAULKNER**—I would like to congratulate the Resolutions Committee for coming forward with this camel. The problem we have is that it has about seven humps,

three heads and nine legs. But I think there is a misunderstanding that does need to be clarified, because there is clearly an opportunity for tactical voting with this particular proposal that is before the Convention. It works this way: in round 1 as outlined, there is no doubt that the constitutional monarchists who might support no republican model can determine by their own votes which of the models do not go forward to round 2.

There is no doubt that tactical voting, if the monarchists here decide to engage in that activity, can determine which model has least support in that round and is therefore eliminated. It is also true that that is the case in round 3. But rounds 4A and 4B, as I understand it, are designed to ensure that if there is tactical voting in that round, clearly such tactical voting would be exposed. It would be clear to all the delegates how the monarchists might vote.

Frankly, I accept that if there are votes before the chair put in this way it is up to each and every delegate, regardless of whether they are a republican, monarchist or callithumpian, to vote as they see fit. They are absolutely entitled to do so. But as far as this Convention is concerned, it is also reasonable for us to understand the extent to which the votes of those who support no change in our constitutional arrangements will impact on the decisions of the Convention in relation to the favoured republican model. That is what this is designed to achieve. Its only weakness, as far as I can see, is that there might be a capacity, obviously, for delegates who support no change to our constitutional arrangements to make this difference: the difference in those early rounds is in terms of the decision on which of the republican models is eliminated. That is the weakness. However, it has to be said that it is the early rounds of this voting procedure.

**Father JOHN FLEMING**—Ha!

**Senator FAULKNER**—That is a pretty objective assessment of the strengths and weaknesses of this voting procedure.

By the time you get to rounds 4A and 4B, if the models left before the Convention are those that genuinely have the support of delegates, and if we adopt this voting proced-

ure, we will have before us absolute clarity about the preferred models of the Convention, including the preferred models of the republican delegates as opposed to those who support no change to our constitutional arrangements.

**CHAIRMAN**—A large number of delegates wish to speak. I propose that we have only three more. We will then proceed to the first amendment. You will have an opportunity then to make an explanation.

**The Most Reverend GEORGE PELL**—I would like to speak as a member of the Resolutions Committee in favour of the proposal that has come from the Resolutions Committee. As one of what has been described as the three uncommitted members of the committee, I would like to point out that, with one possible exception, at no stage was there an attempt to eliminate quickly and conclusively minority views. There was no attempt to roll anyone. We were tempted in those directions. We broke and we came back and renegotiated our position. This certainly is a compromise.

It is recognised that those who support the monarchy have a right to vote. We presume that they would exercise it for republics following the least worst option. As a product of compromise, it is useful for those who are republicans to know what the republican opinion is as expressed in 4A. That is why that is there.

There was quite a body of opinion that wanted that in-principle vote to come in early on Thursday. It was not accepted, but there was a compromise. After a whole day of debate and clarification, we voted for that to come in at the start of Friday. It might be imperfect. It is certainly a compromise and it is certainly unusual. However, except for one issue, it represented the views of far and away the great majority of the committee that this was the best and fairest way of putting the issues before this Convention.

**Mr LI**—I fully acknowledge the difficulties faced by the Resolutions Group in coming up with an effective voting procedure, but I have to say that this present voting procedure is weighted extremely heavily against the hybrid models. All of those hybrid models will be

knocked out in the first four rounds of voting because those who support non-hybrid models are organised into three main voting blocks.

The very purpose of these hybrid compromise models is to act as a second choice to those whose first choice is knocked out. It would defeat the very purpose of having compromise models if they were all to go in the first four rounds. I submit that there should be some procedure whereby the hybrid or compromise models can be reintroduced at a later stage, where those people whose first choices have been knocked out can consider a second hybrid compromise choice.

**Mrs KERRY JONES**—I thought we all came to this Convention with the goodwill that we all agreed we wanted to go to a referendum. We cannot go to a referendum until the republicans tell us which model—and only one model—they are prepared to put. ‘No change’ will be in the referendum. The Newspoll this morning again showed us that many Australians out there are waiting to see which model comes through before they decide whether they will vote for no change—the status quo—or whatever republican model comes out.

Therefore, the tactical voting—and we do take umbrage at some of the statements made in this discussion this afternoon—is for the republicans. Once again, we give you a commitment that our solid no republic bloc will vote ‘no change’ throughout, whichever method occurs.

**CHAIRMAN**—About 20 people want to speak. We have a large number of amendments. I propose that we now debate the amendments. As you debate them, you will be able to raise whatever point of view you have.

Before I go to the amendments, I have two things to do. With respect to Archbishop Hollingworth’s request, a resolution which was passed by this Convention on 9 February has been brought to my notice. It says that, with respect to how many people should nominate and how many signatures are required, each delegate may subscribe to only one such model for the purpose of this resolution. Thus, my advice was wrong. Each delegate has only one vote as far as the resolution is concerned and the nomination.

If you wish to move any amendments to that, you may do so.

The second point is that, with respect to the resolution of the Resolutions Group, which we will deal with seriatim, we will start with A. I propose to deal with each part of this one by one, because I have a series of amendments and I hope I will be able to pick them up at the appropriate time. It is a matter of trying to make sure, in this sorting process that I have tried to pursue, that I have covered them all.

We will therefore begin our consideration by looking at A1. With respect to A1, I note that in A3 they talk about the Chairman and Deputy Chairman providing additional time for delegates who have not yet spoken on the issue. I think it would be better to allocate from 5 p.m. to 6 p.m. for the general debate, so that delegates who have not spoken—and there are a number who have not yet addressed the Convention—can have an opportunity to speak to a reasonably full audience, and that we allow this motion to proceed from 6 p.m. to 8 p.m. or until whatever time is necessary for the debate to be concluded on those points.

I therefore suggest an amendment in the sitting times which would mean that on Wednesday evening we would sit until at least 8 p.m. The general debate would ensue from 5 p.m. until 6 p.m., by which time I hope that we will have been able to allow all those who have not spoken to address the Convention. The processes identified in resolution A would then continue from 6 p.m. until 8 p.m., or until whatever time was needed for us to conclude that debate.

Having put that proposition, are there any other amendments to A(1)? I have not received notice of any. I want to make sure that I have not passed any over. I am referring to A(1) in the Resolutions Group report.

Amendment carried.

Recommendation A(1), as amended, carried.

Recommendation A(2) carried.

Recommendation A(3) carried.

**CHAIRMAN**—We move then to recommendation B. I call on Councillor Tully to move his amendment:

**Councillor TULLY**—I move:

In paragraph I(1) amend paragraph to read:

"Out of the models for change before the Convention and the status quo, which do you prefer?"

The purpose of this amendment is to ensure that every delegate has the right at every stage of the voting process to have their view determined. We have heard about the snake oil salesmen here today. I would say they have stopped selling their snake oil and they are giving it away. This amendment is the most fundamental amendment to the most fundamental question which will come up in the next 48 hours. You will recall a week ago today, almost to the hour, there were delegates surrounding me who were concerned that a proposal that we wanted considered was summarily taken off the agenda. This particular proposal, if you vote for it in its original form, will mean to the people on my right that you will be denied the right to have your view expressed for four or five stages of the voting process.

I believe that every delegate here, whether they are republican or a monarchist or if they believe in the status quo, should ensure that they have the right at each stage of the process to express that view. This has been drafted for one particular reason in my view, and that is to achieve a particular result by a particular group. That particular result is so that one particular republican view will win on the day.

If you people on my right think that this is designed to be democratic, if you look at the original proposal, if you go to page 2 on round 4A, you are cut out of round 1, you are cut out of round 2 and you are cut out of round 3. You might be cut out of round 16 if we have that many republican models. You will be cut out of it. You will be cut off at the pass. What is going to happen is we are going to have a ridiculous situation arising, and I am foreshadowing the proposal by my friend and colleague Clem Jones that if you want us to determine whether or not we should have a republic or the continuation of the status quo let us vote on the republican

issue first. If that is carried, then the monarchists can help us, as John Howard has said, by determining what the model and the wording of that republic should be.

We are doing it the wrong way round. I will be supporting and foreshadowing the amendment proposed by Clem Jones, but if you really want to be involved in the debate, if you understand what exhaustive balloting is all about and the process of an exhaustive ballot—it simply means that the proposal with the least support drops out last and then moves up—what you are going to find is that you are going to be snookered. If you listen to the snake oil salesmen here, you will lose on the day.

**CHAIRMAN**—Ms Mary Kelly, I understand you second the amendment. Is that correct?

**Ms MARY KELLY**—I am seconding it, yes.

**CHAIRMAN**—Thank you. Do you wish to speak to it?

**Ms MARY KELLY**—Yes, I do, briefly. I accept that there is not one procedure that can accommodate everyone's needs, but I also want to aim so that the result is to get the most preferred position at the end. So, in the multiple sources of evidence that we are selecting, the rationale for 4A, and that preceded by those rounds, has been that one side—that is, the republican side—needs to have an untrammelled right to decide amongst itself what the republican models are, but that right is constrained to only some republican models. The other side wants a right to influence that debate as well, but that influence is confined to only some of those models. In other words, in trying to meet both sides, it falls between two stools. You basically have to pick a side.

This resolution has the effect of putting all positions in that exhaustive ballot for everyone to vote on. I do that with some trepidation, but I accept the undertakings from the bulk of those who are not pro-republic that in this case they will have their position to vote for. So the effect of this amendment is to choose a side that is not between two stools

here; to have all positions throughout this whole exhaustive balloting process.

**CHAIRMAN**—Thank you. Is there a speaker against the amendment?

**Mr RAMSAY**—I find this amendment is moving so far from the motion that it is amending that it is making it completely different. The motion that is before the chair is really to choose which model for a republic should be put, if Australia is to become a republic. The amendment as worded is:

Out of the models for change before the Convention and the status quo, which do you prefer?

It has got nothing to do with determining which model the Convention wants to be put to the Australian people by way of a referendum. It is not, as Councillor Tully suggested, improving the position of those who are seeking to support the retention of the status quo, but it is completely avoiding the question which the motion is attempting to ask in terms of choosing a model. I strongly oppose the amendment. Furthermore, the second amendment that is not before the chair yet is seeking—

**CHAIRMAN**—Let us talk to it when it comes. We are confused enough, I think.

**Mr RAMSAY**—Sir, if I could just indicate that it is seeking to change the order and place a later amendment ahead of this one which also has an impact on this amendment, because if there were a vote, in principle, for a republic then this new amendment—‘Out of the models for change before the Convention and the status quo, which do you prefer?’—takes on a completely different meaning. I am strongly against it.

**CHAIRMAN**—Thank you. As there is no speaker for the amendment, is there a speaker against?

**Mr GARETH EVANS**—I think we have already canvassed the reasons the Resolutions Group came up with the particular sequence that we did, even though some of us, me included, would have rather liked to have the status quo in there at all stages, as this amendment proposes. To try to take, perhaps, a little bit of the heat out of Councillor Tully’s and others’ concerns on this issue, I remind him and all other Convention deleg-

ates that it is not the completion of the choice process by lunchtime on Thursday when you have got a preliminary indicative model. That is simply so that you have got something specific around which to conduct the debate in the afternoon.

Paul, there is no inhibition, the way this procedure is crafted. If the direct election model does drop out early on, before you get to the last round, there is no inhibition—provided you have got 10 votes, and I assume you do, to support you—against your moving again in the afternoon to put that direct election process back in. If you have the support of a majority of this Convention—and, frankly, if any model is to go forward to the people it has to have the support of the majority of this Convention across monarchic and republican lines; that is the truth of the matter—then you will have the full opportunity to do that.

Equally, that is the answer to Jason Li when he said earlier on that these hybrid models are, by definition, going to drop out of the picture, and maybe that is unfortunate because they might be helpful in reaching a consensus later on. The afternoon session, when there is an open-ended debate and amendment process all over again, is, as the note says, your opportunity to construct a hybrid model, if that is the mood of the Convention.

If I can put it in context. I know exactly why you are anxious about this and I share a lot of the positions that you embrace here. But, at the end of the day, all the morning is about is a preliminary beauty contest in which the object of the exercise is to get down to at least one model which is the foundation for the debate in the afternoon. The background of that debate is that all delegates can see basically where the support patterns are and can rethink the positions they have initially adopted and see how we might craft something which might attract a wider consensus. That is the point of the exercise. I know it is not totally satisfactory, but it is the best we could do to accommodate all those views. Do not overstate the impact of what happens in the morning.

**CHAIRMAN**—Having had two speakers against the motion, I propose to put the

amendment moved by Councillor Tully and seconded by Ms Mary Kelly. It relates to paragraph two in BI(1).

Amendment lost.

**CHAIRMAN**—I now call on Ms Catherine Moore to propose the amendment in her name, which is to be seconded by Ms Glenda Hewitt.

**Ms MOORE**—I have big problems with the process here. My gut feeling tells me that there is a lot of manipulation going on by the power brokers. The alarm bells are also ringing because the monarchists want us to support one particular model. I think that this whole process is dooming us to failure. That is why I wish to move an amendment to B(1).

The bottom line is that a lot of people have been writing to us at Old Parliament House saying that they are being left out of the process. I ask delegates to ask themselves whether they are going to be able to go out to the community next week and look people in the eyes and say, 'We left you out of the process by saying that we wanted one model and that is why we voted for one.' That is reason I am putting this amendment. I move that the following amendment be inserted before B(2):

This Convention recommends that, given the broad range of views on what would be the ideal model for a republic and foreshadowing the situation in which no model has the clear support of delegates to this Convention, the proposed models be put to the Australian people in an indicative plebiscite.

I believe this is the only way we are going to come up with a model that we are happy with and that will ultimately lead us to a republic and not a 'no' in a referendum.

**CHAIRMAN**—Thank you, Ms Moore. Do you wish to second the motion, Ms Hewitt?

**Ms HEWITT**—Yes. Mr Chairman, you are asking us delegates to play a two-up game with double-headed coins. Under the current structure, we are being forced to vote for factions at this Convention. This Convention is about people's choice—the people whom we are representing. We are not representing ourselves; we are representing the people of Australia. Rather than let the ARM and the ACM have a bob each way, let us put it to the people.

**CHAIRMAN**—Is there any speaker against the amendment? As there is no speaker against the amendment, I call on Mr Haber.

**Mr HABER**—I ask the mover and seconder whether they envisage the no change option being included in that plebiscite?

**Ms MOORE**—Yes.

**Mrs MILNE**—I rise to support this particular amendment. The Prime Minister is the person who told this Convention that at the end of it he expects one model to be put up against the status quo. As I said on the first day, it is not the Prime Minister's Convention; it is the people's Convention.

What has occurred in the last week is a big shift across the Australian community towards a popularly elected president. A lot of people who came here had not actually considered that position seriously. Now that they have, they want time to consider an appropriate model to go to the people in an indicative plebiscite, with the two-thirds appointed model, so that the people can decide what they want and it can be a credible, well-considered option. It is ridiculous to be railroaded into choosing one option this week to satisfy what the Prime Minister wants. If anyone believes that the Prime Minister saw that resolution for the first time this afternoon when he got up there to speak to it, then they are extremely naive.

**CHAIRMAN**—There being two speakers in favour of the motion, I propose to put the amendment.

**Councillor TULLY**—I have an amendment to the amendment.

**CHAIRMAN**—Unfortunately, there have already been two speakers. I called for a speaker against. In those circumstances, I intend to put the amendment. I think we know what it is. You say you have a further amendment which you can give notice of. Unfortunately, the time has passed.

**Councillor TULLY**—I am sorry, but this amendment is to the wording of that amendment, and it may be acceptable to the mover and seconder. It is the amendment before the chair, and I can indicate a proposed amendment to the wording.

**CHAIRMAN**—Righto, Councillor Tully.

**Councillor TULLY**—The proposal is that on the sixth line, where it says: ‘has the clear support of delegates’, we delete those words and insert: ‘has the support of an absolute majority of delegates’, to make it fundamentally clear that it is an absolute majority of delegates at this Convention, because the words ‘clear support’ may be open to some misinterpretation afterwards. I would ask the mover and seconder whether or not they would be prepared to accept the change to the wording.

**CHAIRMAN**—Are the mover and seconder prepared to accept that modification to the wording?

**Ms MOORE**—I think I am, but I am not quite sure that I understand the full implications of it.

**CHAIRMAN**—Ms Hewitt, are you prepared to accept it?

**Ms HEWITT**—I accept ‘majority’, but ‘not absolute majority’. So it would read: ‘fore-shadowing the situation in which no model has the majority support of delegates’. It is ‘absolute majority’—I think that is a safe bet.

**CHAIRMAN**—What is a safe bet, an absolute majority?

**Ms HEWITT**—I am happy to go with Councillor Tully’s suggestion so that the words will read ‘the situation in which no model has the absolute majority support of delegates’.

**CHAIRMAN**—Ms Moore, do you accept that amendment?

**Ms MOORE**—Yes.

**CHAIRMAN**—That wording is now changed, so we need to take a speaker against.

**Mr WILLIAMS**—By accepting this motion, what you are saying is that the process of it, designed to identify whether this Convention can support a particular republican model, should not be undertaken; you should give up before you start. I do not agree with it.

**Mr RAMSAY**—I agree with Daryl Williams on this. If this motion were to be put to the Convention, it should be put at some time

on Friday afternoon after we have looked at the models and after the Convention has or has not made up its mind. I move a procedural motion that the item be adjourned until that time.

**CHAIRMAN**—We have had two speakers against. We will put the amendments. The amendments include that by Councillor Tully, which is accepted by the mover and seconder, that is ‘in which no model has an absolute majority’, plus that moved by Mr Haber and adopted by the mover and seconder that there should be no change. I am about to put the question. Have you a point of order or some other procedural matter, Mr Jones?

**Dr CLEM JONES**—I believe that the suggestion that this motion should be deferred until the end of the proceedings is a reasonable proposal and should be taken note of. It has been before the house twice already and it was not acceptable because time was inappropriate. It is still inappropriate but, if it were defeated today, it might be suggested that it be precluded from being brought up later. I support the idea that it be deferred.

**CHAIRMAN**—Mr Ramsay, you intended to move as an amendment that this motion be deferred to a later stage of the Convention. Was that your intention?

**Mr GARETH EVANS**—Just for clarification, I have already indicated to Delegate Clem Jones and others who have raised the plebiscite question that it would be perfectly consistent with the existing process here set out for there to be an amendment to the very last resolution for this to go to referendum. At that stage, if there is still a strong view in the Convention that the plebiscite option should be explored as an alternative to that, that would be the appropriate time to do it.

I suggest to you, Chairman, that, rather than being committed to a particular form of words and have that in the sequence at the moment, we should have a recognition that that is intended to be the case and an understanding, if such a motion is sought to be moved as an amendment to resolution (7), that leave of the Convention, in accordance with this resolution, would be granted in order to enable such a resolution to be moved. I think it would be

appropriate for that view to be tested, but only at that stage.

**Mr WRAN**—I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—The motion is that the amendment, as amended, be agreed to—having in mind the admonition of Mr Evans.

Motion lost.

**CHAIRMAN**—We now move to an amendment moved by Mr Clem Jones to be seconded by Mr Peter Beattie.

**Dr CLEM JONES**—I move:

That paragraph (4) under Day 10 be moved to paragraph (1)—Day 9 and the other clauses be re-numbered accordingly.

The suggestion that this threshold motion be put at an earlier date was made by me at the beginning of the Convention. At that time it was not supported and I accepted and understood the reasons why, particularly the reasons put forward by the monarchists who felt they needed to listen to the debate on the particular models before they decided on the issue.

I suggest that circumstances have changed. The resolutions group proposal now before us, acceptable as it may be, is acceptable except in so far as a couple of points I want to make. A situation could arise in which the chosen model might not fully reflect the views of the majority. In this context, I refer to what I said before in the approach to the monarchists, which has been consistent right throughout this debate. They have been passionate in their desire to preserve the status quo. We must respect them in that. However, it is an approach that I feel has not permitted their participation on what sort of republic we might have, if we are to have one.

The monarchists are dedicated Australians; I do not think anyone could argue about that. They have shown their dedication right throughout the debate to date. They are Australians whose views we would like to have. We respect those views, even if we do not agree with them. I believe it is vital that they make a contribution to the model question uninhibited by having the question of a

republic undetermined. The motion will put the threshold question in its true form. If carried, it will enable them to do just that: participate in debate, give their views and probably make a very valuable contribution to it. Importantly, it will mean that we have permitted all delegates an opportunity to participate meaningfully in the debate in its final stages. I plead with all delegates to support this motion for these reasons. It will bring the monarchists into the field of uninhibited debate in the final stages of our considerations. I feel that it is our true duty to do this. I commend the amendment to the Convention.

**Mr BEATTIE**—I second the motion. We are simply moving the motion set down for the beginning of day 10 to the beginning of day nine. That resolution is that this Convention supports in principle Australia becoming a republic. By the time we get to day nine, Thursday, we will have had eight full days of this Convention. When we received your invitation to come to this Convention, Mr Chairman, you quoted from the Prime Minister's speech introducing the bill. You said that in particular there were three issues. This was the order in which you dealt with them in your letter. You said, in particular—this is what the Convention had to deal with—this: first, whether or not Australia should become a republic; second, which republic model should be put to the electorate to consider against the status quo; and, third, in what time frame and under what circumstances might any change be considered.

I put to the Convention that that is the sensible way to go when you are considering this issue. In other words, before you actually get around to debating the model itself, you determine whether we are going to have a republic or not. That is not going to disadvantage anyone. It will not disadvantage those supporting the republic and it will not in any way disadvantage those who support no change. But at least what you have before we enter these final two days of determination about the model is a determination at the beginning of the first of those last two days



as to whether we are going to have a republic or not.

In other words, what I am talking about is practical. It is common sense. It is the only logical way to conduct the business of this Convention. That threshold question has to be put, in my view, right at the beginning of the second last day. I know, as Clem Jones indicated, that some argued that this question should be put earlier in the Convention. Many argued that they wanted time to consider the arguments and the views. There were people not aligned here who wanted time to make up their mind. I put it to the Convention that, by then, we will have had eight days of debate. It is then decision time. Decision time starts Thursday. We are going to get into the models. That is the first item of business. My view is that, before we get to the model, it is important that we determine whether we are going to have a republic. That is common sense. I know that it has been through the committee process. I hope that delegates will vote for this proposition moved by Clem Jones as it is common sense.

**Mr WILLIAMS**—Mr Chairman, I invite the Convention not to vote for this resolution. The fact that the resolution appears at all represents a compromise of views, and its position in the—

**Dr GALLOP**—We were asked to vote on that when we received the letter. That is what we were asked to vote on.

**CHAIRMAN**—Contain your enthusiasm, please.

**Mr WILLIAMS**—Mr Chairman, the fact that it appears in this list of resolutions at all is a compromise, and its position in that list is very much a compromise. For many people, the question whether they in principle support becoming a republic is meaningless unless you identify the sort of republic. For that reason, it is put deliberately after the debate on Thursday when it sought to identify a preferred model.

**Ms SCHUBERT**—I rise to speak in favour of the amendment. Why debate the models if we have not clearly established that there is a need to? I repeat: why debate the models if we have not clearly established that there is

a need to? I think it is really important that we actually do answer that first question raised by the Prime Minister in his official letters inviting the appointed delegates to this event. I think it is important that we answer that question that was amongst those put to the electorate when we all campaigned for our election to this event. I think it is important we do so before we get into the debate about the differences of opinion around models so that we can clearly express the majority will of the Australian public for an Australian republic.

**Ms RODGERS**—I appreciate that our friends want to keep this debate running for as long as possible, and we as Democrats want to do that too, but the republicans have had five years to debate this issue. We have been here eight days. How can we or anyone, within the different republican models, be asked to vote on whether we want the status quo or not without a model? There are people who, within the republican movement, will say, 'I will only want this.' They are very pure about the sort of republic they want. They need to be given the choice too. I think to be asked to do this is definitely putting the cart before the horse.

**Dr O'SHANE**—I speak for the amendment. It seems to me that early last week when this Convention was kicked off there were a lot of statements about having a vision for the future of Australia. There was a lot of expression of excitement about being here, that we are making history. What sort of history are we making if we are not prepared to take some real leaps into the future? It is absolutely ridiculous.

**Sir James KILLEN**—Mr Chairman—

**Dr O'SHANE**—Stop the clock please, Mr Chairman.

**CHAIRMAN**—Ms O'Shane, can you continue, please.

**Mr RUXTON**—I move that the motion be put.

**CHAIRMAN**—You cannot do that in the middle of debate. Ms O'Shane, please complete your remarks.

**Dr O'SHANE**—What sort of a proposition is it that we talk about models before we

make the decision that, in fact, we shall become a republic? All of our fellow Australians who are watching this on television and have their ears glued to their radio sets are saying to us, 'We want to be a republic.'

**Mr WADDY**—No, they are not. No, they are not. Read the papers.

**Mr RUXTON**—No, they are not.

**Brigadier GARLAND**—You are wrong.

**Dr O'SHANE**—Stop the clock please, Mr Chairman.

**CHAIRMAN**—May I have a little bit of quiet. Ms O'Shane has the floor.

**Dr O'SHANE**—Thank you, Mr Chairman. I hope you stopped the clock.

**CHAIRMAN**—Will you continue please, Ms O'Shane.

**Dr O'SHANE**—Thank you, Sir. Therefore, I support the comments made by Misha Schubert that this question has to be put first, and then we get down to the grinding task—unfortunately, it has to be—of sorting out the models.

**CHAIRMAN**—Did you wish to move that the motion be put, Mr Ruxton? Do you wish to proceed with that?

**Mr RUXTON**—I would be delighted to. I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—The amendment before you is the one that has been moved by Mr Clem Jones and seconded by Mr Peter Beattie. It is on the board. Those in favour of the amendment, please raise your hand. The result is: ayes 54. Those against the amendment moved by Mr Jones, please raise your hand. The result is: noes 72. I declare the amendment lost. The next amendment I have refers to the next paragraph.

**Mr GUNTER**—Mr Chairman, I would be grateful if the result of the ayes vote in terms of numbers was not announced until both ayes and noes have been counted. Rather than the ayes being counted, their number announced and then the noes being counted, would it be possible for the counts for the

ayes and the noes to take place before the announcement of any of the numbers?

**CHAIRMAN**—It is very easy to do that, if that is the wish of the Convention. I am happy to follow that procedure. I do not think it makes much difference, frankly. We have now concluded all the amendments that I have for BI with its procedures for day 9. Before I go on to day 10, which is BII, I want to make sure there are no further amendments. Mr David Smith, yours is for day 9, isn't it?

**Sir DAVID SMITH**—I move:

- (1) Delete 4A
- (2) Renumber 4B and 4A
- (3) Redraft 4B to read:

"That a final round of voting will be between whichever of Y and Z survives from round 4A, and the status quo."

Mr Chairman, I say at the outset that I am one of those who came here having accepted the Prime Minister's invitation to see that this Convention produced a republican model to be tested against the status quo at a referendum. Lloyd Waddy made the position clear to those of us who sit in this segment of the chamber. There were some who stood for election on a 'no republic' ticket. They have an obligation to their electors. I did not stand for election; I was appointed by the Prime Minister. I came here in a spirit of goodwill. We have not had an explanation on the points raised by Mr Bill Hayden and Mr Peter Beattie as to why the republican models are put up one by one and the status quo is put in with the last two.

Senator Faulkner, I think, gave us the complete answer to the machinations of the Resolutions Committee, because he told us that the procedure had been designed to ensure that 54 out of 152 delegates—more than one-third—could not vote in the manner of their choice within the manner that had been predetermined by the Resolutions Committee. I resented it today, as I resented it the other day, when Mr Turnbull said that we would be voting strategically. We still live in a democracy, I think.

I hope to defeat whichever republican model you put up at the referendum. I do not

seek a soft target. I will fight any of your targets. But I have to take into account the possibility, as a father and grandfather, that if, God forbid, one of these republican models came up, my children and grandchildren would have to live under it. I will not vote for an inferior model and I resent the implication that I will.

The purpose of the amendment which I have moved and which Mr Withers will second is designed to reinstate the fairness to which Mr Hayden and Mr Beattie have already referred. We challenge the republicans to select their models and put them up. When they have the best they can come up with they can put it against the constitutional monarchy. I will not be railroaded into being excluded from the first three votes and shoved into the last vote with two others so that Senator Faulkner can prevent us from voting strategically. It is an obscenity and I resent it.

**CHAIRMAN**—Is the motion seconded?

**Mr WITHERS**—Yes, I second the motion.

**Mr TIM FISCHER**—I have a point of clarification for Delegate Smith. In the last line of the amendment you say ‘from round 4A’. You delete 4A in (1). I assume that in actual fact you may mean from round 3. Can you reflect on that for a moment because under (1) you are deleting from the core motion 4A. It is true that at the end of round 3 it is envisaged under the green core motion that we will have two before us at that time. Therefore, I think you do mean from the end of the process at the end of round 3 in the very last line of your proposed amendment. I would seek that point to be clarified by the mover and the seconder so we can proceed.

**Sir DAVID SMITH**—In the haste that we wrote redraft 4B, I think we really mean that that should be a new 4B. We wish to delete 4A, renumber 4B as 4A and insert a new 4B so that the republican models are voted through to the end one by one as will be done with rounds 1, 2 and 3. You should continue that with round 4 and when you have your republican model you can put it up against ours.

**Mr TURNBULL**—The run-off between the more popular or most popular republican

model is actually catered for in item 6 on day 10. The substantive motion is on page 4 and it reads:

That this Convention supports the adoption of a republican system of government on the model [resolved by the Convention at the end of Day 9] in preference to there being no change to the Constitution.

The substance of what Sir David is proposing is simply to move that vote from day 10 to day 9. For the life of me, I cannot see any merit in it or why he would want to do it.

**Sir James KILLEN**—I well understand that there are any number of people in this chamber in favour of pulling down the house, but I would think that there is a clear obligation on those who take that view to tell us what sort of dwelling they would have us move into. The simple proposition is that if you are going to pull something down tell us what the alternate residence is.

I do not know whether you are going to go and live in a bow shed or in galvanised iron on top of poles, but you have to convince us that the dwelling we are living in is inadequate for whatever purpose. I think the clear responsibility falls upon those who say, ‘Here it is, you must move out.’ You come down to the final say which is, ‘This is the dwelling we ask you to go and live in.’ That is the choice. I support what David Smith has done.

**CHAIRMAN**—I have been advised that the mover and seconder have agreed that paragraph (3) now reads, if I understand correctly, ‘survives from the previous rounds’, and the word 4A is deleted. Is that correct?

**Sir DAVID SMITH**—Yes.

**Mr GUNTER**—With some regret, I have to speak against Sir David Smith’s amendment. It delays even further a measure of the republican options against the status quo, which compounds the problems that were raised in earlier amendments; that is to say that people who prefer the status quo do not have the option at an early stage of deciding whether to support the status quo outright or to support the least bad option, which some people have described as the least worst option.

If Sir David were concerned to make sure that all those who want to support the status quo have that option, it would be fairer to give those in support of the option a distinct choice of voting for the status quo in each round or going for the least bad of the republican options. I have certainly heard Sir David, Mr Evans and the Prime Minister mention that putting the status quo into the earlier rounds would in some way prevent status quo supporters from indicating which of the republican options they prefer. That is absolutely not true.

If all options—the status quo or any of the republican options—were on each of the rounds they could be supported by those who have been elected as supporters of the status quo. You would then not be compelling status quo supporters to abstain by either leaving the chamber or not voting in the chamber, or to vote tactically. It would be clearer, more honest and more patent to those observing this Convention from outside if, unlike Sir David's option, those status quo options were in existence at each round.

**CHAIRMAN**—Dr Teague, are you for or against?

**Dr TEAGUE**—I am against.

**CHAIRMAN**—Brigadier Garland, are you for or against?

**Brigadier GARLAND**—I would like to think that the amendment was carried, but I do believe that what is up there is not quite right. I would suggest that it should be 'insert a new 4A' rather than a new 4B. Then 4A would go out, as it says in the first paragraph, you would re-number 4B as 4A, and then you would go on from there. It seems to me that we need to find out which is the preferred republican model before we can put it against the status quo.

There may well be many republicans sitting over there who do not like the ARM model. They could well say, 'We will not have the ARM model, we will have the other one.' Until that is decided, I do not believe you can put either of them up against the status quo. I believe you have to work through all the republican models and come up with the preferred republican model before you can

have a vote between the republican model and the status quo.

**Mr MUIR**—I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—I put the amendment moved by Sir David Smith and seconded by the Hon. Reginald Withers. Those in favour of the amendment please raise your hand.

Amendment lost.

**CHAIRMAN**—The amendments for BI all having been lost, I have no more amendments with respect to BI, which is the program for day 9. Are there any amendments of which I am not aware? If there are no further amendments, I put the question that BI, the program for day 9, Thursday 12 February, as proposed by the Resolutions Group be approved without amendment.

Motion carried.

**CHAIRMAN**—We move to BII, the program for day 10 of the Resolutions Group. I have an amendment by Mr David Muir. Do you wish to move that amendment, Mr Muir?

**Mr MUIR**—The amendment deals with the issue of plebiscite that was raised earlier. As it stands at the moment the recommendation reads:

- (7) That this Convention recommends to the Prime Minister and Parliament that the republican model, and other related changes to the Constitution, supported by this Convention, be put to the people in a constitutional referendum.

What I am proposing here are two additional questions which go together and which might be best styled (8A) and (8B). There can be no objection to this amendment in that it pre-empted any debate, because it is quite clear that it falls at the end of the Convention. It gives us the flexibility at this Convention to go through a two-step process rather than a one-step process in the progress towards a republic. I move:

Add after (7):

"(8A) That this Convention recommends to the Prime Minister and Parliament that the best supported two republican models be put to the people at a plebiscite."

"(8B) That this Convention recommends to the Prime Minister and Parliament that the

republican model best supported by plebiscite and other related changes supported by this Convention (where applicable) be put to the people in a constitutional referendum."

Somebody behind me has indicated that they may want to insert the word 'three' instead of 'two republican models'. If somebody moves that, I would accept that as a friendly amendment.

**CHAIRMAN**—Is the amendment seconded?

**Councillor BUNNELL**—I second the amendment. I have felt this afternoon a little like Alice at the Mad Hatter's tea party, but without the tea. I have seen Liberal and Labor politicians, committed republicans, voting in a bloc against committed republicans on the floor of this Convention. Never in my political life have I seen such a sight.

It is a self-evident truth that there are many broad views on the issue of what type of republic Australians want. There are passionate republicans. Two major models are the direct election of the president model and the ARM model, although there are, of course, other very valid models on the floor of this Convention.

The polls show us clearly that the popular election model is greatly followed by the people of Australia. I believe they should have an opportunity to vote in a plebiscite on which one they want. It is essential, as I said, that the people of Australia have this opportunity. It is with great pleasure that I second this motion.

**CHAIRMAN**—Is there a speaker against the amendment?

**Mr GARETH EVANS**—I rise a point of order. Existing resolution (7) provides that the Convention recommend that the best supported model go to a referendum. You are now proposing immediately following that, not in substitution for (7) but in addition to it, that the two best supported propositions go to plebiscite and that, out of them, you get to a referendum. I suggest if this resolution is to have any standing at all that it has to be in substitution of the existing (7) rather than in addition to it. Mr Chairman, you should rule accordingly.

**CHAIRMAN**—Mr Evans's point is valid. Do you accept, therefore, Mr Muir, that the motion should delete (7) and replace it with the other (7)?

**Mr MUIR**—No, I do not. I think they should go in the alternative, not in substitution.

**CHAIRMAN**—I cannot see that they are reconcilable. We cannot take it in the form of being a substitute in the circumstances.

**Mr MUIR**—When you take the proposition in the alternative, there is no difficulty with any mutual inconsistency. It must be the case that you can have propositions in the alternative. There is no inconsistency with that, I submit.

**Mr GARETH EVANS**—You could get there by prefacing (8) with 'In the event that resolution (7) is defeated'. In effect, it is an alternative that comes into play in the event that (7) is defeated. A preferable alternative is the one canvassed earlier, which is that you reserve your fire and move it by way of amendment, if you are so disposed, to (7). I am sure that the Convention would give you leave to do so. It would be an alternative proposition when we get to that debating item.

**CHAIRMAN**—Do you wish to do that, Mr Muir, or do you stick by your argument?

**Mr MUIR**—I prefer that it go in prefaced as Mr Evans just indicated. The reality is that at the end of this Convention any sort of motion can be moved. Notice was given to us here today in relation to (7), so why should not notice be given in relation to (8A) and (8B)?

**CHAIRMAN**—I confess that I see it as inconsistent. Is there a speaker in favour of the amendment?

**Professor PATRICK O'BRIEN**—As David Muir pointed out, if we are going to include that a preferred model with a majority or whatever is going to go to a referendum, this should be because we may not get a model up that is preferred by whatever required majority. Therefore, there must be some provision to cater for Citizen Howard's recommendation or suggestion—there is no

need to giggle; what I said wasn't very funny. You must have a very poor sense of humour.

**CHAIRMAN**—I suggest that you speak to the amendment rather than the person.

**Professor PATRICK O'BRIEN**—There must be some—

**Dr TEAGUE**—Oh, ha, ha.

**CHAIRMAN**—Can you keep on talking, please.

**Professor PATRICK O'BRIEN**—I cannot talk when they are interjecting like that.

**CHAIRMAN**—Please continue. Let us have a little quiet. Let Professor O'Brien have the floor. He has a minute and a half left.

**Professor PATRICK O'BRIEN**—The simple point is that it is making provision for a contingency that is highly possible. If there is a preferred model that is voted on, that provision becomes redundant, and it is merely foreshadowing the possibility. I can understand the fears that some people have. I know that Mr Howard does not want the people to even get a sniff at a say in the elected model. But that is not what it is. It is simply saying that in the event of (7) becoming redundant because it is not preferred, the option is a plebiscite, which, it seems to me, is reasonable and fair.

**Mr RUXTON**—Mr Chairman and delegates, we have to throw this amendment right out. You see the republicans with their two models. The ones who want the popularly elected president are fighting to the last. They want a plebiscite prior to the referendum and there is no chance for anyone who does not want either of those models in the plebiscite. What about the status quo? That is not even mentioned in (8). I suggest that it is not on. This is just a catchy, catchy, quickie, quickie. I never thought you, Paddy O'Brien, could not talk over people, for goodness sake.

**CHAIRMAN**—Mr Muir, there have been some words added. Are they your words? Do you agree with them in the event that (7) is not to proceed? I do not know that the grammar is perfect, but that is another question. Do you accept those words?

**Mr MUIR**—Yes.

**CHAIRMAN**—They are accepted by Mr Muir and the seconder, Councillor Bunnell.

**Mr CLEARY**—It has been really intriguing watching the votes. I cast my eye over some of the Labor members around the traps and you see what the party system does. You are dead right, Ann. You are dead right, David. You can see the blocks coming out. You know what the people want? They have told us they want a direct election model republic but we are not going to get it.

**Mr GARETH EVANS**—Oh, come on, Phil.

**Mr CLEARY**—You can see them mobilising here, from you too, Gareth. It is so transparent. They are moving us down that path so we cannot move, but we have got something up our sleeve for you.

**DELEGATES**—Ooooh!

**Mr CLEARY**—I think we should go for this.

**Mr RUXTON**—Oh, oh-whacko.

**Mr CLEARY**—You know what, Bruce: if we put this to the people, you know what they will say? They want another power site in the political landscape, and that is what you are terrified about.

**CHAIRMAN**—Is there a speaker against the amendment?

**Mr WADDY**—Mr Chairman, those delegates who remember what the initial three questions were would realise that No. (7), which is now in contention over (8) and (9), goes well beyond the brief and jurisdiction, as a lawyer would say, of this Convention. It was on the spur of the moment, I imagine, that Father Fleming raised this referendum question and the form of that question which was that the monarchists would be able to join with the republicans who want to have a referendum, which is the only way you can get a republic. You cannot move into a state of republican suspended animation. We have to move from where we are by constitutional amendment.

We are here for 10 days to choose that amendment. The republicans are going to tell us by the end of Thursday what alterations to the Constitution in broad ought to be made to

achieve what they want. It was put in this report by the Resolutions Committee as a non-contentious item, the idea being—and there was no dissent from this as I recall on the Resolutions Committee with all the people represented there—that we would present to the Australian people something with a great deal of unanimity. We felt that that was in keeping with the dignity of this historic Convention.

Never before has a group of people like this been brought together. I suggest that the eyes of Australia will be on this chamber all day on Friday. This goes beyond it. No. (7) goes beyond the brief of the Convention. If we are going to start arguing about procedural moments at that point and whether it should be a this or a that or something else, then I would suggest that we delete (7), (8) and (9) and we just end up with the model as the Prime Minister asked us, because, in my view, this goes well beyond what we have been asked to do and the brief we have had.

**CHAIRMAN**—We have a large number of working group resolutions and amendments to consider, so I urge that, if you really must talk about this, you be as brief as you can please.

**Mr TURNBULL**—I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—Those in favour of the amendment as it appears?

**Mr CLEARY**—I think we actually fore-shadowed or moved that it be three republican models. I know there was a bit of light banter up the back about eight, but we are quite happy to settle on three.

**Brigadier GARLAND**—Why not five or six.

**Mr MUIR**—I will accept ‘three’ as a friendly amendment.

**CHAIRMAN**—The amendment now reads ‘best supported three republican models’. It having been carried that the question be put, I intend to put the amendment.

Amendment lost.

**CHAIRMAN**—I have no further amendments before me with respect to day 10. Are

there any other amendments of which people have given notice that I do not have? If there are no further amendments, I put the Resolutions Group proposed resolution, which is the program for day 10, being that item numbered II on the paper before you.

Motion carried.

**CHAIRMAN**—We therefore have put A and B in their entirety, and I declare the Resolutions Group report duly approved by the Convention. We therefore move to the consideration of the report of Working Group I.

## WORKING GROUP I

### Ongoing constitutional change

**Ms MACHIN**—I move:

- (I1) That this Convention resolves that the Government incorporate in legislation the following process for ongoing constitutional change:
- (i) The establishment of a broadly representative Constitutional Committee (numbering around 27) consisting of no more than one third of serving State, Territory and Federal Members of Parliament and two thirds community representatives, appointed by the Government.
  - (ii) That this Constitutional Committee oversee a three year community based ongoing process of consultation about constitutional change leading to a plebiscite on concrete constitutional proposals, with the results of the plebiscite to be converted into a constitutional amendment proposal and put to referendum.
  - (iii) This Committee and its consultations should be resourced by the Federal Government’s Federation Fund.
- (I2) Matters that should be considered in this process would include:
- . The role of the three tiers of Government.
  - . Rights and responsibilities of citizenship.
  - . Commonwealth environment power.
  - . System of governance and proportional representation.
  - . Review the mechanism of constitutional change (Section 128).
  - . Constitutional aspects of indigenous reconciliation.

**Ms DORAN**—I second the motion.

**CHAIRMAN**—The first amendment of which I have notice is that proposed by Ms Mary Kelly.

**Ms MARY KELLY**—I move:

That, at the end of (12), the following point be added:

\* Equal representation of men and women in the Parliament.

**Ms MOORE**—I second that motion.

**Ms MARY KELLY**—I support the resolution arising from Working Group I as it sets up a process for further discussion, or at least recommends such a process. In doing that, it lists some matters that might well be discussed. In that list is a whole lot of things that this Convention could not make room for—a disappointing decision, yet one we accept—such as the question of rights and so on.

My amendment seeks to add one thing to that list, and that is the issue about equal representation of men and women in parliament. In adding that to the list I am not here to advocate its merits—although they are many—but simply to allow this to be referred forward into history so that it has a chance, if it is picked up in the future, of being discussed. As that was what I was precisely elected to do here, I would appreciate having that dot point added so it can be referred forward with other issues that have not had a chance to be discussed here.

**CHAIRMAN**—Do you wish to speak as the seconder of the motion, Ms Moore?

**Ms MOORE**—I fully support the resolution to add that dot point. The list was not meant to be exhaustive, but I would like to see this added on the ground floor level, as it were. I must say that I am not very confident that such a proposal is going to get up today, given the lack of support for community consultation that has been demonstrated in the chamber today and yesterday. However, I fully support the amendment.

**CHAIRMAN**—Is there a speaker against the amendment?

**Mr RUXTON**—I speak against the amendment for this reason: I do not believe that equal representation is going to produce the best parliament. I have always stood out by

saying that if the best available are all female, let us have them, but do not let us start having this quota system; it is not on.

**CHAIRMAN**—Is there a speaker for the amendment?

**Ms RAYNER**—I thank my son for his contribution to the debate.

**Mr RUXTON**—G'day, Mum.

**CHAIRMAN**—I am glad to see these family connections extend.

**Ms RAYNER**—I would simply urge the Convention to support this recommendation. It is not a recommendation about quotas; it is about half-and-half representation. In fact, if equal representation of women and men in the parliament is the end result, then women are, yet again, underrepresented since they are 52 per cent of the Australian population.

It would be helpful if we did support this recommendation because, at the beginning of this conference, we agreed that, in principle at least, the Resolutions Group, that powerhouse of dynamism which is structuring our final vote in the last two days so well, should be gender-balanced—a term Mr Ruxton does not understand.

**Mr RUXTON**—How would you be with 50 Moira Rayners in the parliament?

**Ms RAYNER**—I urge that this amendment be seriously considered by this meeting.

**CHAIRMAN**—Thank you, Ms Rayner. Mrs Marylyn Rodgers, are you against the amendment?

**Ms RODGERS**—Yes. As a person who does not support affirmative action, although I understand the sentiments of many women who do—I am a mother of four daughters, so I have a particular vested interest in this—I am sorry, but I find it patronising and I do not think women need to have this entrenched in our parliament.

I think that one day we will find this was a very short-sighted approach because, in time, the gender balance will be in the favour of women. I think that, the way we are going, we are going to override it and we will rue the day we insisted that we have 50 per cent men because more women will show they are



capable of being here and will have the opportunity. Up the women!

**Ms SCHUBERT**—I would like to support this amendment because it does not actually prescribe an approach to gender representation. It merely lists it as one of the items to be considered in our process of ongoing constitutional discussion; it does not prescribe it. I would have thought that Mr Ruxton would have been glad of the opportunity to restate his views on this issue, as he does so often, before a group of eminent Australians who will sit down and look closely at many of the issues that remain to be assessed as we undertake a rejuvenation of our constitutional documents, to update them as we move into a new century.

It does not prescribe a particular approach and, because of that, people who support equal representation and people who just want the debate to be held, can feel very comfortable in supporting this amendment. I commend it to you all.

**Senator MINCHIN**—I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—The question is that the amendment to the resolution of Working Group I be referred to the Resolutions Group.

Motion carried.

**CHAIRMAN**—Before I move to the next amendment, I have a proxy form for the Hon. Kim Beazley, nominating Stephen Martin as his proxy from 4.30 to 7.30 p.m. today. I table that proxy. I call Mr Muir to speak to his amendment.

**Mr MUIR**—I move:

Amend paragraph (11) as follows:

- (i) The establishment of a broadly representative Constitutional Committee (numbering around 27) consisting of no more than one third of serving State, Territory and Federal Members of Parliament and two thirds community representatives, ~~appointed by the Government.~~ with the Parliamentary representatives appointed by the Government and the community representatives elected by the people.

Add at the end of (12) an additional dot point:

(12) Matters that should be considered in this process would include:

- . The role of the three tiers of Government.
- . Rights and responsibilities of citizenship.
- . Commonwealth environment power.
- . System of governance and proportional representation.
- . Review the mechanism of constitutional change (Section 128).
- . Constitutional aspects of indigenous reconciliation.
- . Ways to better involve the people in the political process.

It might be useful if I speak to the two points in this amendment. I will refer to both of them together. The first point relates to this ongoing Constitutional Committee being partially elected by the people, and the second point relates to adding a dot point for consideration. That dot point reads 'ways to better involve the people in the political process'.

If I can take the first point, there is a concern that has been raised in this Convention that there have been a number of conventions preceding us in the last few decades where a great deal of time, money and effort has been expended with no result. I refer in particular to the 1973 Constitutional Convention, and I understand that we have at least three people in this chamber who actually attended that Convention. I understand one of them was the Chairman, Mr Sinclair. I understand that Sir James Killen and Mr Clem Jones were also at that Convention. Unfortunately, there was no election of any delegates to that Convention. I believe that if there had been, as at this Convention, the deliberations at that time would have been carried forward.

We need community ownership of constitutional reform in this country. If we have conventions without people elected, we will not have that community ownership and there will be no pressure on government to step up constitutional reform. We need to involve the public to achieve constitutional reform in this country. Every civilised nation on our planet needs to review the way it does things to accord with the modern age and the changing times. That addresses the first issue.

The second issue, that is the dot point I am now referring to, relates to 'ways to better involve the people in the political process'. We have spoken in the days of this Convention about the alienation of the people of Australia with respect to the political process. In 1991, Bob Ellicott, who served as Attorney-General in the Fraser Liberal government, wrote:

The major political parties and institutions they run are becoming increasingly irrelevant and unresponsive to the need of the country and the silent majority of Australians who have long supported them.

He spoke of sometimes inept and even corrupt and lying politicians and many other forces who have combined in an unwitting conspiracy to tie down the body and to debilitate it. Sir David Smith, who is a delegate to this Convention, wrote in 1992:

There is much that is wrong by the way that this country is run and governed and administered. Never before has Australia had so many of its citizens who are hurting because of what has been done to them by their governments and by their fellow Australians.

Those quotes serve to illustrate the point that we need to better involve the people of Australia in the political process. I commend that to the Convention.

**CHAIRMAN**—Having in mind that we need only this 25 per cent vote, can I suggest that there will be another opportunity to talk on this matter. Mr Jones has just reminded me that there is a meeting of the Resolutions Group, which has been rescheduled for 6 o'clock. The working groups on the state issue for tomorrow we will defer until this voting is concluded, but Mr Jones wants the Resolutions Group to assemble at 6 p.m. Are there any other speakers who really feel they must say something?

**Professor PATRICK O'BRIEN**—I think it is quite clear that the Constitution is tested by usage and that, regardless of what particular model this Convention might come up with, there will be problems. I cannot envisage that this Convention or whoever does the drafting for the changes will be able to perfectly marry up all the new provisions with the existing clauses of the Constitution.

So just on that point, I think within a very short time if we become a republic there will be hiccups. There will be a need to make some very serious changes, even on small matters. Therefore, I think it is very important that the constitutional review body has on it elected people from community or other groups. It is the case that previous constitutional conventions that took place were not taken seriously in the community because the community felt that it was a small group of people, nothing to do with them, making decisions. So I really think that this amendment should be supported.

**Mr CLEARY**—I second the motion.

**Mr RUXTON**—We have been through this before. All these extraneous issues are coming up when we are all supposed to be here debating the republic. Now we are getting on to issues like proportional representation, the states, et cetera. I do not believe that this matter should be discussed at this time. It does not line up with the letter you sent out on 8 January on what the Prime Minister required. I believe that we should throw out that 25 per cent. It should go. I believe this should be knocked out now. Otherwise, I warn the republicans that if this goes in the republic will not get up because the Australian people will not wear it. You never heard what Professor Craven said this morning. Even I mentioned the 1988 referendum. All these motherhood proposals—they won't take them.

**CHAIRMAN**—I put the amendment, reminding you that it only has to be referred; it is not a matter of passing it.

Amendment carried.

**CHAIRMAN**—The question now is that the report of Working Group I be referred to the Resolutions Committee.

Motion carried.

**WORKING GROUP J—**

**The oath of allegiance of the new head of state**

**Mr EDWARDS**—I move:

- J1. The Working Group agreed that the new Head of State should swear, (or affirm) both an oath of allegiance and an oath of office.

- J2. The new Head of State should swear an oath of allegiance, the wording of which should be the same as that for any other person required to swear an oath of allegiance. The wording of the oath should be modelled on that provided for by the Australian Citizenship Act, as follows:

"[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."

- J3. In addition, given the importance of this new office, the new Head of State should swear, (or affirm) an oath of office as follows:

"I swear, humbly relying on the blessing of Almighty God, (or I do solemnly and sincerely affirm and declare) that I will give my undivided loyalty to and will well and truly serve the Commonwealth of Australia and all its people according to law in the Office of the President of the Commonwealth of Australia, and I will do right to all manner of people after the laws and usages of the Commonwealth of Australia without fear or favour, affection or ill will."

**Ms HOLMES a COURT**—I second the motion.

**CHAIRMAN**—Professor Craven, do you wish to move your amendment?

**Professor CRAVEN**—Yes. I move:

Add an extra paragraph as follows:

That in the event that Australia becomes a republic, the Government take appropriate steps to secure the release by Her Majesty the Queen of all Australian citizens from oaths of allegiance and office taken to Her.

It is a relatively minor but significant point. In discussions we found that there are some people who have taken oaths of allegiance to the Queen that are relatively permanent—for example, barristers and solicitors who take an oath for life. Some people take the view that that simply transfers to an oath to Australia upon becoming a republic. Some have a genuine moral qualm about that and have expressed that to me. The proposal is that there simply would be an administrative arrangement set in place whereby the government of the Commonwealth, in the event that the Commonwealth converted to a republic, requested that the Queen release citizens from

the oath. It has no legal effect; it is a moral provision in that since.

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

**Dame ROMA MITCHELL**—I am against this. Having taken both oaths on several occasions, I certainly do not want to be released from them nor do I think anybody else would want to be. I take the view that each oath is to the Queen, her heirs and successors according to law. Presumably, if we have a republic and a president, as far as the Queen of Australia is concerned that president will be her successor. I do not think any thinking person would want to be released, so I am against it.

**Mr GUNTER**—For exactly the same reasons that Dame Roma Mitchell has opposed this amendment, I point out that the schedule to the Constitution where it sets out the oath and affirmation to be taken is in the usual form—that 'True allegiance to Her Majesty' in this case Queen Victoria 'her heirs and successors according to law'. Assuming that we take a perfectly constitutional step through section 128 to a republic, the head of state would be the successor, according to law, of Her Majesty. So, of course, the existing oath or affirmation would be entirely appropriate and envisages successors according to law.

**CHAIRMAN**—Thank you, Mr Gunter. Remembering that we only need 25 per cent to refer it to the Resolutions Group, I put the question that the amendment be agreed to.

Amendment lost but referred to the Resolutions Group.

**CHAIRMAN**—The question now is that the report of Working Group J be referred to the Resolutions Group.

Motion carried.

## WORKING GROUP K

Entrenchment of the Australian national flag and of the Coat of Arms of the Commonwealth of Australia

**Sir DAVID SMITH**—I move:

K1 We recommend that a provision be added to the preamble to the Constitution which would ensure:

- (K1a) that the Australian national flag and coat of arms of the Commonwealth of Australia may not be changed without a national vote of the Australian people;
- (K1b) that passage of any proposal for change to the flag or the coat of arms should require a special majority of the kind required under section 128 of the Constitution; and
- (K1c) that the submission of any proposal to add such a provision to the preamble be at a time to be decided by the government of the day, but subsequent to any referendum on a republic.

In moving the motion, I point out that amendments (1) and (2) on the sheet have, in fact, been replaced by the resolution itself. We failed to make that clear to the secretariat and for that I apologise on behalf of myself and my other three colleagues. The report of Working Group K in fact overtakes amendments (1) and (2). You will recall that they were moved yesterday and we were told from the other side that there was something defective in our wording and that we really ought to refer the matter to a working party. The working party did meet. The recommendation is a result of the working party's activity and amendments (1) and (2) fall by the wayside now.

**CHAIRMAN**—Thank you. Mr Johnston, do you wish to second the motion?

**Mr JOHNSTON**—Yes, Mr Chairman. I second the motion and I also have some information on the flag that people might find useful. It demonstrates that it was a public decision, that the public were involved in its design and that it continues to be very relevant. I seek leave to table a document which the secretariat is already aware of.

**CHAIRMAN**—Mr Johnston has tabled a document which we will duly put in the record.

**Mr WRAN**—I am against the motion and I am for the Turnbull amendment, but may I say that the flag that we have is something that I was brought up with and of which I am very fond. I have not seen one yet—I may in my lifetime—that persuades me that this flag should be changed. Having said that, I think

the entrenchment of the national flag in the Constitution would be very wrong. It would be wrong for a couple of reasons. First of all, no-one mentioned this morning or yesterday afternoon the existence of the Flags Act. The flag which we have has been declared under the Flags Act to be the Australian national flag. At the present time there is an amending bill before the Senate introduced in the House of Representatives by David Jull when he was Minister for Administrative Services. The substance of that amendment is that a new flag, if it is to be chosen at all, is to be chosen by a majority of all electors voting. In other words, it is to be put to a plebiscite of the Australian electorate.

I would have thought that would be adequate to satisfy most people that, if there was a strong body of opinion for change, then the electors of Australia should have the opportunity to express their view one way or the other in a plebiscite. We heard this morning from Mrs Janet Holmes a Court that following an exhibition of new suggested flags Ausflag's web site received 1½ million inquiries.

Today, for instance, a *Bulletin Morgan* poll on the issue of a new design for the Australian flag found that 52 per cent of Australians, on the sample by *Bulletin Morgan*, favour a new design, while 44 per cent—which is down 12 per cent since the last Morgan poll—prefer to keep the current flag, and four per cent are undecided. The point I am making is this: there is a broad body of opinion in the Australian community which is for the flag and a broad body of opinion which is against the flag. This resolution seeks to lock the whole issue of the flag into the Constitution—

**Sir DAVID SMITH**—That's right.

**Mr WRAN**—Yes, I am aware of that, Sir David. Thank you for your help. It seeks to lock it into the Constitution in such a way that you need a majority of voters in a majority of states to get it out in order to have a plebiscite of the people. Indeed, your first problem, Sir David, under this resolution will be to get it through a referendum, because you cannot get it entrenched in the Constitution unless you have a referendum, and you

could not succeed in a referendum if the latest *Bulletin* Morgan poll figures happen to be correct—occasionally, of course, we know they are.

But my point is a much more substantial point. If there are conflicting broad bodies of opinion, they should have an opportunity to express their view and not be confronted with a constitutional change which I think is designed merely to block the true expression of the Australian elector.

**Professor WINTERTON**—Mr Chairman, I have just two points. Firstly, I suggest to the movers of this principal motion and the first two amendments that the preamble is—

**CHAIRMAN**—The second two amendments is no longer being moved—having been withdrawn—and the third amendment is out of order. I will explain that in a moment.

**Professor WINTERTON**—If you want substantive constitutional provisions they should be in the body of the Constitution, not the preamble. I entirely support Neville Wran in his statements about the inappropriateness of the section 128 majorities. I presume that the Turnbull amendment is still before the meeting?

**CHAIRMAN**—No, actually it also is going to be ruled out of order because it is not something that in any way relates to the preamble and it is not, therefore, a matter for this Convention.

**Professor WINTERTON**—Absolutely. That is also true of the flag. We limited our consideration to the republic. The other issues of constitutional reform have not had a substantive provision. They have been referred and we have suggested processes for dealing with them. This would be the first extraneous matter where we actually passed some positive resolution. I urge you to vote 'no'.

**Mr EDWARDS**—Mr Chairman, if it is your intention to rule the Turnbull-Edwards amendment out of order, it leaves me with no option but to speak against the report and resolution of Working Group K. I urged delegates this morning to consider this matter most cautiously, and I reminded them of the amendment to the Flags Act which has passed

through the House of Representatives and will shortly, I understand, be debated in the Senate.

I urge delegates to be cautious, because that which some of them most seek to preserve may be lost through this mechanism. I urge delegates not to go down this path because if they do—referring to the poll that was published in the paper this morning—they may find that they have an enormous fight on their hands. This is one issue which I feel we should trust to the bipartisan support of the major parties in the parliament. If we do that, then I think that that which they seek to achieve, they will. I oppose the report.

**Mr BRADLEY**—I rose at the beginning of Mr Edwards's speech to raise a point of order. Early this afternoon, given the very limited time available for these voting periods and the other matters to be dealt with, you adopted the procedure of taking speakers for and against. On this particular matter we have now had three speakers against the working group resolution. It seems to me that the time available to debate it has been almost entirely absorbed by persons from this block over here who wish to oppose the protection of the flag.

**CHAIRMAN**—If you wish to speak in favour of the motion, I urge you to do so. Do you wish to speak in favour of the motion?

**Mr BRADLEY**—I do not, but I suggest, Mr Chairman, that for the rest of the matters that are being debated you take speakers for and against.

**CHAIRMAN**—I intend to do so.

**Father JOHN FLEMING**—I am speaking in favour of the resolution. I would not be so confident as Mr Wran that the majorities that are called for could not be found to entrench the flag, as recommended by Sir David Smith. I think the point is that when one looks at it through the prism of Sydney, one always sees things differently than when one sees it through the prism of other states. It is certainly my experience of opinion polls that they do tend to be heavily dominated by the Bermuda Triangle, as some have called it.

I would not be quite so confident that the people of Australia, in what I think have been mischievously called the outlying states—as

a matter of fact, I might say that New South Wales is outlying from where I live in South Australia—would vote that way. I think that the situation might be rather different. The point about this is that in a federal system like ours we need to take account of regional differences. If there is to be a change in the flag, it ought to be only of a kind which regional differences could embrace.

If it is simply a majority of Australians dominated by two states, it does not seem to me that that meets the requirement of a flag to meet the aspirations of all Australians, whether they live in Western Australia, the Northern Territory, South Australia or in the Bermuda Triangle. I am simply saying that this is an excellent suggestion and one that I think we should go with. I would not be at all surprised if the numbers were there. Why don't we try it out and see what the Australian people want?

**CHAIRMAN**—Having in mind that we only need 25 per cent to refer it, I can take one other speaker for it.

**Mr RUXTON**—I just want to take up the matter that Neville Wran spoke about of the Flags Act being amended, passed through the House of Representatives and now stalled in the Senate, and that a referendum of the people of Australia must take place before the flag is changed. Surely to goodness it is no good having an act of parliament. Some government could get in with a vast majority in both houses and repeal that act. That is not safe for the Australian flag. It might be a start, but surely an act can be repealed very easily by the parliament.

What we are saying is that it need not be the current Australian flag, but having the Australian flag in the Constitution will safeguard whatever the flag is in the future. I cannot understand why there is such opposition to this one. There is some ulterior motive. I believe that that act before the parliament is not the utmost of safeguards for the flag because the act can be repealed.

**Councillor TULLY**—On a point of order, I have listened intently to this debate. I know that a working group was established to consider this issue, but it raises a fundamental question in terms of the competence of this

Convention as to whether or not a peripheral issue, which I cannot hear in any of the debate, is within the competence of this Convention. I do not believe that it is. We are here to discuss a republic or the status quo, and I would ask for a formal ruling because I submit that this is totally outside our terms of reference.

**CHAIRMAN**—I ruled, as I did the other day, that the amendment, which has now been withdrawn by Major General James, was out of order. I have also indicated that when we reach that point I intended to rule that that amendment to be proposed by Malcolm Turnbull was also to be ruled out of order. This amendment, however, as I indicated the other day, as it is to the preamble to the Constitution, is not for me to rule out of order. However, we need to have in mind that it is to be referred to the Resolutions Group. It is not one which we are either passing or defeating at this stage.

**Ms HOLMES a COURT**—I would just echo Councillor Tully's point. I think that the information that we have, such as the gallop polls and the number of hits to the web site of Ausflag, indicate there is a big interest in this issue amongst the Australian people. For us to do this at this moment would be extremely inflammatory, particularly as we were told we were not coming here to do it.

**Major General JAMES**—I move:

That the motion be now put.

Motion carried.

**CHAIRMAN**—The question is that the report of Working Group K be referred to the Resolutions Group.

Motion carried.

**Mr WRAN**—Mr Chairman, does the amendment go with it?

**CHAIRMAN**—No, the amendment does not go with it.

**Mr WRAN**—You did not put it.

**CHAIRMAN**—I ruled the two amendments out of order. The only amendment we had was the Turnbull amendment, and that is out

of order because it is not an amendment to the preamble. As the result of an amendment to the preamble, it calls for business which is unrelated.

**Mr WRAN**—I totally agree. I think the whole thing is out of order.

**CHAIRMAN**—Thank you. Working Group K is referred to the Resolutions Group.

**Sir DAVID SMITH**—Mr Chairman, just a point of clarification on the way this working group system is going to work. Yesterday when we had Mr Johnston's original motion seconded by me and Major General James's motion seconded by Mr Bradley, Professor Winterton—and I think there was some other support on that side—stood up and pointed out that the proposals would not work. It was on that basis, and I believe it was at your suggestion, that this matter was referred to a working group. I simply point out that not one single constitutional lawyer attended that working group meeting. It is not going to be very helpful to this Convention if the lawyers amongst us stand up at the back of the chamber and tell the amateurs that what we are doing will not work, but then refuse to come and help us make it work.

**CHAIRMAN**—Sir David, you are in exactly the same position as every other convenor or chair of a working group. Your working group reports, amended or unamended, are referred to the Resolutions Group. The Resolutions Group will consider those reports and will be required to report back on each of them in due course. Your working group, along with each of the other groups, will be considered by the Resolutions Group.

## WORKING GROUP L

### Dual citizenship

**Mr ANDREWS**—I move:

Should Australia become a republic, the Working Group recommends that the following qualifications and disqualifications apply to the appointment of a Head of State:

(L1) The Head of State must:

- (a) be an Australian citizen;
- (b) be eligible to vote in an election for the House of Representatives or Senate at the time of nomination.

(L2) To be eligible for nomination, Members of State and Federal Parliaments must have resigned not less than 12 months prior to nomination as Head of State.

For the purposes of this resolution, nomination means:

- (a) nomination by the Prime Minister under the McGarvie model;
- (b) nomination by the Parliament under the two-thirds majority and direct election models.

(L3) The Head of State should be subject to the same disqualifications as set out in s44 of the Constitution for Members of the Commonwealth Parliament.

(L4) Any future amendments to s44 should also apply to the Head of State.

With the concurrence of the seconder, I move:

That in L(2), line 2, delete "resigned", insert "cease to hold office".

Other than that, the matters before the delegates are those numbered 1 to 4. That section entitled OTHER ISSUES RAISED BY THE WORKING GROUP are simply comments and are not formally put before the delegates.

**CHAIRMAN**—Is that motion seconded?

**Dr TEAGUE**—I second all that has been put to us by Kevin Andrews. I just flag that there are several amendments. I note that amendments 1 and 2 are just a direct deletion of one of the qualifications we put that there be a 12-month period between a member of the parliament leaving the parliament and then being able to be nominated to be the head of state. There was a divided opinion in the working group anyway. I leave it to delegates to indicate by voting for amendments 1 or 2 as they see fit.

Amendment 3, however, I would urge delegates to oppose—that is, that there be an additional qualification of anyone having been a citizen for 15 years and resident for at least 15 years. I believe it is right to allow the people of Australia, through their elected representatives in the parliament, to take that into account if someone who did not meet that qualification was otherwise to be commended. I am opposed to amendment 4—that is, that there be a minimum age of 40. In fact, the whole body of this resolution, as put to us by the working group, is opposed to the Professor Blainey amendment 3 and opposed

to the Bruce Ruxton amendment 4. With regard to Senator Natasha Stott Despoja's amendment that the minimum age be 18, of course we agree with that because if nothing was amended that would be the outcome. I urge, with minimum amendment, the resolution to be eventually adopted by delegates.

**CHAIRMAN**—I call on the first amendment, which is that proposed by Mr Doug Sutherland.

**Mr SUTHERLAND**—I move:

That the first sentence of L(2) be deleted.

**Mr O'FARRELL**—I second the amendment.

**Mr SUTHERLAND**—I have consulted my seconder and we are quite comfortable about excluding the other lines to L(2). In other words, completely excluding L(2), which is what the second amendment seeks to do. That would truncate both those amendments and permit it to go forward. To save time, I do not propose to speak. I think it should be enough to refer it and it will come back finally anyway.

**CHAIRMAN**—I understand you are proposing to accept the amendment proposed by Professor George Winterton and seconded by Ms Julie Bishop. Is that correct?

**Mr SUTHERLAND**—Yes.

**Ms THOMPSON**—As a member of Working Group L, and as the person who argued most vigorously for the proposal which is before you as proposal L(2), I want to just talk you through the reasons that particular proposal was put before the working group. I preface my remarks by saying that I have nothing but the greatest of esteem for my friends in the parliament. As they say, some of my best friends are parliamentarians. However, that is not to say that I do not appreciate the great concerns that a large number of members of the public have expressed about the potential for politicisation of the office of president. We are all concerned about that. We are all concerned that our head of state be someone who is above politics and who is seen to be above politics. Much in the same way that we like our judges to be above politics and seen to be above

politics, so should we hope that our head of state is too.

In seeking to have this occur, L(2) merely quarantines members of parliament for a period of 12 months. It does not bar them from ever becoming president, it simply quarantines them for a period of 12 months from the date of the nomination. It then goes on to qualify what nomination means, depending upon which model is agreed upon. All it says is that we will never again have the possibility of public argument and public consternation about a member of parliament in this country being directly appointed or elected as head of state. That is all we are saying. We are not saying that John Howard should not be president one day or that Reg Withers should not be president one day. Or Tony Abbott. Or Kevin Andrews.

**Mr RUXTON**—Or me?

**Ms THOMPSON**—Bruce, you do not come within this because, to my knowledge, you are not a member of parliament. But we are not saying that. All we are saying is: let members of parliament have a 12 month cooling-off period, if you like, between being a member of parliament and being available to be head of state. So could people please consider that when they are voting on whether or not to support L(2).

**CHAIRMAN**—Councillor Tully, are you for or against the amendment?

**Councillor TULLY**—I am in favour of the amendment. If we are going to live in a democratic society where individuals have equal rights—other remarks will apply to other amendments coming up—we should not put barriers or qualifications on any adult who otherwise qualifies to nominate for any other position. It is inappropriate that we are putting these barriers. I understand the reasons we are trying to keep people from moving out of the political process into the presidential process. However, if we are going to put these barriers on, we are really taking away the rights of individuals. I cannot support a proposal that would do that.

**Mr ANDREW**—I am also against the amendment.



**CHAIRMAN**—Is there anybody for the amendment?

**Mr ANDREW**—I want to declare first that I do not have a vested interest in this amendment, lest anyone should wonder why I am rising to speak. But I am concerned that having any sort of political identity should be seen as a handicap. I think it was Spike Milligan who said, 'One day we will find ourselves in a situation in which the "don't knows" win the ballot. Then we really will be in trouble.' I hope we recognise that having some sort of political commitment should not be seen as a handicap to being an effective Australian but quite the contrary. I say that, recognising that many people's political commitment will be exactly the opposite of mine. I commend those who believe in something.

**CHAIRMAN**—Having had two speakers against the amendment, I put the amendment. The amendment is the one moved by Mr Doug Sutherland and Mr Edward O'Farrell. It is the amendment that was on our *Notice Paper* in the names of Professor George Winterton and Ms Julie Bishop that both paragraphs be deleted. Those in favour of the amendment please raise your hand; those against? I declare the amendment referred. It is a matter of referring it, not passing it, as you will recall.

**Professor BLAINEY**—I move:

That, if Australia becomes a republic, the head of state must be both:

- (a) an Australian citizen of at least 15 years standing; and
- (b) a resident of Australia for at least 15 years.

Many republicans have long been critical of the facts that they do not like about the Queen, but they are very slow in specifying what they would like in the president—if a president is to replace her. The republicans object to the Queen though she exercises no political power in this country. They object to one who has been to Australia many times in the last four decades and has seen more of this land than 95 per cent of the republican delegates who oppose her.

**Brigadier GARLAND**—And she's a woman.

**Professor BLAINEY**—And she's a woman. I assume that the Queen knows much about the Australian Constitution. It is a fact that she has met and talked to every Australian leader since the distinguished Labor leader Ben Chifley. So the Queen must go. Who will replace her? The timid, unpatriotic proposal before us is that the president has only to be an Australian citizen on the electoral roll. This means that the Queen could be replaced by someone who has lived only two years in Australia, who knows little about our system of government and who may publicly retain some allegiance to the nation so recently left behind.

In my view, we are being sold an irresponsible proposition. The new president, if we become a republic, will carry not only the symbolic power of the Queen but the powers of the present Governor-General. We are told that this new president need not necessarily possess knowledge, experience or familiarity with this land, its peoples and its Constitution. I find this incredible. If we are to have a president, that president needs to be more than just a name on the electoral roll. Mr George Mye, the distinguished delegate from the Torres Strait Islands, seconds this amendment.

**CHAIRMAN**—Do you second that amendment, Mr Mye?

**Mr MYE**—Yes.

**CHAIRMAN**—Do you wish to speak to it?

**Mr MYE**—No.

**CHAIRMAN**—Is there a speaker against the amendment?

**Professor THOMAS**—I would like to speak against this motion because it is mean spirited. It is unnecessary. We have already talked about Australian citizens and I think we all should be equal. There should not be one citizen above another. There is no need to build up barriers because, if a person is not worthy of the job—there is only one job anyway—the person will not be elected, nominated or selected. At this stage, I think we should be inclusive rather than building up barriers. If we say 15 years, then why not 30 years? Why not 40 years? A person who is a citizen is a citizen, no more, no less.

**Sir DAVID SMITH**—I support Professor Blainey and Mr Mye in this, Mr Chairman. When my parents came to this country from a non-English speaking background nearly 70 years ago, they were required to renounce former allegiances before taking Australian citizenship, and they did that gladly. Nowadays, new Australian citizens are not required to renounce their citizenship. We could have a head of state of this country who owed allegiance to a foreign country. If the head of state came from certain countries and made a state visit, he could find himself clapped into gaol for not having done national service.

While we are on the subject of all citizens being equal, I remind the last speaker that when a foreign resident comes to this country and takes out Australian citizenship they are entitled to retain their former citizenship. When an Australian takes foreign citizenship, this country strips him or her of their Australian citizenship.

**CHAIRMAN**—Is there a speaker against the motion?

**Councillor TULLY**—Briefly, I fail to follow the logic of that argument. What we are saying is that, after 15 years, if they became president and went to a foreign country, they could be thrown in gaol. That is just totally and absolutely illogical. I do not see that it relates to the argument at all.

**Mr SUTHERLAND**—I think he is talking on the next amendment, John.

**Councillor TULLY**—It is Paul, and if he is talking on the next amendment, then why wasn't he talking on the first one? We are talking about an amendment which requires that a person be an Australian citizen for 15 years before they can hold the office of head of state. As far as I am concerned, I reiterate what I said before. It is totally and absolutely inappropriate to have two classes of Australian citizens. That is what this amendment intends to achieve.

**Mr HOURN**—I rise to support this motion, although I must say that I have been against the other motions about age barriers and political affiliation barriers. I think they are undemocratic. But, in this particular case, somebody who is to hold the highest office in

the land needs some sort of form. You cannot get a security clearance without that sort of background. You need some sort of residential status. I suppose 15 years might be a bit excessive in that sense, but, in terms of the highest office in the land, I think 15 years is reasonable. You cannot become the President of the United States of America unless you have been born in that country. I think this is a minimal concession. I strongly support the motion.

**Ms HOLMES a COURT**—I would like to support Professor Thomas. I think that to say that roughly 30 per cent of the population would be ineligible for quite a length of time is an outrageous suggestion at a time when we are trying to bring Australia together. I would like to remind Professor Blainey that at this Convention there are 152 people. I would not suggest that all of us were ignorant of our Constitution up until about six months ago, but a great number of us have learnt a huge amount about it in less than two years. I think we can satisfy ourselves that whoever is able to be selected for this position would have the intelligence and the brain power to take a pretty fast—

**Ms CHRISTINE FERGUSON**—Big assumption.

**Ms HOLMES a COURT**—It may be an assumption, but I think that every model we are putting up has that assumption in it and that someone would be able to get a grip on our Constitution.

**Dame LEONIE KRAMER**—I think the notion that this has something to do with discrimination is quite beside the point. It is totally irrelevant to what Professor Blainey was saying. The fact of the matter is, first of all, that the person does have to know something about Australia to take the highest post in the land, and more than just a little. What Professor Blainey said, I think, made that perfectly clear and was absolutely right. Furthermore, we have to think about someone who is a special kind of person. It is not true to say that anybody in Australia could be head of state. I think the republicans have been very misleading in their rather general aspiration that everyone born in Australia could be head of state. It simply is not true

and we all know it is not true. It is hypocritical to pretend that it is.

**CHAIRMAN**—Mr Vizard, are you against?

**Mr VIZARD**—Mr Chairman, I oppose this. I oppose it because 15 years is an arbitrary figure. How many years do you have to live in Australia to qualify to be an Australian? There is an implicit suggestion that, almost by the attrition of time, almost like doing penance, at the expiration of that period one has stayed long enough to qualify to be an Australian. Some people in 15 years do not pick up any language. Some people in 15 years do not pick up any values. Some people in 15 years—in 50 years—do not aspire to anything. But other people, in the space of minutes, stand for something—something with integrity, something of value, something that means something—and apply themselves to this country.

What other tests do you seek to impose? Is 15 years supposed to qualify to teach you English, to give you hobbies that are Australian, to give you a football team? Is it supposed to give you a love of your city? Why 15 years? Why not 40 years? Why not 80 years? I suggest that people who come here, choose to live here and treat this country as their home, by those very facts alone, qualify to stand for the position of president.

**Mr MUIR**—I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—The question is that the amendment proposed by Professor Blainey be agreed to.

Amendment lost but referred to the Resolutions Group.

**CHAIRMAN**—I turn now to amendment 4 from Mr Bruce Ruxton.

**Mr RUXTON**—I move the amendment circulated in my name.

**Dr SHEIL**—I second the amendment.

**Mr RUXTON**—My amendment is in two parts. Firstly, the head of state is not to hold dual citizenship. I object to the head of state of this country owing half his allegiance to another country. I do not believe it is on.

**Mr CLEARY**—What about the Queen?

**Mr RUXTON**—You are on it again. ‘The Queen of Australia’, I would suggest, makes her an Australian.

**Mr VIZARD**—An own goal, Bruce! You have done it again.

**Councillor TULLY**—She is a Pom.

**Mr RUXTON**—Let us take this scenario: Bill Hayden down here has dual nationality—he is Greek. He goes to Greece on an official visit on behalf of Australia and, when he gets there, they grab him and put him into the army. That is what it is all about.

I think the motion is logical, even though others may not. I am quite sure that outside this chamber, out there in the big world, dual nationality would not suit Australians for their leading citizen. I believe that the minimum age should be 40. I picked out an arbitrary figure. I think in America it might be 35. For example, if Steve Vizard were 34, he would have to wait only one more year. However, I do think that being 18 and being an Australian for maybe two years is not good enough. I think there should be some qualification, otherwise we are not treating this top job seriously. I think we have to take a serious note to the new president of Australia, if there is going to be one. If you do not do that, I think people are going to reject it out there anyway.

**CHAIRMAN**—I declare the first part out of order because the first part in respect of dual citizenship is already covered by L3, which says:

The Head of State should be subject to the same disqualifications as set out in s44 of the Constitution . . .

That already ensures that no member of the federal parliament can hold dual citizenship, and it has been so held by the High Court. Therefore, that first part of your amendment is already covered. The second part—that is, that the minimum age of a head of state be 40 years—is valid.

**Mr RUXTON**—There is another part there I have forgotten. We have not discussed whether the new president will be commander-in-chief of the armed forces.

**CHAIRMAN**—Do you wish to speak on that?

**Mr RUXTON**—I believe that the president should have the same power as the Governor-General, that he should be the commander-in-chief of the armed forces. I would certainly not like to see that particular position of commander-in-chief go to the Prime Minister of Australia.

**CHAIRMAN**—Thank you, Mr Ruxton. As I have declared, that part that is labelled L8 is redundant because it is already covered by L3 in the working group report. Section 44 already precludes members of the parliament from being dual citizens.

**Senator STOTT DESPOJA**—I too believe that our head of state should not have an allegiance to another country. That is why I am a republican, but I realise that has been ruled out of order. We wish to address the second part of Mr Ruxton's amendment, which relates to a minimum age for the head of state. Bruce, don't blow me kisses. It is bad enough that you are discriminating on the basis of age, Mr Ruxton, let alone any other 'isms'.

I have moved an amendment along with Senator Kate Lundy. The intent and the impact of that amendment is clear. I should have stated not '18 years' but 'voting age' in case the voting age should change. I think there are enough barriers to young people's entry and promotion in decision-making bodies in this country. Let us not seek to entrench those barriers. I think it is difficult enough. I wonder if this amendment would be moved if we were discussing the monarch, because I do not believe that the monarch has to be 40 years of age before they have to qualify.

With the greatest of respect, I really do not believe that wisdom or integrity or intelligence is the preserve of those over 40 in this community or indeed in this chamber. You only have to look at the delegates—specifically under the age of 25, I would suggest—at this gathering who have shown that certainly those values and qualities are not the preserve of those over 40. Indeed, I think many of them here would make great presidents, so I seek to move to amend the amendment, if indeed the amendment of Mr Ruxton's is successful.

**CHAIRMAN**—I intend to declare your amendment out of order because it is already covered. If you have a look at L1, it requires under (b) that you, 'be eligible to vote in an election for the House of Representatives or Senate at the time of nomination,' which means you must be 18 years of age. I intend, therefore, to rule your amendment to Mr Ruxton's amendment out of order because it is already covered. You can speak quite properly against it being 40 years, as you did.

**Father JOHN FLEMING**—Mr Chairman, I do not see that it is demeaning. You choose an age; it could be 18 years of age. You could argue that it is an arbitrary age which we now have for adulthood, which brings with it certain kinds of privileges, such as voting and so on. I suppose that it is an arbitrary age. When I got to the age of voting, it happened to be 21. So the question of age qualification is not one that is remote to a sensible society. We are not talking about restricting people being part of the decision making process. I believe that Senator Natasha Stott Despoja really cast the net too broadly. It is really looking at one particular office. Although it was a nice debating point to be able to say, 'Of course the monarch could be strictly a squirming baby in the crib if all the things fell right and the terrorists bombed out the Queen' or whatever, the fact is that the real power is exercised in this Constitution by the Governor-General, not the Queen.

We ought to compare like with like. I do not think it is unreasonable to expect that a head of state, such as the president of the republic unambiguously would be, would be a person who would be well looked up to in the community and had a certain seniority of age. I do not see any difficulty with the idea that we could accept the notion of elders, at least at some point in our system. I would clearly reject it for the election of members of parliament, such as senators.

When we are talking about the president and we are talking about it for a limited time, it is reasonable to expect that the full dignity of the office is something we should have regard to. Whether it should be 40 or 35 I am not going to quibble about. I think it is not

unreasonable in principle to accept the idea that there is a hurdle below which we should not go.

**CHAIRMAN**—I call on Archbishop Hollingworth to see whether he is for or against the amendment.

**The Most Reverend PETER HOLLINGWORTH**—I am against the amendment.

**CHAIRMAN**—I therefore call Archbishop Hollingworth.

**The Most Reverend PETER HOLLINGWORTH**—As in relation to Professor Blainey's previous motion, I accepted the argument but I would have rejected the amendment. The same would apply in this instance. There is no question that the matters of qualification, experience, wisdom, insight and so forth are very important qualities. But it seems to me to be a bad principle at law to try to entrench or prescribe in that way. For the same reason, I would oppose a maximum age, as that, too, is ageist. Generally speaking, we are yet to determine what the actual process of appointment and election to the Australian presidency might be, should that come about. One way or another, I think you could be reasonably certain that whoever made the final decision was likely to make a wise one. In those instances, I think it is proper not to prescribe but to rely upon the good sense of those who bear authority.

**CHAIRMAN**—Have I a speaker in favour of the amendment?

**Mr BARTLETT**—I am in favour. I want to raise a point of order. In light of Archbishop Hollingworth's comments, it is a very good idea. In light of Mr Bruce Ruxton's birthday, perhaps we could make the maximum age 72. I am a bit confused and I want a point of clarification. You have knocked out the first point of Bruce's amendment, point 8, regarding the head of state.

**CHAIRMAN**—That is correct. It is already covered.

**Mr BARTLETT**—I have a question in relation to (L3). As I understand it, you said that section 44 covers that point. Is that right?

**CHAIRMAN**—That is correct.

**Mr BARTLETT**—Does (L6) become redundant?

**CHAIRMAN**—The motion involves only (L1) to (L4), as Mr Andrew indicated. The other parts are for the information of delegates only. When Mr Andrew moved the motion, he moved (L1), (L2), (L3) and (L4). The other parts are for the information of the delegates.

**Mr BARTLETT**—So (L6) does not become part of the referral?

**CHAIRMAN**—No.

**Mr BARTLETT**—Thank you.

**CHAIRMAN**—Is there a speaker in favour of the amendment? Councillor Bunnell, are you in favour of the amendment?

**Councillor BUNNELL**—Yes, in a way. By way of clarification, in the Clem Jones model we had the minimum age as 35 years. We took that out after much consultation with the people of Queensland. They were very resistant to a minimum age, which I think really supports the senator's earlier point. So it is just a point of information. Many of the community were against a minimum age.

**Ms HANDSHIN**—I speak against the amendment. I simply ask: why 40 years?—as so many people have been asking. Why has 40 years suddenly become the magical age at which one acquires all the necessary skills and knowledge to be eligible to be the head of state?

**Ms HANDSHIN**—With all due respect, Mr Ruxton, I think there is a bit of snake oil here.

**Mr RUXTON**—I have got the snake oil.

**Ms HANDSHIN**—You have voted against and spoken against gender equity issues on the basis of merit, yet you contradict your merit principle by proposing this amendment limiting eligibility on the basis of age. That seems to be rather skewed logic to me. Competence does not have an age limit. After all, some of the greatest leaders in the world have been under the age of 40.

**CHAIRMAN**—Are you for or against, Mr Johnston?

**Mr JOHNSTON**—I am for Mr Ruxton's motion. I remind the Convention of a long

quoted saying that life actually begins at 40. More than that, I think it would be ludicrous—and certainly I would never put myself up for president or whatever else we might end up calling it—at 18 or a lesser age. What experience have you had in the world of work or in all sorts of fields of other endeavour? How, then, if you have not had this experience generally in life or, perhaps, in education, can you ever hope to try to embody the feelings, the needs, of the people you would be trying to represent? I think you need some time—probably the first 40 years of your life—to become fully acquainted with what it means to be an Australian, with the difficulties of what it is to be an Australian. Certainly, I think 40 years is a very reasonable age.

**Senator PAYNE**—I move:

That the motion be put.

Motion carried.

**CHAIRMAN**—We will deal with this motion par by par, because there are two points under Mr Ruxton's motion. There is the amendment to resolution 3(a), and paragraph (ix), about which most of the discussion has taken place—that is, that the minimum age of a head of state be 40 years. The question is that that part be referred to the Resolutions Group. Those in favour please raise their hand; those against?

I declare that it will not be referred.

The second part of the resolution starts 'under Resolution 3(c), the matter of Commander-in-Chief' et cetera. Those in favour of referring that part to the Resolutions Group please raise their hand; those against?

I declare that part of the amendment referred.

Having already covered amendment No. 5, we are down to amendment No. 6 and Mr David Muir.

**Mr MUIR**—I move:

Paragraph (L7) Delete the words, substitute:

In order to establish the principle of a neutral umpire, that the head of state be required to resign from membership of any political party.

**Councillor BUNNELL**—I second the motion.

**Mr MUIR**—Mr Chairman, in respect of the indication by Kevin Andrews earlier in this

debate, the effect of this amendment is to add an (L5) to the Working Group L report, because you will note that Mr Andrews has clarified this by saying that he has (L1), (L2), (L3) and (L4), and that the balance does not form part of the resolution from the group. It is obviously clear, though, that the group considered these other issues.

Bearing in mind the comment that I referred to the chamber before by Bob Ellicott and David Smith about the concern with respect to party politics in this country and bearing in mind the great deal of public comment that we had in Queensland in relation to the running of the Clem Jones team, it is very clear that Australians do not want a party politician as their head of state. They want a neutral umpire and they need somebody in that role who will forswear any party allegiance.

To those who say that we are making or taking away rights of those involved in party politics, I would respond by saying two things. One is that in relation to candidates for head of state you have a choice—hopefully, we will have the chance one of these days to elect a head of state. Should you want to nominate for that position, you will have a choice as to whether you do so and, if you choose to do so, then to relinquish your party allegiances. The second point I would like to make in relation to that is that there is presently a convention which is abided by our present Governor-General. The convention is that political ties are disavowed on the Governor-General's taking that position. So there are two very persuasive reasons why this should be supported.

**CHAIRMAN**—Technically, in its present form, it cannot be accepted because (L7) was not moved, but because it does add an additional requirement for a head of state, I think with some modification of the words it could be accepted. What it would mean is that, instead of your introduction, you would be suggesting that a new (L5) be added which would read in the form of the words that Mr Muir has proposed.

**Professor WINTERTON**—I support this motion. Many republican constitutions in the world contain this principle but, with respect,

it needs dramatic rewording because it implies that, in order to take office, the president would have to join a party in order to resign from it. What I suggest it ought to say—although it is only a question of whether it is referred—is that the president not belong to any political party. I also suggest we add to it a provision to the effect that it should include organisations affiliated with political parties but perhaps provide that that not be justiciable, so that you do not start getting litigation in the High Court on the subject. It should be wider and include organisations affiliated with political parties.

**CHAIRMAN**—I think we all take it that we are not trying to draft the question legally; we are putting the principle rather than the legal framework.

**Mr BRADLEY**—I wish to speak against. Some arguments placed up before this Convention this week or last week have been paper thin. I think this is really tissue paper thin. The idea that somehow an elected, appointed, selected or balloted president will be a neutral umpire because that person is required to resign his or her membership from a political party is the sort of tissue thin argument that the people of Australia will see through.

I find it quite satisfactory to rely upon the part of Working Group J's resolution, which we have already referred to the Resolutions Group, which is the oath that any new head of state would have to take, which would be 'to do right to all manner of people after the laws and usages of the Commonwealth of Australia without fear or favour, affection or ill will'. For my part, that is sufficient. It does not matter to me in the least whether the head of state is a member of any particular organisation. Having sworn that oath or affirmed that matter, it is sufficient for me that a new head of state would conduct himself or herself appropriately. It seems ridiculous to have to have inquiries into the memberships of organisations that persons have in order for them to qualify for this office that we are proposing.

The final point I wish to raise is that there are many eminent people in the community upon whom are conferred life memberships or

honorary memberships of organisations. It seems quite odd that we should require people to renounce those dignities which have been put upon them by organisations they have served in order that they ought to be able to serve their country as a whole.

**Ms RODGERS**—I would suggest that the most important thing is not whether someone should resign but that they should be required to notify people of their membership in political organisations so that the people understand where they are coming from. I find it just amazing that this is suggested because we have constantly been assured by the republicans that the appointed person will be apolitical. I think this just proves to all of us that the appointment will not be.

**CHAIRMAN**—Having in mind that the requirement is only 25 per cent for a reference, I put the amendment moved by Mr Muir.

Amendment carried.

**CHAIRMAN**—The question now is that the report of Working Group L be referred to the Resolutions Group.

Motion carried.

**CHAIRMAN**—That then, as far as I can determine, concludes our voting. We therefore have some time to move back on to the general speakers, which I now propose to do. There are two other matters that I have to advise you: the first is that the working groups for tomorrow's session should now disperse to meet and, second, can I suggest that we will not start with the working group reports tomorrow morning because I suspect they may be a little late. Therefore, we will start in the morning with the general addresses on whether Australia should become a republic. Hopefully, we will get all the working group reports and be able to move to them at about 10 o'clock. So that will allow the working groups a little more time if they have difficulty in concluding their consideration tonight.

I know the difficulties for delegates but I trust that, having in mind the admonition of several delegates earlier today, all those delegates who are involved neither in a working group nor in the Resolutions Group

will remain because I would like to call on several speakers still on the general question. We have a lot of speakers to get through, so we will continue our deliberations until 7.30 as had originally been intended. I call on Ms Helen Lynch to give her general address.

**Ms LYNCH**—Mr Chairman, delegates: it is a great privilege and special honour to be an appointed delegate to the Constitutional Convention. While I retain the deepest respect for our monarch, I am emotionally committed to the republican cause and have been for a number of years. I came to the Convention inclined to the McGarvie model but with an open mind prepared to listen to all divergent views and to support a model which would actually work in practice.

My business experience has taught me that thinking up radical new ideas is often the easy part. The hard part is the execution. Seasoned practitioners of any profession will confirm that this has been their experience in implementing change.

Our Constitution has served us well in the past, but it was devised by a few dozen politicians and all were men. Australia was then a very rich, monocultural society consisting of large isolated settlements with poor communications. There were no interstate highways and there was no female suffrage. Aboriginals had no rights and Asia was a colonial backwater.

Contrast that to how we see ourselves now—young, vigorous, energetic, creative, proud of our role as the home to the oldest living culture in the world, optimistic and committed to an open, tolerant, multicultural Australia. In this modern globalised economy the role of the head of state is primarily to represent us both to ourselves and on the world stage, to be an advocate for us and to promote trade for Australian resources, manufacturers and services. To do this we need one of us to be our head of state. Queen Elizabeth and the British royals fulfil this promotional role for Britain, often in direct competition with Australian products and services. Commonsense dictates that it is in the best interests of Australia for us to become a republic.

The consequent question is: what sort of president should we have, and who decides?

Last year, I read a very thoughtful and analytical piece of research which distressed me greatly. The report commissioned by Clemengers entitled *The Silent Majority III* outlined that the Australian people mistrust those of us in positions of power and influence, business leaders, politicians and the churches. Our Australian people feel that we have let them down.

This loss of respect by Australians is well documented and it is timely to reflect on how this happened and to consider what we might do to regain that trust and respect. We need to address the big topic issues of greatest concern, embracing moral, ethical and economic issues within our community. Then the Australian people might start to trust politicians again.

While I readily acknowledge the support for direct election, I suspect that the majority of the Australian population, like me about six months ago, have little informed knowledge of our Constitution or the impediments to good governance that could arise if a competitive situation developed between the president and the Prime Minister as a result of direct election.

We should not lose sight of the fact that the Prime Minister is actively accountable. He has to renew his contract of work with the electorate every three years. The principles for a republic that I support are for a model that enables good governance where roles and responsibilities are clearly defined and accountability is transparent and where the integrity of the process is evident and appropriate checks and balances are in place. I think we should make provision for ongoing constitutional review. What we want really is a system that works in practice.

In summary, I would prefer a president to be appointed on the nomination of the Prime Minister and seconded by the Leader of the Opposition—bipartisan support confirmed by two-thirds majority in a joint sitting of both houses of parliament. I believe dismissal should be moved by the Prime Minister and endorsed by a majority of the House of Representatives and the Senate or by a constitutional council acting with advice from the Prime Minister.



While I have not entirely discounted the possibility of an electoral council or provision for wider consultation with the community, I definitely prefer the ultimate accountability of the bipartisan approach. After all, we the people get the politicians we the people elect. I support a broadly based process to progress the education of the community before the referendum. Our job is to get the intent and the settings right for the preamble and the Constitution and then let the constitutional lawyers loose on the changes we agree to.

To me, a republic is a visible symbol of a mature, confident, independent Australia, accustomed to and enjoying our place in the Asia-Pacific region; an Australia proud of our tolerant multi-racial society, and understanding the many cultures in the countries with whom we share the region. We all know that no worthwhile change is ever achieved without passionate ideas and hot debate. We have certainly seen that from all camps at this Constitutional Convention. If passionate ideas and hot debate are the criteria, then I anticipate that we will have a very positive outcome.

My wish is that we leave this Constitutional Convention united in our support for a republican model for the Commonwealth of Australia which reflects the aspirations of the majority of Australians. If the president of Australia were to be a woman, that would really be the icing on the cake.

**Mr VIZARD**—Thank you, delegates, for flocking in! Each of us stands here charged with answering a fundamental question about the future of our great nation. In answering that question, each of us asks: how can I best serve my nation? Nationhood is not a prize which, having been won, sits silently on the shelf and gathers dust. Nationhood is not a destination reached by our forefathers some hundred years ago from which no subsequent journeys are to be made.

Nationhood is not a yellowing scroll of parchment comprising signatures of long dead lawyers and politicians, the sepia photographs of our grandfathers and great-grandfathers that line the walls of this building, or a rare and exotic beetle captured in amber. Nor is nationhood some bare ideal or principle that

stands abstract and apart from our day-to-day lives, that sits remote in time and place from the dinner tables, the playschools and the factories and the beaches of our country.

Nationhood is the journey we make each day. It is the tangible freedoms and rights which shape our lives each day. It is the time we spend with our families, the daily pick-up from school, the money we spend, the sports teams we follow, the beaches and the mountains we enjoy. It is the values and the frameworks shaped by our supreme Constitution within which we fashion our daily lives.

Equally, nationhood is about how we abuse our environment, sack the land, or rob our indigenous people. For better or worse, every waking moment of our existence, who we are and what we do, are the real concrete manifestations of nationhood. Nationhood is not a prize, nor is it a gift. It has a price. Nationhood carries a heavy burden and a deep responsibility: the responsibility to understand our charter, its rights and obligations; the responsibility to value and abide by our Constitution; and, critically, the responsibility to interrogate, to improve and to reinvigorate our governing Constitution and our nation to constantly make it better, more relevant and more meaningful.

Nothing is beyond improvement save for God and the combing of Bruce Ruxton's hair! It is here that we part company from our friends the constitutional monarchists. It is said, 'Why tamper with our Constitution?' It is said, 'Why touch a document that served us well?' It is said, 'Hands off the Constitution.' We say that our Constitution, the supreme charter of our nation, was intended by our founding fathers to have our hands on it. We say that it is in the very essence of our nationhood that the charter of our nation is intended to be touched and felt and challenged.

Great nations rise and fall because in their complacency they refuse to look at themselves and their governing instruments and institutions. They bask in the sun of the work of their forefathers. They refuse to rise up from their beds, built by the sweat of their forebears, to help build for future generations.

Are we incapable of the work of our founding fathers? Are we incapable of the energy, the commitment and the compromise of our founding fathers? Nationhood brings with it obligations and imposes these obligations on all its citizens, from the meanest to the mightiest. Daily, our nation challenges us. Is this nation the best it can be, today and for our children, and for every Australian? We should ask that question, just as our founding fathers asked that question a century ago.

Our founding fathers were not so complacent as to make any presumptions of the sacred inviolability of that which they crafted when they undertook their work. They knew well that what they fashioned was not perfect, that it represented a compromise: a compromise by the imperial parliament, a compromise by individual state parliaments and a compromise by the great men of the time—a unique compromise of excellence; nevertheless, a compromise tempered by the spirit of optimism and political expediency. We would be foolish to attribute to that timely work of compromise, a perfection and inviolability never intended by the men who were closest to it.

Moreover, our founding fathers sought to make their charter relevant to their time, in a way that challenges us to do the same. When confronted with the task of binding together five separate states—each with disparate navies, armies, police forces, postal systems, transport systems, bureaucracies, parliaments and governments—our founding fathers looked to a unifying symbol born of the moment, born of their moment: the symbol of the British Crown. At a time when nearly three-quarters of all residents of each separate state were born in the United Kingdom or of Anglo-Saxon heritage, it was the Crown and symbolism of the United Kingdom that uniquely bound them together. It was the Crown which then, unlike today, forged a powerful, relevant, meaningful symbol born of a common heritage and the common experience of all Australians at that time.

We honour the commitment of our founding fathers by seeking to find a head of state born of our time and no less relevant to today's Australians—to our new immigrants, to those

of European or Asian heritage, to the indigenous Australians, citizens all. To the Australians of today, no less relevant than the Crown was to our Anglo-Celtic forefathers of the 19th century.

The humanity and fallibility of those who drafted the Constitution was not a glib sentiment. They expressly recognised that they could not, would not, speak unshakeably for future generations and so enshrined in the Constitution is both an expression of their own fallibility and humanity and a challenge to future generations, an invitation to continue what they had started. Section 128 of the Constitution expressly provides a means of amending our governing social contract by popular vote of the people of Australia at referendum. By this, the architects of our Constitution expressly acknowledged that their work of compromise should be improved to accommodate that which they had not foreseen, to abolish that which needed change and to achieve that which they could not. In section 128 we find the express challenge of our founding fathers, handed down to us and to every generation. The challenge: is this the best our nation can be?

This is not the speech I was going to give this morning, although the numbers would have been better. On reflection, it is clear that the debate at this Convention has moved on. We have heard each other and have come to know each other, if not to agree with each other. The debate has moved on and I do not believe it helpful or constructive to make the speech that I planned to make four weeks ago, to run the arguments we ran at election and to further entrench views already entrenched. To do so is to acknowledge that no dialogue has taken place, that we have not listened and that we have not been moved.

I planned to talk about the advantage of individual republican models. I planned to say that it is clear that the Queen is the head of state and cite a number of texts and laws. I planned to say that while the expression 'head of state' is not a constitutional term, it is equally true that the Queen enjoys the primacy powers and authority of a person occupying that position; that the failure of the Constitution to use the specific words 'head of

state' does not change the Queen's actual role any more than its failure to mention Buckingham Palace does not change her place of residence.

Together we have had our hands on the Constitution this last week. We do not propose to change the name of this country. We do not propose to change our membership of the Commonwealth of Nations. We do not propose to change the powers of the head of state. We do not propose to obliterate the relationship which exists between the Prime Minister and the head of state on the exercise of reserve powers. We do not propose to shred the delicate tapestry of democratic institutions.

So the constitutional monarchists ask us: why bother? They ask: why bother to do anything? Our founding fathers ask us to do better than ask why bother. Why bother to have a Constitution that makes sense to the man in the street? Why bother to have a head of state who is unambiguously relevant to the state he or she is supposed to represent? Why bother to have a governing contract that means what it says? Why bother to empower a symbol? It is not good enough to argue that the Queen does not do us any harm and that she is distant, latent, limp, unobtrusive and does not get in the road. Symbols are supposed to get in the road. Symbols are supposed to be as powerful as the Queen was to our founding fathers 100 years ago. Symbols need to be drawn from the wellspring of common experience of Australians living in Australia today.

Talk about the need to reinvigorate symbols and to look for common meaning is more than rhetoric. Ask any businessman about the need to provide a clear mission for a corporation, a set of values and a charter of defined roles and authorities. The creation of an unequivocal communication of these fundamental values goes to the heart of corporate identity and in turn to the capacity of employees and corporate stakeholders to better fulfil their roles, to work to deliver bottom line results and to create greater value for all stakeholders.

Nations deserve powerful, relevant symbols no less. This is not the speech I intended to

make this morning. I urge all delegates to seek to answer the question that our founding fathers asked and continue to ask: is this the best my nation can be? They should answer that challenge with the commitment, energy and spirit of adventure and willingness to compromise that our founding fathers brought to the birth of our nation. Mr Chairman, it is not just in the answer but in how we answer that we continue to define our nationhood.

**Sir ARVI PARBO**—Mr Chairman and delegates, I am one of the people who came to this Convention with an open mind and without a commitment to any particular outcome. My expectation was that the arguments put forward by those who, unlike myself, have been involved in the debate for some time would point to a desirable course of action which was clearly superior to the alternatives.

We have certainly had many points of view put over the last seven days. Many of the presentations have been thoughtful and constructive. Some have been one-eyed. Some have been calls to the barricades, and some deserve to be nominated for television awards. So let me tell you what I have gleaned from all this collective wisdom in terms of the outcome.

The starting point is that the Constitutional monarchy has served Australia well. It has been far superior to many other systems of government in other parts of the world, including many which go under the label of republic. One of the best things that happened to me early in my life was that I was able to avoid living in the Soviet socialist republic and become a citizen of the Constitutional monarchy of Australia. Incidentally, over the years, I have found that some republics are good and some are bad. When someone speaks of a democratic republic with the stress on the 'democratic', it is well to become cautious. When the term becomes 'people's democratic republic', it is time to turn and run.

There seems to be practically no argument about the past merits of the present system. I will quote from Malcolm Turnbull's opening comments on behalf of the Australian Republican Movement:

There was nothing wrong with our nation. Australia had become a proud and independent country years ago, but there was something wrong with our Constitution. It still provides that our great Commonwealth is presided over by the Crown of the United Kingdom, of Great Britain and Ireland. Our goal is a simple one. Australia's head of state should be an Australian citizen representing Australian values living in Australia chosen by and answerable to Australians. That is the goal for which we have fought.

Nothing could be clearer than this statement. There is nothing wrong with Australia, and we are already an independent country. The only requirement is that the head of state be an Australian. To achieve this, the Australian Republican Movement does not propose to establish an Australian monarchy. They wish to convert Australia into a republic.

Those in favour of continuing the constitutional monarchy argue that the head of state of Australia is already an Australian, the Governor-General. The only role of the Queen is to appoint and, if need be, dismiss the Governor-General on the advice of the Australian Prime Minister. To quote from Mr Lloyd Waddy's opening statement on behalf of Australians for a Constitutional Monarchy:

. . . it was rediscovered that even when she was present our Australian Constitution denied the Queen the exercise of any of the Crown powers vested by it in the Governor-General. The Governor-General continued to administer the government in all its fullness in her presence. He was not her agent. He was not subject to any direction by her. His powers, the powers of the Governor-General, derived from the terms of the Australian Constitution, the Constitution that Australians themselves had voted to adopt.

It seems therefore that, as the Prime Minister has put it, the argument is about symbolism. There is no case for challenging the existing system on grounds that it is not working satisfactorily or that a republic would produce a better result for the Australian people. Our existing system is serving us well. We are already completely independent and governed by Australians. The difference in views is that the constitutional monarchists see symbolic value in the Queen remaining the titular head of state. The republicans see symbolic value in the titular as well as the de facto head of state being an Australian. The decision will

have to be made on emotional not on practical or pragmatic grounds.

If Australia were to become a republic, the powers of a republican president and the method of his or her appointment must be decided. It seems to me that, as the supporters of both the constitutional monarchy and of an alternative republic agree that there is nothing wrong with the present system and that the issue is who should be the titular head of state, it must follow that the powers of a republican head of state should be exactly the same as the powers of the Governor-General, the present de facto head of state. Certainly no convincing case for changing these powers has been made at this Convention so far.

For the same reason, it seems to me logical that the method of appointing and, if need be, removing the president should be as close to the present method as possible. The proposals for electing the president either by a two-thirds majority of both houses of parliament or by direct election would be very different from the present method. It has been said by some at this Convention that the Australian people are overwhelmingly in favour of a direct election of the president. It is not clear what evidence these statements are based on, but presumably the sources are opinion polls.

With great respect to opinion polls, it is well known that the results depend greatly on how the questions are asked. In this instance, when those polled were asked whether they favoured direct election of a president, were they informed that the consequences are that such an election would inevitably become politicised; that the person elected could therefore not be seen as an impartial umpire; that in such an election the smaller states would be swamped by Victoria and New South Wales; and that, in the case of more than two candidates, the winner could receive well under 51 per cent of the votes? I suspect that they were not so advised and the results are therefore of questionable value.

Against this background, a poll by the *Melbourne Age* last weekend—presumably again without the explanation of the implications—showed just 51 per cent favouring direct election. The newspoll published by the *Australian* indicated 56 per cent. I also note

that only 41 per cent of the voters participated in electing delegates to this Convention—arguably, a more significant event than the routine election of a president. All this does not add up to the indication of an overwhelming desire for a direct election. Incidentally, if we at this Convention need our egos deflated, the *Age* poll also concluded that only 13 per cent followed the debates at this Convention closely and that 64 per cent did not think the cost of the Convention was justified. This is just as a matter of interest.

Where do I come out after all this? The task of this Convention is to select a model of an Australian republic that could be put to the Australian people as an alternative to the present system. In my view, the McGarvie model would retain all the strengths of the present system, while satisfying those who wish to have an Australian as the titular as well as the de facto head of state. The only difference I had with Mr McGarvie was that I thought the republican head of state should be called president and not governor-general. As it happens, the Convention has already so decided.

While the head of state of Australia should, in my view, be called the president, the states could well continue to have governors if they so choose. With that small modification, I therefore support the McGarvie model as an alternative to our present system. I would be happy for the constitutional monarchy to

continue, but if the Australian people so decide, I would also be very happy to live in a McGarvie Commonwealth of Australia.

Finally, on the referendum, we all know that most issues put to the Australian electorate in past referenda have been rejected. There are no doubt many reasons for this, but one of these must be that the people, quite reasonably, will not vote in favour of anything which cannot be put and explained simply. In my view, simplicity also has to be the essence of any republican model put to the electorate if it is to have fair consideration.

Those who attempt to piggyback their pet beliefs by trying to graft them to the model would do well to remember that this may well result in the failure of the referendum. This must be particularly so in this case because, while formally the referendum needs the support of the majority of the voters in the majority of the states, it has been pointed out that, because of the need for all states to pass complementary legislation, in practice the referendum really has to be carried in all states for the changes to be implemented successfully. Agreement on this scale is a very tall order, very unusual indeed, and it underlines the need to be scrupulously honest with the voters.

**CHAIRMAN**—I declare the Convention adjourned until 9 a.m. tomorrow, when we will resume the general addresses.

**Convention adjourned at 7.39 p.m.**