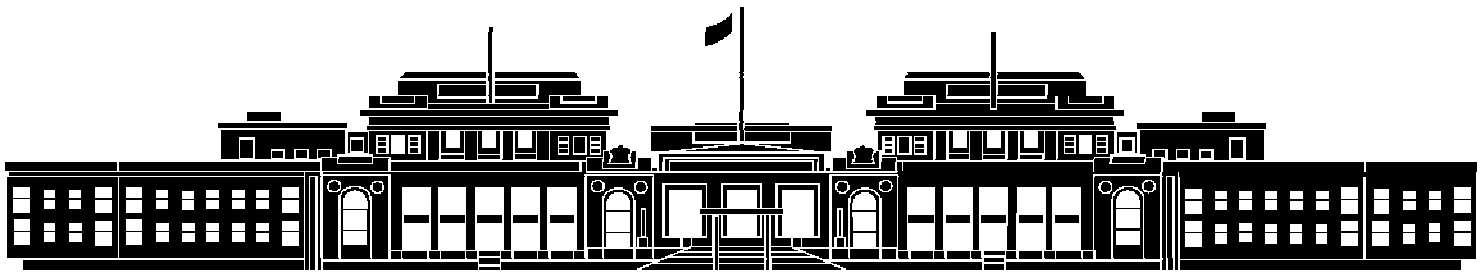
CONSTITUTIONAL CONVENTION

[2nd to 13th FEBRUARY 1998]

TRANSCRIPT OF PROCEEDINGS

Wednesday, 4 February 1998



Old Parliament House, Canberra

INTERNET

The Proof and Official Hansards of the Constitutional Convention are available on the Internet

http://www.dpmc.gov.au/convention

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http://www.abc.net.au/concon

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)
Councillor Julian Leeser (No Republic—ACM)
Ms Karin Sowada (Australian Republican Movement)
Mr Peter Grogan (Australian Republican Movement)
Ms Jennie George (Australian Republican Movement)
Ms Christine Ferguson (No Republic—ACM)
Mr Alasdair P Webster (Christian Democratic Party (Fred Nile Group)
Ms Glenda Hewitt (ungrouped—I Care About Australia's Future)
Dr Pat O'Shane AM (A Just Republic)
Brigadier Alf Garland AM (Australian Monarchist League)
Mr Andrew Gunter (Ethos—Elect the Head of State)
Ms Hazel Hawke (Australian Republican Movement)
Mr Jason Yat-Sen Li (ungrouped—A Multi-Cultural Voice)
Ms Catherine Moore (Greens, Bill of Rights, Indigenous Peoples)

Victoria

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

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

Queensland

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

Western Australia

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

South Australia

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

Tasmania

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

Australian Capital Territory

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

Northern Territory

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

APPOINTED DELEGATES—NON-PARLIAMENTARY

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

APPOINTED DELEGATES—PARLIAMENTARY

Commonwealth

Government

The Hon John Howard MP (Prime Minister)
The Hon Peter Costello MP (Treasurer)
The Hon Daryl Williams AM QC MP (Attorney-General)
Senator the Hon Robert Hill (Minister for the Environment)
Senator the Hon Jocelyn Newman (Minister for Social Security)
Mr Neil Andrew MP
Mrs Chris Gallus MP
Mr Kevin Andrews MP
Senator Alan Ferguson
The Hon Tim Fischer MP (Deputy Prime Minister)
The Hon John Anderson MP (Minister for Primary Industries and Energy)
Senator Ron Boswell (Leader of the National Party of Australia in the Senate)

Australian Labor Party

The Hon Kim Beazley MP (Leader of the Opposition)
The Hon Gareth Evans QC MP
Senator the Hon John Faulkner (Leader of the Opposition in the Senate)
Senator Sue West (Deputy President of the Senate)
Senator the Hon Nick Bolkus
Senator Kate Lundy

Australian Democrats

Senator Natasha Stott Despoja

Independent/Green

Mr Allan Rocher MP

State/Territory

New South Wales

The Hon Bob Carr MP (Premier)
The Hon Peter Collins QC MP (Leader of the Opposition)
The Hon Jeff Shaw QC MLC (Attorney-General and Minister for Industrial Relations)

Victoria

The Hon Jeff Kennett MLA (Premier)
Mr John Brumby MLA (Leader of the Opposition)
The Hon Pat McNamara MLA (Deputy Premier and Minister for Agriculture)

Queensland

The Hon Rob Borbridge MLA (Premier)
Mr Peter Beattie MLA (Leader of the Opposition)
The Hon Denver Beanland MLA (Attorney-General and Minister for Justice)

Western Australia

The Hon Richard Court MLA (Premier)
Dr Geoffrey Gallop MLA (Leader of the Opposition)
The Hon Hendy Cowan MLA (Deputy Premier)

South Australia

The Hon John Olsen FNIA MP (Premier)
The Hon Michael Rann MP (Leader of the Opposition)
Mr Mike Elliott MLC (Leader of the Australian Democrats)

Tasmania

The Hon Tony Rundle MHA (Premier)
Mr Jim Bacon MHA (Leader of the Opposition)
Mrs Christine Milne MHA (Leader of the Tasmanian Greens)

Territories

Mrs Kate Carnell MLA (Chief Minister, Australian Capital Territory)
The Hon Shane Stone MLA QC (Chief Minister, Northern Territory)

PROXIES TABLED BY THE CHAIRMAN

PRINCIPAL	PROXY
Mr Howard	Senator Minchin
Mr Carr	Mr Iemma
Mr Borbidge	Mr FitzGerald
Mr Olsen	Mr Griffin
Mr Rundle	Mr Hodgman
Mrs Carnell	Ms Webb
Mr Stone	Mr Burke
Mr Bacon	Ms Jackson
Mr Collins	Mr Hannaford
Senator Alan Ferguson	Mr Abbott
Mr Kennett	Dr Dean
Mr Beattie	Mr Foley (4-6 February) Mr Milliner (9-10 February)
Mr Court	Mr Barnett
Sir David Smith	Professor Flint

COMMONWEALTH OF AUSTRALIA

CONSTITUTIONAL CONVENTION

Hansard

1998

OLD PARLIAMENT HOUSE, CANBERRA

2nd to 13th FEBRUARY 1998

Wednesday, 4 February 1998

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

CHAIRMAN—The proceedings yesterday were difficult to the degree that, on a number of occasions, delegates seemed to find it hard to hear. I had three requests in that respect, the first of which concerns a member of the press gallery who had a mobile on. I call on those in the press gallery who come in either behind the Speaker's chair or in the press gallery to the southern side of the House of Representatives chamber to please switch off their mobiles and comply with the same courtesies as the delegates themselves.

The second is that there were a number of occasions when groups of delegates met within the Convention chamber and made it difficult for those sitting in the Convention to hear the proceedings. I call Dr Gallop—if you wish to have a conference, please do so outside the Convention room.

The third is with respect to microphones. The microphones at the podium are fixed and supposed to be adjusted for all people, no matter how they normally speak into the microphone. Please leave the microphones where they are. There is a booth up in the old ABC studio in the corner. Every effort will be made to try to adjust them so you can be heard. If you are using hand-held microphones, please handle them so they are facing your mouth and they should provide sound so that everybody can hear.

On another two issues, there are a number of papers that are distributed each day. I point out to members that the business we are dealing with is on your *Notice Paper* each day. For example, if you turn to page 2 of today's *Notice Paper* you will find reports of the working groups. Yesterday some delegates were not aware that all proceedings of the working groups and recommendations are available to you. If you turn over from page 1 of the green, you will find the full details of the working group reports and resolutions. On the front page of the green you get the idea of the day's program.

With respect to reports of the working group yesterday, we had some difficulty in that a number of amendments were inadequately presented to us. If you have amendments, please make sure they are handed in, in writing and signed by yourself and your seconder, to either of the tabling officers, Mr Barlin or Mr Blick, so that they can then be processed. If we do not have them in that form, it will become extraordinarily difficult for them to be entered into the proceedings of the meeting. There will also be a form available for amendments in the secretariat, if you wish to use it.

With respect to other papers which are distributed, you would all be aware that there is a transcript of proceedings available each day. It has been pointed out to me that there is reference to radio broadcasts and Internet broadcasts on the inside page of the daily

transcript of proceedings, should delegates, friends or others in your offices wish to access information regarding the Convention. I am also arranging for all proxies received to be entered in this, together with the name of delegates, so that the persons who are not able to be present and are represented by a proxy, and that proxy and their identity, are available through that means.

The Resolutions Committee is to meet for the first case at 1 o'clock today. As I indicated yesterday when we were dealing with the resolutions, the task of the Resolutions Committee will be to consider those provisional resolutions that are passed by the Convention. Those will be presented back to the Convention in their original form on the ninth day. At that time, the resolutions group will put, by way of amendment in the report it presents, whatever amendments it might recommend. If there are amendments that people wish the resolutions group to consider, they may submit again with a mover and seconder of that amendment to the resolutions group for consideration.

The resolutions group itself will be making no final amendments because it will be for this Convention to consider them. The resolutions group has been constituted so that, if any delegate wishes to amend any of those resolutions passed provisionally, they can submit to the resolutions group their preferred amendment and it will be considered by the resolutions group which will report on the amendment, and consideration will be given to that amendment in due course by this Convention.

Secondly, with respect to resolutions, there has been a request in accordance with our original proceedings for gender balance on the resolutions group. Accordingly, I have nominated Mrs Kerry Jones as the additional member of the resolutions group. The first meeting of the resolutions group will be at 1 o'clock today and members of the resolutions group will be so advised.

With respect to the day's proceedings, we have a very long list of people who have not yet spoken on the principal question. In order to accommodate them, I suggest, if it meets the Convention's convenience, as we are going to deal with the issues both today and tomorrow, we might proceed to the general debate at 3 o'clock this afternoon instead of waiting until 5 o'clock. That will allow a significant number of additional delegates to speak on the principal question. As there is no working group session today, I would hope there might be a somewhat better attendance because, without a working group commitment, this place will be hopefully a little bit better attended. So at 3 o'clock this afternoon we will proceed with the general debate, adjourning the debate on the issues until tomorrow morning, and then we will have the full day tomorrow on the issues.

Dependent on how our speakers list on the issue is going, if delegates feel it is necessary, we might again intrude into part of the consideration of issues tomorrow on the general question. You will recall that delegates have 15 minutes to speak on the general question and are able to address whatever matters they wish.

We now move to receive reports from yesterday's working groups. As identified, these are attached to the *Notice Paper*. Each delegate is able to refer to them and to see exactly what the contents of the various working groups are. We will be dealing with the working groups in the order of their presentation, that is, groups A to F. As the order of proceedings establishes, each working group has been allocated 15 minutes for each report. If the working group wishes, more than one delegate may speak to each working group report, but your time will be restricted to 15 minutes. On the other hand, your rapporteur may take up the full 15 minutes. Debate will then ensue. Each speaker may speak to any or all of the reports.

Again, because there was some confusion yesterday, all reports are being presented. All the resolutions that emerge from those reports are before the Convention. They will be before us today and tomorrow so you may speak on any or all of those working group reports and the Convention itself can deal with them in any way they wish. So it is not a matter of you being restricted to any one of them. I call first on Professor Patrick O'Brien to speak on Working Group A.

Professor PATRICK O'BRIEN—On a technical point, for some reason or other the provision for dismissal was left out, so we are getting the sheet amended. There is a slight proofreading change that has to be made which I do not think would amount to an amendment, but I would have to be guided by the chair on that. It is simply a technical error in the proofreading. For some reason or other, the dismissal procedure was not included on the working paper that was produced. Mr Jonathan Harms, who is assisting our group, is attending to that now. I will not read through the detail of it, but I will talk very quickly to the principle, which I think is important.

It was the unanimous opinion of the working group that the process of nomination is in many ways as important as, and in some ways more important than, the actual process of election, because whoever controls the nomination process really has great influence over who shall get appointed to any position. This applies whether it be parliamentary committees or whatever.

People familiar with history will know that Joseph Stalin, before he became the monster we know of, built up his power in the Bolshevik party from 1921 to 1927 when he got rid of Trotsky, simply because he was the chairman of what you might call the central committee of the party. The other Bolsheviks did not think that was an important position. They thought Stalin was a bit of a dill, that the chairman was not very important and that Lenin and the others—Kamenev and Zinoviev—were the really important guys; but Stalin outsmarted them. He appointed his mates to the various other committees of commissars and controlled the agendas of the meetings. He finished up as No. 1.

The process of nomination is vital. We believe that the process of nomination should be as direct as possible and should be open to public inspection—hence our criticism of the other models, whether it be Mr McGarvie's model or that presented by the ARM. If the Prime Minister nominates, he just picks a name out of a hat and there is no open inspection. We do not know what the process is. He is not answerable to anybody. He chooses whomsoever he wishes, and then two-thirds of the parliament approves or disapproves the nomination. We say that it has to be open to public inspection.

There was some discussion of a model I put up on constitutional amendments that I had proposed and circulated, which provided for a very direct form of nomination based on petition, but the meeting felt—and I agreed—that, if we are going to move to an elected president, a system of direct nomination with a filter might initially serve the best purpose.

After all, if we are to move to a republic, all provisions will have to be carefully reviewed because we cannot fully predict what the consequence of the removal of the Crown from the Constitution will be in terms of the balances of power. Over time, people might decide to move to an unfiltered form of election. In the United States of America, that is precisely what happened. Originally, it was done by the electoral college and then it became the winner-takes-all system we have today.

What we have proposed is that any citizen who is qualified to vote—and we have referred to sections 34 and 44 of the present Constitution—will be eligible to nominate. We have proposed a sort of large council of people, drawn from a variety of public institutions and quasi-public institutions, who will act as some sort of filter. But any citizen can nominate, and we provide for that using Clem Jones's model, reducing the number from 30 to 20. Anyone who gets a vote of 20 people of this large representative body of people will get a nomination.

We have also made a provision—that is on page 2, at point (d)—that a petition of one per cent of qualified Commonwealth electors nominating a single candidate may cause that candidate to be added to the ballot in spite of the presidential nominating council, subject to a veto by two-thirds of the council. That provides for direct nomination. It would be quite unfair, from our perspective, if you must provide that. That could become the basis of a more direct form.

As to election, that will be direct once the candidates are nominated. The point about this filter council is that its deliberations and

the reasons that it gives must be public and open to inspection. There are varieties of alternatives. I know that another group is proposing a similar method, with slightly different content. All that we are proposing is that this proposal be put to the Resolutions Committee for consideration, suggestions and/or amendments.

We are not desperately wedded to any particular model, but I think this model would satisfy many of the unfounded fears that some people in this assembly have expressed. It broadens the process. I believe that we are honour bound to involve the people. It is a step towards greater empowerment of the people. As I have indicated on many occasions here and elsewhere, a republic without greater involvement of the people in the decision making relating to who shall occupy the most powerful and highest office in the land is not a democratic republic. Again, I think it is very important.

I do not know whether this will satisfy everybody, but I think it is a start and we have to make a start. As I indicated, things will have to be reviewed down the track, but it is a beginning. If the people of Australia, our compatriots, choose at some date to remove the filter and to have direct nominations, then I think that should be done. Clem Jones's model, which we have generally supported, has various exclusion clauses relating to serving politicians and the like. We refer to that.

One point I would make—which I wanted included in the proposal but my colleagues did not, although some thought it was a good idea—is that it is my belief that any delegate to this Convention, be he or she elected or nominated, should be excluded from occupying the post of president or head of state of Australia, at least for the first two terms. I think that is necessary to indicate that the delegates here do not have a vested interest in filling the position.

As to dismissal, I think that generally the United States process of impeachment and dismissal has worked effectively. Three alternatives came up before our group. The first was dismissal on a petition of citizens; and that was rejected. The second was by a two-thirds majority vote of both houses of the parliament. However, by consensus, we finally came down in favour of that idea that a head of state may be impeached for breaches of the Constitution or serious criminal offences, on indictment of the House of Representatives by an absolute majority vote. The Senate would try the case, and proof of criminal activity may be remitted to the High Court for trial. If the head of state is indicted successfully, he or she shall lose their position and be ineligible for any further term of office. That is the principle.

I conclude by saying that, as you know, we are wedded to the empowerment of the people to a direct form of nomination, and we have provided this filter in order to provide some sort of initial means by which community groups and public officials can be involved to satisfy the fears of people here and people in the community about a more direct forum. In the end, the people of Australia would have to decide whether they wanted to move to a direct form of nomination and election or retain this system, or any variation of it.

CHAIRMAN—Mr Bruce Ruxton. Are you a member of that working group?

Mr RUXTON—I want to speak against that diatribe.

CHAIRMAN—You cannot at this stage, I'm afraid. I call Dr Geoff Gallop to present Working Group B's report.

Dr GALLOP—Thank you. I would like to introduce the recommendation that has been made by the second working group from yesterday with a few comments about the context in which we make that proposal. The first is that if we are going to attach significance to the event of moving to a republic it seems to me that one of two conditions has to be met. I am using the word 'significance' in the more profound sense rather than the narrow public relations sense of the word.

The first is that there would have to be either a significant increase in the power and authority of the position of the head of state or indeed a lessening of the powers of the head of state and the codification of those powers. Of course, we discussed that issue yesterday.

In relation to the proposition put forward that there should be a significant increase in the power and authority of the office, it was apparent that there was no great appetite for that proposition. It would appear that there was also no great appetite yesterday for the proposition that there should be less power and more codification and indeed perhaps as much codification as is practically possible.

The general view appears to be for some sort of status quo head of state. The person of course would be Australian but would have no real specific significance to the nation beyond that which has been enjoyed by one or two of our past governors-general. They may gain some notoriety as some governors-general have by exercising the reserve powers that were defended so vigorously yesterday in a controversial way. Such heads of state would do the job—some adequately, some less adequately. It is worth noting that the more power they potentially have the less interesting and the more pedestrian they will need to be in order to be selected by any parliament. I suppose spam was sold for a couple of decades and it might be just possible to sell that definition.

Another way in which we might be able to attach significance to a move to a republic is to look at this issue of the way the head of state is appointed or elected. We could infuse significance into the move to a republic by doing something that is uniquely Australian, something that is different and something that would actually attract the attention of people to the cause that we wish them to follow us on.

It is most important that we remember that this issue has to go to a referendum, that those who advocate change have to engage people in that process, have to win people over to that process. The model for the republic that will be of interest to people, that will attract their genuine attention, will be one that involves them in its operation.

I find it staggering, indeed to the point of frustration, that so many people at the Convention do not seem to take the concept of citizenship very seriously. Indeed, it would appear that the concept of citizenship is alien to the soul of many of the delegates to this Convention. We have the potential to create the most soulless republic ever created in human history.

In order to look at ways and means by which we might overcome that problem, I think we have to look at this concept of direct election. Direct election is very important to people. It is very important to them that they participate in their system. It is very important to them that they be seen to be wanted as part of that system, that they can have a choice in relationship to the head of state.

So the question then comes down to how you find a model that would make that aspiration work. That was essentially the point of reference for the working group that I chair. The working group accepted that there were many legitimate objections to the direct election model; there were many practical difficulties with the model of directly electing the president. So we considered what might be a model that would meet the aspirations of people, be uniquely Australian, but at the same time overcome some of the problems that have been mentioned.

The first option we considered was really a variation on the so-called Irish model, in which not less than 20 members of parliament and not less than four regional councils in that country can nominate people to stand for the election of the Irish presidency. We saw two problems with that model and therefore did not feel it was worthy of recommendation.

The first problem that was seen with it was that essentially the process would be party nominated and party dominated. Therefore, it was felt that some of the difficulties that have been posed in respect of an elected president would result. But secondly, and more importantly, we saw a real problem with that model because it does not guarantee choice.

As the deputy chairman wrote to me when I first advocated direct election in talking about these issues, he pointed out very correctly there have been contested elections in Ireland only in 1945, 1959, 1966 and 1973, 1990 and of course last year. You do not actually have to have an election with the Irish model if only one candidate is elected. And there was one well known to students of Irish history who was re-elected every year

unopposed for many, many years. So you do not guarantee choice. Our view is that what people are saying is they want choice, they want to be involved in the process. So that model does not meet the test.

We decided to look at a way in which we could do a number of things. The first is to look at what would constitute a panel that would meet the requirements that have been laid down in some of the objections to a republic by the speakers on the first day, a panel that would be seen to be reflective of the nation as a whole and a panel that would have an obligation to select three candidates for the presidency of Australia or, if we choose, a Governor-General. Of course, that would guarantee freedom of choice for the Australian people within a framework that sets down who will do the nominating of the candidates.

The first conclusion we reached was that the states and territories of Australia should play a role in that process. Indeed, one of the objections that was raised in the first day of this Convention was that there did not seem to be a lot of concern taken over the way that our states and territories, which are constituent parts of our political system, could play a role in this process. After all, the head of state in a republic should speak for the whole nation, not just one part of it.

So after looking at various variations on a theme we decided to put forward the proposition that the leaders of government and leaders of opposition in every state and territory in the Commonwealth should form a selection panel. You might note the balance that would automatically result from that in terms of the political parties. Therefore I think it actually incorporates some of the issues that the ARM have raised in respect of their support for a two-thirds majority of parliament. In other words, both sides would have to talk to each other about who would be nominated.

Secondly, and most importantly, we reached the conclusion following a very strong recommendation that came to this Convention from the Women's Constitutional Convention last week—and I read from recommendation No. 5 of their report from last week:

> The selection appointment process for the head of state must guarantee that women's chances of occupying the position are substantively equal to those of men. For example, the selection process should address and overcome matters such as women's disadvantaged status in political parties, women's inferior financial power and women's restricted access to the media.

I am not sure whether all those last points are met, but certainly the first one is, because we recommended that at least one of the candidates should be a man and that at least one of the candidates should be a woman. So for the first time we would incorporate into the Australian Constitution a recognition of the true nature of our society.

Of course there are many practical issues that get raised by the process of nomination that we did not incorporate in our specific recommendation. They concern the processes that it would operate under. It was the strong view of the working group that to have a very open nomination process to that panel could cause difficulty. There would be arguments about due process and who was going to be considered and who would not that would make it practically awkward and difficult. We felt that the panel ought to operate under its own steam, preferably in camera, announcing its decision about who would be the three candidates for the election when it concludes its proceedings.

One other objection has been raised to direct election that we did consider, which is the role that money would play in the process and how you could avoid the difficulties that might result from people with great financial power being able to influence the process. Although we did not incorporate it into our specific recommendation, it is certainly our view that, if such a process were chosen as the means by which we select the president, there ought to be regulations in place in respect of that election. It is not beyond the wit and wisdom of legislators to set up a framework for that election that would guarantee it focuses on the task at hand, which is to allow the Australian people to select one of three candidates, at least one of whom is a man and one of whom is a woman, to become the president of Australia. Indeed, we know

from various experiences and jurisdictions that the task of looking at how you would elect under different conditions could be regulated to maximise chances of the result coming forward.

We certainly saw this proposal as overcoming some of the objections that have been raised to direct election. We saw the proposal as a practical one. In two important respects, it breaks through; that is, it involves the states and territories in a very real and immediate way. Secondly, it recognises the true nature of our society. I recommend that, should our Convention decide to support the popular election of the head of state, this model for election be given very serious consideration.

CHAIRMAN—Thank you very much, Dr Gallop. I call Mr Don Chipp.

Mr CHIPP—I raise a point of order in a state of confusion, not anger. I suggest for your consideration, not for today's session but for the future, that once a report from a rapporteur of a working group is made you allow about 20 minutes to half an hour for general discussion from the body of the Convention. The detail and emphasis of what Professor O'Brien said 20 minutes ago has gone from my mind. It would be much more productive for a final good result to have a spontaneous and simultaneous discussion of comments from the floor.

CHAIRMAN—We can take that on board, Mr Chipp. As you know, the full detail of the report from Professor O'Brien, as is the full detail of report from Dr Gallop and indeed for each of the working groups, is attached to the *Notice Paper*. There is immediately available for everybody the full detail. It was thought that it would be therefore easier to allow all the reports to be presented so that they could be compared against each other. Your recommendation will be taken on board. I will report back to the Convention in due course. I now call Mr Steve Vizard to make his report on behalf of working party group C.

Mr VIZARD—I am delighted to give the report of Working Group C. We started out as a rabble, but I am pleased to say that by 8 p.m. we had become a well-oiled machine. We were a large and diverse group, but we canvassed a broad range of issues. Debate was spirited and we reached a consensus. I am all the more pleased because we are able to put these resolutions before you, which I commend to the Convention.

It is worth noting that, while it was not intended by our working group, all the resolutions that we bring forward today were passed by a special majority of our working group. So seriously did we take our task that the working group convenor was ratified by a special majority of the working group. We unfortunately did not get to test the analogous dismissal provisions.

Our task was to consider the arguments for the model of parliamentary appointment of the head of state by a special majority. The resolutions of the working group which we bring to this Convention in relation to appointment are as follows: firstly, that the head of state be appointed on the nomination of the Prime Minister and the endorsement of a joint sitting of the Commonwealth parliament; secondly, that this endorsement require a special majority, being a two-thirds majority, of the members present at the joint sitting; thirdly, that the Prime Minister nominate only one person; fourthly, that the appointment of the head of state be for a term of five years and that the head of state shall only serve for one term; and, fifthly, that any Australian citizen who is on the electoral roll be eligible to be appointed head of state.

If I can turn to the principles that we examined underlying the notion of the parliamentary election of a president, these included that the parliamentary election underlines the supremacy of parliament. It is parliament which can make and unmake laws and prime ministers. As the supreme law making body, it is appropriate that it appoint the president or head of state. The parliament comprises the democratically elected representatives of the people. The appointment of the head of state by parliament provides for the democratic election of the head of state by the people through their elected representatives. It is the supreme democratic nexus.

The election by parliament is clear, transparent, visible and symbolic. It enables the people to see and understand in a meaningful and visible way the gravity of the appoint-

ment being made. It ensures that the head of state is a person who commands widespread support across the political spectrum and that they are not beholden to, and are not perceived as being beholden to, any one political party.

The working group also identified some specific concerns that it should take into account in shaping the particular model and the details of the mode of parliamentary appointment. These included that we wanted to involve the widest spectrum of candidates from which to choose and, consequently, that so far as possible the mode of parliamentary appointment not involve a competition which might lead to the exclusion of suitable candidates for the position who would not otherwise be prepared to accept such a position. We wanted to ensure the widest possible candidacy. It needs to be inclusive and be seen to obtain acquiescence across a broad spectrum, both geographically and politically. It needs to be visible, transparent and symbolic. They were the principles that we sought to apply as we developed our model.

As was required, the working group considered the advantages of this proposed model over other models. In relation to the appointment of a head of state by council, the model which is being proposed by Mr McGarvie, it was thought that the defects included that it would be perceived as elitist; that it provided yet another tier of government and administration; that it was invisible and not transparent to the public and the electorate but rather reinforced a sense of a private decision made by an invisible Sanhedrin; that it gave no sense of public ownership; that consequently it would be perceived as undemocratic; and that, not being founded on the appointment by people, it provided no clear and publicly understood authority upon which the exercise of the reserve powers ought properly be based. It might be perceived simply as the Prime Minister's rubber stamp. In short, it was thought that it was both in fact and in public perception undemocratic.

The working group, as required, considered the arguments against direct popular election. The majority of the group disagreed with the notion of direct election for reasons already well expressed, but these included: it will become a clear political exercise; it will be a party political exercise with major parties fielding candidates; it will be exclusive in that those better resourced candidates will be advantaged because of their capacity to campaign, to buy media; and it will be publicly divisive.

Other reasons were that, because of the visible nature of the competition, it will exclude a number of suitable candidates, particularly those of the sort who have previously held the office of Governor-General who would not wish to engage in a spirited and divisive public election; and, following election, it would be difficult for the head of state to fully and completely represent all Australians in a unified way having only achieved a simple majority vote, having not received a vote of all Australians. It would be costly and unwieldy.

Having considered the principles supporting the model of parliamentary appointment of the head of state, the working group went on to consider the particulars. First, two-thirds majority; ought the majority of the parliament be a simple majority or a special majority or otherwise?

The notion of a simple majority was dismissed. It was felt that, if indeed this model was to achieve its objectives of representing unequivocally bipartite or tripartite political support clearly and unambiguously, it would need more than a simple majority, which meant that the appointment of the head of state could be achieved without the consent or approval of both sides of parliament.

The problem with a simple majority is that, in a joint sitting, the party with the majority of the House of Representatives will generally have a majority as there are only half as many senators as there are members of the House of Representatives. To the best recollection of the working group, no Australian government in recent times—and possibly since the Second World War—had enjoyed sufficient seats to give them a two-thirds majority in a joint sitting. Indeed, even the Fraser government in 1975, which enjoyed the largest majority in the House of Representatives in Australian electoral history, did not command

sufficient numbers to obtain a two-thirds majority of both houses. It was therefore thought that this was an appropriately high threshold which aligned with existing parliamentary practice relating to the passing of a special majority.

Turning to a joint sitting, the issue was raised as to whether the special majority should be obtained in a joint sitting or passed in the usual way through the lower and upper houses. On balance, the majority shared the view that the immense symbolism of a joint sitting and the clear and unequivocal message that this sent to the electorate as to the complete, unified and unambiguous support for the appointment of the head of state justified a joint sitting. Professor Winterton went on to note that there were symbolic precedents for such a procedure in France, although we are not quite sure whether they were in recent times or somewhere around the Revolution.

The group considered the question of nominations: how many nominations should be considered by the joint sitting. The group was unanimous in its support for only one such nomination. Any further nominations would not achieve our stated objective of eliminating a public competition of achieving perceived unanimity of attracting candidates who did not want to enter into a public competition. The symbolic appointment of one candidate as head of state in a clear, uncompromised, unambiguous and unanimous fashion so far as possible was the outcome for which we should aim.

The working group considered who should bring the nomination. We recommended that it should be the motion of the Prime Minister. We considered a motion supported by the Leader of the Opposition. This was discussed fully but was rejected for two reasons: firstly, because de facto support of the opposition will be required in any event in order to achieve the special majority; and, secondly, a reference to the Leader of the Opposition in the Constitution would be surprising in a Constitution which does not itself refer to the Prime Minister.

As to tenure, what should be the tenure of office of the head of state? We considered that the head of state should hold office for five years. The reasons that were given included: it was larger than the three- or four-year parliamentary term and thus did not overlap necessarily with particular compositions of individual governments; it is of itself a substantial time; it aligns with recent terms of office for the Governor-General. We also considered seven years but resolved unanimously that five years was an appropriate term. We also considered that the Governor-General should hold office for one term only, principally for the following reasons: to provide a broader range of candidates and people who can hold the office; and to further eliminate the prospect of the head of state potentially using his position to any advantage to secure a further term of office.

We discussed at length the issue: who should be eligible to act as head of state? We talked about politicians and the electorate's love of politicians; we talked about age limitations; and we talked about the minimums that might exist in other Constitutions—the USA and Germany. But, on balance, we decided to take an inclusive view that any Australian citizen should be eligible if they are on the electoral roll.

A number of other issues were canvassed but no specific resolutions made. We discussed at length the mode of nominations to the Prime Minister. We were aware that another group was working on this. Our view was that it was unnecessary and undesirable.

Whilst we had no final view, it was our expressed preference that there be no formal mechanism by which the Prime Minister obtains nominations but, rather, that we use the same sort of informal procedure that is used today. The reasons advanced for that included that it was unnecessary because, ultimately, it is going before parliament and that will be the ultimate public scrutiny. In any event, it begs the question: who chooses from amongst those nominations in any event? Either the Prime Minister or some further tier of government which would need to be set up in order to make that choice.

We discussed gender issues. We had a lengthy and intense discussion about the role of the head of state and gender issues. Everyone recognised that there was an alarming

lack of women in the role of Governor-General—none. We expressed the view that this was entirely regrettable. We hope that this would be addressed in any new role. We took note of the resolution of the Women's Convention that there be an equality of men and women as heads of state on an alternating basis; and we accepted that as a principle.

We rejected the notion that issues of gender balance be enshrined in the Constitution, firstly, because it had implications for other groups, and, secondly, because we are working on a document that is going to last for centuries and, hopefully, this issue will be non-contentious in the not too distant future. We did, however, endorse the following principle as a principle rather than a convention for any proposed statutory term, and that is point 9:

A majority of the working group supported the principle that the office of head of state alternate between a man and a woman. This principle should not form part of the Constitution but be an acknowledged principle.

We then turned to dismissal and we proposed the following resolution, resolution No. 6:

That the head of state may only be dismissed on the motion of the Prime Minister endorsed by simple majority of the House of Representatives.

In relation to dismissal, we recognise this is a vexed issue. We canvassed dismissal by the same mechanism; that is, by a special majority, a two-thirds majority. This was rejected because it would be unwieldy and difficult. It would give rise to an impasse and the political difficulties of the sort that we are all fully aware.

We talked about dismissal by the Prime Minister alone, but we rejected that because it does not have sufficient formal symbolism nor does it have sufficient procedural gravity, although there is clear consequential gravity. We accepted dismissal by a simple majority of the House of Representatives because it required the assent and support of the popularly elected lower House, because as with today the Prime Minister and the government will live with the political consequences, because most constitutions in the world provide for parliamentary dismissal, because by virtue of it going through parliament it is a visible, public and transparent act and because it is visibly accountable.

Mr Chairman, there were two further clarifying comments that we wanted to bring to the convention. These are not resolutions; they are clarifying comments. Firstly, comment 7:

The prescription of the special majority, being two-thirds, is on the understanding that the Senate continues to be elected by proportional representation.

Secondly, clarifying comment 8 reads:

A majority of the working group did not support any formal public nomination process for the forwarding of possible candidates for the Prime Minister's consideration.

Mr Chairman, I hope this accurately reflects the position of Working Group C and I commend these resolutions to the convention. Thank you.

CHAIRMAN—Thank you, Mr Vizard. We have two speakers for Working Group D, appointment by the Prime Minister or a special council nomination by the Prime Minister, I believe Ms Julie Bishop will be the first.

Ms BISHOP—Our working group considered the model formulated by Mr McGarvie in answer to the question: if there is to be a new head of state what should be the arrangements for appointment and dismissal? We considered another option—appointment or dismissal by the Prime Minister alone—but not for long. While there was no suggestion that our prime ministers would not continue to appoint appropriately qualified people, this process appeared too partisan for us to take it further.

The second option—appointment or dismissal by a specially constituted council acting with the advice of the Prime Minister—received our diligent consideration. While there was not unanimity on the detail, everyone present showed great interest in the model. It has appeal for monarchists, for republicans and for those who believe in change but not for the sake of change. For those who champion direct election as the most democratic method of choosing a head of state, this model, which features appoint-

ment by the people's elected representatives, is also democratic.

Even if this model were not the preferred option of everyone in our working group, everyone, including representatives of the ARM, without necessarily endorsing the model was supportive of the view that this simple and straightforward model must remain on the agenda throughout the next seven days to enable every delegate to try this model on for size—see how it feels, see if it fits; a little tight here, a little loose there—to see if we can wear it.

As not everyone is familiar with all aspects of this model I will attempt to do justice to its simplicity by explaining how we saw it working, and Professor Craven will address some of the issues arising from our deliberations. We tested the model this way. There has been widespread recognition that, in general, our current constitutional system of government has served us well. So what are the features from that system surrounding the relationship between the head of state and the head of the elected government that ought to be preserved in any new arrangements?

Firstly, under our current system the Governor-General is the head of state of the Commonwealth acting as the Queen's representative and in that capacity exercises the powers and functions of the head of state. In the proposed model, those same powers and functions are transferred to a new head of state, the Australian Governor-General, who is acting in his or her own right. The Governor-General becomes the actual rather than the de facto head of state. This new head of state continues to do the same things in the same way subject to the same conventions, constraints and expectations surrounding the exercise of those powers. That is step one.

Secondly, currently the Queen's one active duty—appointing or dismissing the Governor-General on the advice of the Prime Minister—is seen by some as a formality but still as a critical component of the exquisitely delicate balance of powers between the head of state, who must have powers, and the country's elected head of government. In this proposed model, the duty of appointing or dismissing the head of state with or upon the advice of the Prime Minister is retained but is to be exercised not by a monarch but by a thoroughly Australian constitutional council. I will turn to its composition shortly. That is step two.

The check that currently exists whereby the Queen appoints or dismisses the Governor-General on the advice of the Prime Minister would transfer to the Constitutional Council. This council would have no greater or no lesser role. It would not select or nominate the head of state but it would act as a point of reference for the Prime Minister when nominating a head of state. It could advise, counsel or influence the Prime Minister in the choice of head of state but not more; the people's elected representatives would continue to have the say.

The Prime Minister, no doubt after careful consultation with parliamentary colleagues all mindful of their responsibility to the electorate, would nominate a suitably qualified person to be the head of state, and the important step of having the actual appointment or dismissal carried out by, in this model, a constitutional council, is that it would retain the checks and balances.

As to the composition of the council, it is to compromise people familiar in the ways of constitutional restraint and convention, people who have an understanding of the limited nature of their role as a safeguard without delusion as to why they are there but who have an appreciation of the significance of the subtlety of their presence. Mr McGarvie proposes that three members comprise the council. No-one will directly select or appoint them. They will be chosen by a constitutional formula which will ensure that the composition of the council is drawn automatically from a category of persons, being former governors-general, then former state governors, former judges of the High Court and the Federal Court, in the order of their retirement from those positions. From that pool the places would go first to governors-general with priority to the most recently retired and so on.

This model also makes provision for the inclusion of women on the council. If there were not a woman eligible for a position

within the first three places, a provision would exist in the formula for as long as it would take for a sufficient number of women to be in such positions to ensure their inclusion. So if there were no women in the first two places filled, the third place would go to the woman with the highest priority among the eligible persons.

Governors-general and state governors over the years have come from many walks of life and from vastly diverse backgrounds and they would seem eminently suitable to be members of this council. So let us stand back and see how this fits. The Prime Minister, as the leader of the government elected by the people, nominates the head of state. That nomination is sent to the Constitutional Council for formal appointment of the Governor-General for an assumed five-year period at pleasure. In that process, the council could seek to advise or suggest—hopefully, our female member on the council would be suggesting it was time for a female head of state.

The Governor-General would be dismissed if the Prime Minister advised the council to do so. The Governor-General would not have legally enforceable tenure but would have political security. After all, governments are made and unmade by public opinion. The Governor-General is there for the people and the people regard the Governor-General accordingly. If the Prime Minister advised the dismissal of a Governor-General when the people regarded that person as complying with the expected role, the Prime Minister would lose any support and would lose the trust of the people. There is, of course, great incentive for the Governor-General to act in accordance with the people's expectations, for a failure to comply, for example, with constitutional conventions surrounding the exercise of reserve powers could lead to dismissal from the position of head of state: the ignominy would be a strong disincentive.

Finally, the Constitutional Council's duty is to appoint or dismiss the Governor-General upon the advice of the Prime Minister. Should the council refuse to act upon that advice within a reasonable period, the members of the council would automatically cease to hold office and would be replaced by the next eligible members from the pool.

With this model what you see is what you get. It has relative simplicity. It is familiar. We have seen a model like this, albeit with a monarch and not, as with this model, an Australian head of state with an Australian constitutional council. We have seen how it could work.

Professor CRAVEN—My instructions are to elaborate upon the advantages of this model and suggest that the principle objections to it are unfounded. If one wanted a generic name for that model it might well be 'the straightforward republic'. On the basis of the working group's discussions, it emerged that there are certain criteria that any republican model must have, including this, and that all alternative models must be tested against those criteria and it is well that they should be stated now at the outset of this part of the convention's discussions.

The first is practicality. Any system must actually work, not in theory but in practice, and, what is more, demonstrably. We must know, not guess, that it will work. Secondly, it must be consensual. It must attract the widest possible range of support among monarchists, republicans and those who are not sure of their position. Thirdly, it must, above all other things, be saleable at referendum. Our working group's view is that this model meets admirably all those criteria and we set it against, through the course of this convention, any other alternative.

In light of those three criteria, what are the advantages of the straightforward republic? First, it is a lean republic. There is nothing unnecessary in it. It is truly minimalist. It does no more and no less than achieve the republic. It will appeal to anyone who wants the republic and nothing but the republic or to a monarchist who is prepared to accept a minimalist republic. It is entirely predictable. It reflects our present system. We know how it will work.

Crucially and above all else, there is no danger of a rival popular head of state emerging to challenge parliamentary democracy. Why? Because the sanction of effective dismissal is retained. The Prime Minister,

through the council, may remove the head of state. No other model yet put to this Convention has solved that crucial question, and any model which proposes to do so I believe will inevitably have to move towards the McGarvie model. There may be fertile ground for discussion in that area.

The model delivers the republic. Let there be no question about this. The model is for a republic without the Queen. There is real hope, as I think we saw in spades yesterday, for consensus here: consensus among the concerned, consensus among republicans and consensus among monarchists. If this model is not seriously considered, there will be many in this Convention who from that point are effectively sidelined. Above all, this model can win a referendum.

What are the objections put against it? The most obvious one is the general objection: we just do not like it; it just does not grab us. It was put at our working group yesterday that it brings to mind Winston Churchill's comment about democracy: there is no doubt that this model is the very worst before the Convention, except for all the others. It said that there is no popular involvement. This is gravely overstated. The effective choice here is that of the Prime Minister. The Prime Minister commands a majority of the House of Representatives. That does not walk through the door. It comes from free elections. Let us face it: the Prime Minister of this country can effectively start a war without a popular vote. Why are we so worried that he or she could not appoint, or have a council appoint, a head of state? So let us not overstate the popularity poll point.

Perhaps the main point that I have heard is, effectively, that the council is boring. We would like an exciting constitutional system, forgetting that the old Chinese proverb 'May you live in exciting times' is in actual fact a curse. The council is meant to be boring. The council is meant to act in the habit of considerate obedience to put forward, in accordance with the conventions, the nominations for both appointment and dismissal of the Prime Minister. We are told it is elitist. If the council were to have any significant independent power, that may be so; but, as my colleague Ms Bishop said, it is a reference point, not a tier of government. The true influencing factor in appointment is not the council but the Prime Minister. The Prime Minister is not elitist; the Prime Minister is elected.

It is said, of course, that this proposal is unsaleable at referendum, partly because the people are in favour of a popularly elected president. The first point is that the people are not in favour of a popularly elected president. The people have assumed a popularly elected president in the absence of argument on this point.

Mr CLEARY—Oh, you put them straight, Greg; you know better.

Professor CRAVEN—I would put you straight, Phil, but it would take a long time. The point is that, in the case of a two-thirds majority or another proposal that does not involve popular election, it is unlikely to be any more popular with the people, if Mr Cleary is right, than the proposal being put forward here. The crucial point is this: I believe that any other model that is put forward at referenda is likely to be a declining model. It will get less support as its problems become more obvious. This is a model which will get more support as its lack of problems become more obvious.

I think the position of the working group is this: we believe that this is a crucial model to be considered by this Convention. It is a model that gives to republicans their very best chance of a successful referendum. It gives to monarchists the appalling question that I believe all of the Convention must face: if not this, then what?

Brigadier GARLAND—The status quo.

Professor CRAVEN—Because the 'what' is not the status quo. The 'what' is another five years of destabilising disaster for the Australian Constitution—a proposition that could not be considered by anyone who truly believed in that Constitution.

CHAIRMAN—Thank you very much, Professor Craven and Ms Bishop. I now call Dame Leonie Kramer to present the recommendations on behalf of Working Group E.

Dame LEONIE KRAMER—Fellow delegates, my experience of the last few days has convinced me that it is extremely difficult to digest a great deal of detail in these particular sessions and committee reports, so I am going to confine myself to making quite a brief general statement about group E's conclusions which, in any case, you have before you. There are a few minor amendments, which I have given to the chairman in advance, and they will be circulated in due course.

Option E, which is the only one I intend to speak about—that is to say, the McGarvie model which replaces the Queen with a special Constitutional Council—was considered by group E to be the one option least likely to cause public controversy and political debate. It is, however, not without its defects. Retired governors-general or state governors or High Court judges or other eminent Australians are not necessarily those best qualified to appoint a Governor-General. That may sound a rather strange statement, but I will try to explain it.

Since their own past experience might well affect their views about the suitability of the person nominated by the Prime Minister, I believe there is a significant risk in assuming that those people would in fact be suitable people to make appointments. It is also questionable whether people, even one removed from office, should have a role in appointing their successor. In any case, they might themselves be subjected to public debate. Confidentiality in such an appointment is absolutely essential, and it is the only fair way to treat those people who might be aspirants for a position. Members of the council would undoubtedly be exposed to intense pressure from the media and members of the public which could well taint the process. I have to observe that all of us here in this chamber today are well aware of the influence of the media on these proceedings.

The problems identified in the methods of appointment proposed in A to E would be considerably greater if any one of these alternatives were used for the dismissal of the Governor-General. Members of the public could protest if their favourite candidate under A, B or C were not successful. Disappointed aspirants for the position could institute legal action against the government or against one or more of the members of the special Constitutional Council unless they were provided with some kind of protection or indemnity.

For these reasons and for others, group E concluded that none of the proposed alternatives for choosing a head of state was acceptable considering the risks involved in changing the existing system, which has the virtue of removing the appointment, as distinct from the nomination, from the political process. This method that we have now is analogous to that frequently employed in senior appointments, executive or non-executive, where the search for a suitable person results in a nomination which is then ratified by a higher authority. No analogy is exact, but that is fairly close. Our current system of appointing the Governor-General has the additional advantage that a higher authority, namely the monarch, is entirely removed from the local political considerations which might have influenced both the nomination and the conditions under which an appointment would otherwise be made.

May I conclude by reminding you of the first day's speech by Mr Mye from the Torres Strait Islands which I believe to be a conspicuous, constructive contribution to this debate, though I have not heard it mentioned since. He comes out of a context which is strange to most of us delegates here in this Convention. I believe that we should take his views extremely seriously. Therefore, I would like to read the last paragraph of his speech. He said:

> The process of change would be expensive, disruptive and unsettled if it is a process which pursues changes for the sake of change. I believe the current system of government has served this nation well since Federation. We know it, we understand it and it meets the needs of my people. We are not afraid of change, provided we can see an advantage to the people.

In saying that I believe Mr Mye spoke not just for the Torres Strait Islanders but for all of us.

CHAIRMAN—I now call on Mrs Chris Gallus MP, who will present the resolutions and recommendations of Working Group F—

'Popular election from a small group of nominees selected by a specially constituted council'.

Mrs GALLUS—Convention delegates, this resolution is in three parts. Part one:

> That two-thirds of a joint sitting of Federal Parliament elect a 'head of state appointment body' of ten people that is gender balanced, and composed of people who will have the respect of the Australian people and who reflect Australians in all their diversity.

Part two:

> The appointment body will accept nominations and from these select a number of appropriate candidates whose names will be put to the Australian people for election.

Part three:

> The appointment body must dismiss the head of state following a vote of an absolute majority in the House of Representatives.

This resolution puts forward a model that should be acceptable to this convention because it not only provides for popular election as Australians have indicated they want but also provides the safeguards this convention has indicated it wants. Under this model there is no possibility of the head of state assuming powers currently held by the Prime Minister and the government because dismissal of the head of state can be effected by a majority in the House of Representatives. While many feel that this gives too much power to the government, the working party felt that the means to dismiss the head of state by the House of Representatives was necessary to ensure that the federal parliament maintained its primacy.

The danger in a popularly elected head of state is the head of state so chosen may, because of the popular mandate, try to assume powers the Governor-General does not currently have and that are not intended by the Constitution. Dismissal by the appointment council following a vote in the House of Representatives makes it clear that the role of the head of state is not to rival the Prime Minister but to act as a formal and ceremonial head of state, to act on the advice of the Prime Minister and his ministers, and to act appropriately in the event of a constitutional crisis.

Today's resolution does not go into the details of the election process itself, but it is important that one aspect of the election is mentioned, to answer a criticism that is often levelled at the process of popular election—that it would invite either wealth or political domination. Control of the process by those with wealth or media connections or special political affiliation can be avoided by prohibiting paid advertising and by providing publicly funded time on electronic media and publicly funded space in print media. The appointing council put forward in this model avoids the discrimination inherent in McGarvie's Constitutional Council which, because it is based on historical appointments, will limit the appointment of women and almost totally exclude those of non-English speaking and indigenous backgrounds, irrespective of the impressiveness of their qualifications.

This model has several advantages over election and dismissal of the head of state by two-thirds of parliament. Firstly, this model allows the people to participate in the choice of the head of state, as they should in a democracy. Secondly, the existing disenchantment of the Australian people with politics, politicians and the political process can only increase if this Convention decides that the head of state is to be elected by politicians and not by the people. Thirdly, this model avoids the situation of the two-thirds of parliament where an opposition can maintain a head of state in power who is set on a course opposed by the government.

I would like finally to congratulate the members of Working Group F, many of whom abandoned personal preferences to arrive at this model for a popularly elected president that safeguards the present system, avoids the problems commonly associated with a popularly elected head of state, and yet still gives the people of Australia the right to participate in the election and choice of their head of state.

CHAIRMAN—Thank you Mrs Gallus. We have now concluded the reports to the Convention from the six working groups. Each of those reports is before us, and we will move in a moment to the list of speakers on the

issue of the day. Before I so do, I have received a nomination from the Hon. Richard Court MLA, Premier of Western Australia, of the Hon. C.J. Barnett to serve as his proxy and from Sir David Smith for Professor David Flint to serve as his proxy tomorrow while he attends to a funeral.

The addresses today consist of a long list of speakers. Just before I start them I remind you that as a result of the decision of the earlier part of this Convention today general addresses will commence at 3 o'clock this afternoon. We will have a continuation of the debate on the issues until 3 p.m.; then they will be adjourned until tomorrow and we will resume the list of general speakers. So there will be no resolutions nor working groups today but we will resume the list of speakers on the general issue of whether or not Australia should become a republic at 3 p.m. today and continue through until adjournment at 7.30 tonight. I call first Mr Lockett to be followed by Mrs Milne and the Hon. Vernon Wilcox.

Mr LOCKETT—Mr Chairman, fellow delegates, I have not done anything quite like this before. I think probably the closest I have come is debating with embezzlers, murderers and miscellaneous other villains resident in Risden prison. I am a non-aligned delegate, elected under the title 'the Voice of Ordinary, Fair-Minded, Thinking Citizens'. That makes me one of a very small, select group of delegates chosen as individuals by the people to represent them as individuals rather than any body or organisation. I was elected on a statement which begins:

> Reclaim your Convention. Stop it becoming a winner-take-all battle between politicians, lawyers, monarchists and republicans, each pushing their own barrows.

Afterwards, many people came up to me and said something along the lines of, 'I voted for you to bring a bit of commonsense into the proceedings.' I now find myself surrounded by, would you believe, politicians, lawyers, monarchists and republicans, each pushing their own barrows, not forgetting of course the academics.

Some of the statements I have heard since I became involved in this process suggest to me that, if intellectual contortions were introduced as an Olympic event, we would make a clean sweep in Sydney 2000—for example, the delegate who, in supporting a motion for a balance between the sexes, proudly boasted of her organisation's high achievement in having achieved imbalance between the sexes. And people want me to bring some commonsense to the proceedings. One can but try.

You may be wondering why someone elected on a non-aligned ticket is speaking on a republican model. The answer is that, while I believe it is up to all the people and not this Convention to decide whether or not we become a republic, I nevertheless believe that it is our task to devise republican proposals which are not only safe, sound in principle and practical but most likely to be most acceptable to most people. Only when all the people have voted on such a proposal will we have a true measure of their desire for change.

My election statement also said, 'Our head of state must be truly above politics.' I believe the people want to feel that their head of state represents all of them. When I looked at the proposals for popular election and the two-thirds parliamentary majority proposal, I quickly decided that, in addition to other objective, they would not satisfy that fundamental criterion. So to the McGarvie model, and I would like to thank Mr McGarvie for the correspondence we have had on this. It has certainly helped my thinking. But this model in turn has its faults. Professor Craven did a sterling job in defending it this morning, but I still see some faults.

The intellectual contortionist would be truly tested in explaining to the people the fundamental internal contradiction within a system which sets up a council by a process designed to minimise the chance of political manipulation, then obliges the council in its actions to be totally subservient to the wishes of a Prime Minister of the day. Citizens may well see the Constitutional Council as a smokescreen to conceal the fact that the decisions are actually made by one politician who, as has been pointed out, has not been put in the position of Prime Minister by a direct mandate from

the people anyway. Surely, a powerless council is a pointless council.

I am also unconvinced of the logic of the argument that the stability of our current system depends on the instability of its principal players. Talk of a nice balance conjures up images of ballroom dancers, whirling in perfect coordination. But at times when the dismissal provisions are likely to come in play they would be more like judo players circling each other and trying to catch each other off balance, with the fate of the nation depending on who has the fastest footwork. Imagine what Gilbert and Sullivan might have done with such a farcical scenario.

The idea that the opprobrium arising from inappropriate dismissal of the head of state prevents abuse sounds to me too much like the justification of the nuclear arms race: if we make the consequences of pushing the button sufficiently horrendous, no-one will do it. However, it is not the actions of reasonable people against which we need to protect ourselves, but those of people who under pressure might act without regard to the consequences. Could it be that the apparent historical stability of the present system is an illusion due to it never having been really put to the test by in effect the captain of the leading team trying to dismiss the umpire when he perceives that that person is likely to bring down an adverse ruling. Incidentally, I believe that the people want the head of state to retain the umpire's functions.

Professor Craven this morning ended his defence of the McGarvie model with the question: if not this, then what? Well, try this. I have attempted to build on the strengths of the McGarvie model while overcoming some of its weaknesses.

Firstly, I would remove the Constitutional Council from political influence by giving them genuine freedom of action.

Secondly, instead of making it answerable to the Prime Minister of the day, I would make it answerable to what in the absence of the Crown is the rightful source of all earthly authority: the people. I would do this by making the committee's choice of a single nominee for head of state subject to ratification by all the people in a simple postal referendum. In the case of removal, the council would have powers of immediate suspension where circumstances made it appropriate with, again, a referendum of all the people required before final dismissal. I believe this would avoid the problems of politicising of the office inherent in popular election and the two-thirds parliamentary majority model, while giving the people a sense of ownership by effectively giving them the power of veto over the council's selection. If the council was itself well respected and seen to be above politics, then I believe the people would be generally happy to accede to its advice.

The process would ensure that the council nominated people who were not only well qualified but also widely acceptable.

I do not claim this model to be perfect and I will not take my bat and ball and go home if it is not accepted—others may be able to improve on it—but I do believe that its weaknesses are less than those of most other models. It could bring us a step closer to that most elusive of creatures: the model most likely to be most acceptable to most people.

Mr WILCOX—Mr Chairman and delegates, I was elected from a group which carried the title 'Safeguard the People'. Bruce Ruxton headed that group. I won't say much about Bruce. I could say a good deal, but what I will say is: his heart is in the right place. I would like to remind delegates that when persons were elected—and half of the delegates were elected only 46 per cent of the people of Australia voted. So I do not think we should get carried away by that; we should not kid ourselves.

There are vital safeguards in our present Constitution and our system of government against any government which may become all powerful. That has happened in history around the world. There must be somebody over and above the government of the day for the protection of the people.

The issue on the *Notice Paper* this morning goes to the very core of this matter; it deals with replacing the Crown. I put together a few thoughts before we reached the maze of resolutions yesterday. The issue before us is that if you sack the Queen—it does not matter

whether it is a king or a queen—what do you put in place of the Crown?

I come here, as I am sure many others do, in the interests of everyone, including Aboriginal Australians. I come here in the interests of Australians, whenever they came to this country and wherever they came from. If they call Australia home, that will do me. I am not automatically against change. No system of government stands forever. It may well be that our system of government needs some changes other than those relating to the Crown and a republic, but this Convention and the Australian people must be aware of the risks of changing something which has worked—that is, our Constitution—without understanding what is proposed in its place.

In any system of government—others have said a number of these things—there must be checks and balances on executive power. The Americans understand this, but they had had to fight for their Constitution. We were spoilt. It may well be that if we had to fight for it we would know more about it, but we were spoilt. We had much of our system of government, apart from federation, handed to us on a plate. I do not hear of Americans holding conventions to change their Constitution. They are more likely to have celebrations for it.

I wish to draw attention to a few matters which I consider are necessary when dealing with this particular matter of the head of state, the core of our Constitution. In view of time constraints, I will give just a little historical perspective—we need a bit of that. Firstly, the founding fathers with a series of conferences and conventions took two decades—not two weeks, two decades. When Mr Beazley spoke, I think he said that this Convention is an experiment. There might have to be a few experiments. Secondly, the Constitution has served us well for nearly 100 years. It has provided a framework for governing in Australia—that is all a constitution can do—and it has worked. Let us be quite clear about that.

The unwritten conventions have enabled us to deal with crises from generation to generation. I know that there is one former Governor-General and two former state governors here. There are others who have had experience and, historically, dealt with crises. But they have been dealt with because, from generation to generation, they were able to meet the situation at the time. They knew what was involved and they knew their respective duties.

The framers of the Constitution were, in the main, members of sovereign parliaments in their respective states. The federal nature of the Constitution is in itself a great safeguard with its division of powers—whatever the High Court and the centralists might try to do to it from time to time.

I am glad that the Premiers have taken part in this debate, yet there has not been much thought given to the states and their respective constitutions in any possible change. In all the talk, the chatter and the media hype about a republic, that seems to have been neglected. But I am glad some Premiers were here to speak. Listen to them!

Fourthly, as a matter of fact, there are seven parliaments in Australia, each with some sovereign rights. The states grew out of European settlement and each has a different story to tell. European settlement has been a great success. I am talking history. It was a triumph of courage and faith in a geographically inhospitable land. We owe so much to our pioneers, who I am sure would be most interested in this Convention—particularly of course the framers of the Constitution; the founding fathers who displayed great vision for a new nation which was to become a Commonwealth, a federation. They were truly amazing people. In case anybody thinks I do not respect gender, they were amazing men and no doubt they had some amazing women standing by them.

I believe that two world wars and other campaigns in which over 100,000 Australians died in the service of their country united this nation under the Constitution. Mention of national unity leads me to today. I deplore the divisions which have been brought about in Australia. This is not the place to go into that, but there are divisions. There is unease throughout the Australian community. There is insecurity, which includes a widely held view that governments of all persuasions

bring about or allow changes to our lives to occur without the involvement of ordinary Australians. Okay, it may be our fault to a real extent. There is much apathy and even undue criticism of our parliamentarians without our ever thinking that we put them there by whatever process, helped or hindered by the media.

I mentioned ordinary Australians, and that counts for most of us for most of our lives. I can see some reasons for their unease, and I am just going to mention them very briefly. One is that they feel that there are elite groups which are often out of line with ordinary Australians. There are, of course, exceptions to any general statement which I will make, and some exceptions are here as delegates to this Convention. Let me just mention a few elite categories: parliament and the executive government, with the attendant bureaucrats; academics, many without the experience of life at the coalface; business, highly remunerated executives; courts—with special mention of the High Court—on occasions usurping the position of the legislatures; and media, vital but full of their own importance. It is not very politically correct to mention some of those things, but I am not going to be politically correct.

Finally, I see the difficulties at the Convention with the various models proposed for a republic. At present they all have some flaws. The models proposed are called minimalist. I presume this is so as not to frighten the people too much. It may well be—and I want to make this point—that more work on a model beyond this Convention would be a course to pursue. If the Crown is to be removed from the Constitution, the dilemma is how to do it and how to preserve the safeguards. With the Westminster system, it started with an absolute monarch up there from whom parliament for the people wrested absolute power, but they retained the Crown—a titanic struggle nearly four centuries ago.

There is, of course, a fundamental difference with any republican system, such as the United States of which we hear more than others, but others have been mentioned. *(Extension of time granted)*. I think they perhaps should be looked at in due course. In the case of America, they had to fight and get rid of the monarch; therefore, they had to start at the bottom with the people and work up to Congress and President. This essential difference is worth bearing in mind and, in my view, deserving of more study.

In conclusion, I will continue to listen to delegates. I will agree with some and I will disagree with others, but this chamber, as you know so well, Mr Chairman, is used to that sort of thing. That still has not disrupted all unity throughout most of its history. I hope that, whatever the outcome of this Convention, subsequently there will be a path to unity rather than division in the land that I love—and I know I am not alone in that here—because, despite all the modern globalisation, this is my native land.

CHAIRMAN—I now call on Mr Malcolm Turnbull to speak on the issue of the day.

Mr TURNBULL—We are now dealing with the method of election. There has been a bit of controversy as we all know about the method of directly electing the head of state. Those who favour direct election for an essentially powerless head of state, which is the Irish model that is being discussed here, claim to do so in defence of popular sovereignty. They have said that indirect election by parliament is an outrage and a denial of popular sovereignty. But is it not a paradox that they believe the people's popular sovereignty demands the people should elect a powerless ceremonial head of state but the head of government, the Prime Minister, should be indirectly elected by the House of Representatives?

Mr RUXTON—Point of order, Mr Chairman—

CHAIRMAN—No need to interrupt him, Mr Ruxton. Must you do so now?

Mr TURNBULL—Mr Ruxton is on his feet. I am silent.

CHAIRMAN—What is your point of order, Mr Ruxton?

Mr RUXTON—My point of order is: how did Mr Turnbull jump the queue?

CHAIRMAN—Like many other delegates, he has exchanged his place of speaking with another delegate.

Mr TURNBULL—Thank you, Mr Chairman. I trust I will be given a little extra time to accommodate Mr Ruxton's intervention. The only direct election model which is intellectually consistent with the proposition that popular sovereignty demands that the people directly choose their leaders is one where the chief executive of the nation is also the head of state, which is the Ted Mack American-style model.

Far be it from any of us to criticise, deride or denigrate the American constitution, but it is preposterous to suggest, however compelling that model may be, that right now in 1998 there is any prospect of getting broad or any significant popular support for an American-style constitution. So I would say to the advocates of direct election on the Irish model: why is indirect election acceptable for the Prime Minister, the office holder with all the power, but utterly unacceptable and an affront for a ceremonial head of state?

I turn to what has been called the McGarvie model. This is essentially the ultimately minimal proposal where the Queen is replaced by a Constitutional Council and essentially the Prime Minister continues to be able to nominate and remove the head of state at his whim. This model was suggested to the Republic Advisory Committee by a number of people, including Richard McGarvie.

This model is a blindingly obvious minimal development. You take out the Queen and you put in something else. Indeed, it was suggested to us by a number of heads of government—Premiers and so forth—a number of governors, former governors and former governors-general. It is a perfectly sensible model if you start from the premise of having absolutely minimal change.

But we asked ourselves in the ARM when we considered this how we could improve the existing system. We asked ourselves: what would a Prime Minister do who was acting in an ideal fashion, who was being the ultimately reasonable Prime Minister? What he would do is consult with the Leader of the Opposition and say, 'I'm considering these people. What do you think?' and he would ensure that there was broad support. Would we not regard it as an improvement in our constitutional affairs if the Governor-General always had the support of both sides of parliament?

We accept a process of consultation already with the appointment of judges. Sometimes that does not always present somebody who is bipartisan, but there is a concession of a process of consultation between the federal and state governments. The ARM model ensures that you will have as a head of state somebody who has bipartisan support. That surely is an improvement.

Where the criticism of the ARM model has, it is fair to say, some merit is in the area of dismissal, and I think it is fair to say that the bulk of Mr McGarvie's, Mr Howard's and others' criticism of the ARM model has been directed at that. The reasoning given is that you get a head of state who cannot work with the Prime Minister, the situation is untenable and the Leader of the Opposition is not going to accommodate the Prime Minister in removing him. It has never happened in our federal system. It is an extreme circumstance, but we accept that in a contest between the head of state and the person who commands the majority of the members of the people's house the people's house must prevail. At the end of the day, the House of Representatives must prevail in that contest.

So we are very open, as I said in my opening remarks, to different models for removing the head of state. They could include a decision of the Prime Minister alone, perhaps formally mediated by a constitutional council along the lines of the one that Mr McGarvie has been discussing. We could say that this motion of the Prime Minister's to remove should have the support of a majority of ministers or a majority of members of the Executive Council in order to get around the problem occasioned by circumstances similar to those that faced Sir Joh Bjelke-Petersen when he was Premier of Queensland and lost the support of his cabinet. He wanted to advise the Governor to dissolve parliament as a means of escaping from his own internal party room difficulties. One could say that, if he had had the power

to sack the Governor instantly, he may well have exercised it. So there is some merit in having a process, be it a majority of the members of the Executive Council or a constitutional council of the kind Mr McGarvie has proposed, which would act as a brake against that rare circumstance.

The model which attracts the ARM is a simple majority of the House of Representatives. We believe we should affirm our confidence in and commitment to the parliamentary system. That would almost inevitably mean the Prime Minister would have his way, but he or she would have to persuade their party room and be prepared to stand up in front of the Australian people and say, 'This is what I'm doing,' and allocate some reasons for doing so.

A concern has been raised with us by several delegates about what happens if, in between the Prime Minister recalling parliament to move this motion, the head of state leaps in and sacks the Prime Minister and appoints someone else. There is a simple and straightforward solution to that. It would fit very well into clause 5 of the partial codification model—which is at page 105 of the RAC report—which would be to say that, between the notice of recalling parliament or the notice of motion to remove the head of state and that vote being taken, the head of state cannot dismiss the Prime Minister or dissolve parliament. That would mean that, during that interim period, essentially there is a stand-off, nothing could be done by either party to the other, and then parliament would make up its mind.

I now want to deal with the issue of nomination. We believe that there is considerable scope in the parliament, presumably through a select committee, consulting widely with the community as to who would be an appropriate head of state. In a sense, this happens already because, as the term of one Governor-General is coming to an end, there is speculation as to who the next person will be and there is commentary and so forth. That is perfectly defensible and important in a democracy, but we believe there is merit in having a more formal process. Whether that should involve nominations being made with so many signatures is an interesting concept.

We want to talk with other delegates about this and work up something that is feasible. I suspect that a commitment to consult, an obligation to consult, and an obligation to take into account the submissions of the public may be more effective than having a process of people sending in nominations, because there may be some very good and valuable views which do have broad support but the proponents of which have not sat in shopping centre for hours. *(Extension of time granted)* It would be more effective than having a formal signature, write-in nomination proposal.

We are very open to a community based method of consulting to ensure that the interest of the community in supporting eligible candidates is taken into account. I am sure that, as a matter of practice, that would happen now. Governments would take that into account and, under the two-thirds model, oppositions would also take into account the suggestions from the public.

Those are my contributions on the mechanics. I want to conclude with a single observation on the politics of this. Although not all of you will agree with this, I believe that all of us have a great interest in the republic referendum being won. We cannot afford for this referendum to be lost. It is important that the model that be put up is one which recognises popular sentiment as far as is possible, consistent with our constitutional arrangements.

Mr HAYDEN—Consistent with our belief in our own superior wisdom. That is why you are excluding the public from the ballot.

Mr TURNBULL—No, Mr Hayden. You have never had any lack of confidence in your wisdom, superior or otherwise. There is a strongly held view in the community that a politician should not fill this job. That is a view that has been held for a very long time. There was considerable resentment at the appointment of Mr Hayden. I am not suggesting that he did not do a good job, but there is real resentment against the appointment of politicians. That popular concern can be addressed, can be allayed, by the two-thirds

nomination method. It will ensure that the Bill Deanes or the Ninian Stephens of this world will be Governor-General, not the Bill Haydens. History may ultimately decide that that is a loss.

Mr CASTLE—What about Keating?

Mr TURNBULL—Keating could never get the support of a two-thirds majority. That is the whole point. That is why, ultimately, Mr Keating supported the two-thirds methodology because, plainly, had he supported any other methodology, people like you would have said that he just wanted to be president. No former active politician could conceivably be our head of state under the methodology we have proposed. That is the single most important political case for the two-thirds methodology. It improves the method of appointment because it ensures that an impartial office has bipartisan support, and it will enhance its prospects of success in the referendum.

CHAIRMAN—Thank you very much. There have been a number of other people who have changed places and, to satisfy the proper inquiry of Mr Ruxton, I will explain that Dr Tony Cocchiaro is replacing Ms Sallyanne Atkinson, who will now drop to No. 13 on the list, where Mr Malcolm Turnbull is listed. Dr Cocchiaro will be followed by Mrs Christine Milne.

Dr COCCHIARO—Mr Chairman, delegates, before I outline my position, I will explain my background, because I think it impacts on what I am going to say. I am a general family doctor in a working-class area and I am involved with multicultural groups. Talking of multicultural groups, when Working Group A presented its paper it included lots of groups in Australia on the selection panel for the president, but seemed to have forgotten completely the 30 per cent of Australians who are of non-English speaking backgrounds. Groups such as multicultural communities councils and ethnic communities councils in all the states represent hundreds of organisations. Altogether, they form the Federation of Ethnic Communities Council of Australia. Anyway, I am sure that that is something that could be fixed if that resolution were ever passed.

As I was saying, I believe I can lay claim to being fairly well in touch with that very large and usually silent section of the Australian public. In my job as a GP, I talk to people ranging from the unemployed to the very well off, other professionals, et cetera, and I get a sense of what they feel about the future of Australia.

My other advantage, which in this setting is probably very important, is that I have never been and am not now a member of any political party. Like 70 per cent of people, my first reaction when I thought about this republic and how to choose a president of Australia was to have a popular election. It is democratic and elections ensure that the citizens of Australia are the supreme power. That is obvious. What better way to get one person who embodies what Australia is than by popular election? But then I thought about it.

These sentiments are fine in an ideal world. We should always strive for improvement in our world—and that is why we must have a republic, by the way—but improvements come slowly, with difficulty, and with painstaking work, as I am sure Malcolm can tell us, over the last many years.

We are in the real world, and the real world of politics says that to properly elect a president would require wholesale changes to our system of government. We would need to have something like the American style of presidential system. I contend that, although they are much better at marketing their system then we are, theirs is not a better system. I believe our system is better than the American system. Perhaps we could market it better.

Besides that, even if we wanted to change to a presidential American style system, how would it happen? It would be very difficult and would virtually require a revolution. Therefore, I came to the clear conclusion that we have to work with the system we have. We are happy with the system. The other system does not seem to be any better. Once you come to that conclusion then the system that we have dictates that the president or the head of state must not have his or her own large power base. That president must be able

to work with the Prime Minister in a balanced way.

Having arrived at that conclusion, the options available to us to elect or nominate the head of state are simple. Election may be attractive but it is not an option. It cannot be an option in our present system. I strongly endorse Working Group C's resolution of having two-thirds of both houses of parliament in a joint sitting nominating and electing a president with dismissal by the majority of the House of Representatives.

I noticed that Geoff Gallop questioned the concept of citizenship of delegates not supporting direct elections. I believe that nothing could be further from the truth. It is loud and clear that commonsense balanced with justice, balanced with democracy, is true citizenship. I am sure that the monarchists, having heard the republican arguments and seeing their backs to the wall, will show citizenship and vote for a republic on the last day.

In summary, the two-thirds parliamentary majority election with a majority of House of Representatives dismissal is my clear and first option, and I urge delegates and the public generally to support this. If, as appears, Australians do not trust politicians to elect a president, then we should institute perhaps some other method of electing the politicians or elect other politicians. We already have too many elections, too many politicians. Why would you want another election?

Senator BOSWELL—And another politician.

Dr COCCHIARO—I am getting to that. Exactly. Especially when the president is in a non-executive position. Surely he or she can dismiss the Prime Minister. Surely he could embody the soul and express the feeling of the country. He could carry out ceremonies. But the president cannot raise or lower taxes. They are the important things. So why have more elections? There appears to be only one valid reason. It sounds very democratic, but the crunch is that an elected president is unlikely to be partial and democratic—as you have said, sir—and we will get a better, more cunning politician than the other politicians. That is all we will get if we elect a president.

Therefore, I appeal to fellow Australians and to delegates to think about what I have said. We need and must have a republic. We need to go forward. Our system of government works reasonably well. Let us have some control on the president via our elected politicians, so we do have control, and the public, the citizens of Australia, do have control over the president because we have control of our politicians. That is ample, in my opinion, and the group C resolution should be the one adopted.

CHAIRMAN—I now call Mrs Christine Milne MHA, to be followed by the Hon. Jeff Shaw.

Mrs MILNE—Friends and fellow Australians, if there is to be a head of state, what should be the arrangement for appointment and dismissal? Normally, that is a complex question, but the answer today is simple: ask John Howard, Malcolm Turnbull and Gareth Evans, acting as proxy for Kim Beazley, because there is already an agreement between these three white, middle-aged Anglo-Saxon men that the nomination for an Australian head of state will be ratified by the parliament on the advice of the Prime Minister and can be dismissed by a simple majority of the House of Representatives. If they had their way, the debate would be over.

Executive government in this country is so dominant and all-pervasive that this critical question has already been decided. And it has been decided by the ruling elite to preserve the existing concentrations of wealth and power in Australia. Why have a Constitutional Convention if, on its second day, the options regarding the powers and therefore the method of election of the head of state were to be so swiftly curtailed by what amounts to deals by factional leaders speaking on behalf of people who were elected to have a mind of their own?

When people voted in the election for delegates to this Convention, overwhelmingly they voted either for a republic or for a constitutional monarchy. I have no doubt that republican voters expected that the Australian Republican Movement would be open to the ideas of the Convention and to the people of Australia here at this Convention. They will

now be stunned to learn that yesterday Malcolm Turnbull allowed a conscience vote on a particular resolution, clearly indicating that the Australian Republican Movement delegates do not have discretion on all issues. I wonder if the Australian people ever thought, when they voted, that their only option for a republic would be restricted to the republic of John Howard's imagination, and that the lowest common denominator would prevail in acquiescing to it? If ever the tyranny of mediocrity was to be resisted it should have been here in this Convention on the future of Australia and the future of our Constitution.

Yesterday's vote on the options was a carefully contrived political manoeuvre to deny the Australian people a say in their own democracy and to reduce their involvement in the choice of a head of state to the category of consultation by the Prime Minister. After two decades of consultation on lots of issues, the people of Australia know that consultation means a tiresome and time-consuming process which delivers only what the government wants. Those of us in the environment movement are more familiar than most with being involved in endless consultation processes which end only with tinkering at the edges and never fundamental change. Part of what is wrong in Australia at the moment is the widespread belief, by ordinary people that, no matter what they think, the political process is unresponsive. How must these Australians who wanted to elect a head of state feel today? The two questions of power and methods of election are seen as being closely connected, so to quash debate on a reduction of the powers of the head of state was therefore to quash debate on the possibilities or options for popular election.

For the Australian Republican Movement to join monarchists in denying such a possibility is staggering. However, in spite of an apparent victory on the question of a properly elected president, I reject the notion that the debate on popular involvement in the nomination and election of a head of state is over. Is it not possible that the existing powers of the Governor-General, with partial codification, could not be bestowed on a new head of state elected by popular election? Why not? The answer is because there is an unspoken view that we do not trust the people to exercise judgment and discretion in terms of a suitable candidate to fulfil the role and functions of a head of state. So I ask then: why do we trust the people to elect a person to run the country and exercise the powers of a head of government?

If ever there was an argument for a popularly elected president, it was yesterday. How else, but by popular election, are we ever to achieve sufficient independence for our head of state from the legislature and the government of the day? As Harry Evans has said:

> All the schemes for election and appointment of the Governor-General by the parliament involve the Governor-General in effect being appointed by the government of the day. They are really only a gloss on the system allowing the Prime Minister to appoint the Governor-General. A parliamentary system, in my view, cannot work unless the head of state, that is, the umpire in the system, has sufficient independence from the government of the day and from the legislature, and that means direct election.

Harry Evans goes on to say:

> I think it's highly desirable to have somebody with another source of political legitimacy and a separate source of political power. The whole idea of constitutional government and the whole idea of republican government is that you don't allow one person or one body of persons to become the sole repository of power.

I know the arguments against popular election, and I share some of the concerns expressed by people about popular election. My concerns are not that someone suitable would not be chosen by the Australian people but rather that such a process would enhance the chances of people with money or party political support and could exclude those people—especially women, indigenous people, people from ethnic minorities and so on—from a fair chance, and that such a process might also even exclude high calibre candidates who would find the prospect of an election campaign demeaning.

But I wanted the chance to hear the arguments. I wanted the chance to listen to the proposals for overcoming those difficulties and not only to listen to them but to have them taken seriously. Now, at best, that will be a sham. We will have a day of talking

about it but, as I said, the real decision has been made. I wanted to hear about democratic nomination processes and the mix and match of democratic nomination and then appointment, or appointment and nomination and then popular election. But we are not going to have the complexity that that debate demands.

The people of Australia, I think, deserve better. In a few years, when the pendulum swings back from the Right and a republic is in place in Australia but nothing in Australian society has changed, in their disillusionment the people of Australia will ask: why was the Convention in 1998 so cowardly and persuaded by what was not possible rather than inspired to choose a preferred future and find a way of getting there?

Finally, I would like to ask you to consider this quotation from Lewis Carroll's *Through the Looking Glass*:

"I can't believe that," said Alice.

"Can't you?" said the Queen in a pitying tone. "Try again, draw a long breath and shut your eyes."

Alice laughed. "There is no use trying," she said. "One cannot believe impossible things."

"I dare say you haven't had much practice," said the Queen.

I urge delegates to set aside conservatism, to stop finding reasons to quash innovation, and to stop the caucusing which prevents you from actually listening to what other people have to say and taking it on board. I ask you to dare to believe in what is rapidly becoming an impossible thing: a truly democratic republic of Australia reflected in fundamental reform of the Constitution.

Mr SHAW—While the issue of the powers of the head of state that we dealt with yesterday might have been the most conceptually difficult of the Convention's issues, I think the issue of appointment and dismissal has proved to be the most controversial. Could I just crystallise the three options: firstly, the appointment of the head of state by a constitutional council—the McGarvie model; secondly, popular election of the head of state; and, thirdly, the election of the head of state by a two-thirds majority of a joint sitting of the federal parliament.

In relation to the Constitutional Council, obviously it would involve minimal change and would be inexpensive. However, given the reserve powers which would most likely still reside in the holder of the office, I believe that there are real difficulties and risks in leaving the appointment in the hands of what would be essentially an unelected, unaccountable oligarchy. It is clear that the community expects the process of selection to be transparent and for there to be a measure of popular input. So whilst I appreciate the arguments for that option and it has obviously been put forward in the utmost good faith, I think there are practical problems and problems of principle about it.

As for the popular election, that has a simplistic, romantic attraction. We are told that that is what the people want. According to opinion polls, it is the most favoured method of selecting the head of state—certainly it would give every eligible voter a say in the process. But there are significant drawbacks which I believe should cause us to pause and consider whether it really is the optimal way forward.

It would obviously be expensive. The logistical difficulties of nationwide campaigns and the attendant costs would mean that the only realistically viable candidates would be those from major political parties or those with access to substantial funds—the independently wealthy, or those who are representatives of powerful vested interests. As other speakers have eloquently put, there is the danger of creating a rival power centre to that of the elected government. I would like to refer to the warning on this point given in a treatise on federal government by Madison and Hamilton, published during the negotiation and creation of the American Constitution. They wrote:

Wherever two or more persons are engaged in any common enterprise or pursuit, there is always danger of difference of opinion. If it be a public trust or office in which they are clothed in equal dignity and authority, there is peculiar danger of personal emulation and even animosity. From either, and especially from all these causes, the most bitter dissensions are apt to spring. Whenever these happen, they lessen the respectability, weaken the authority and distract the plans and operations of those whom they divide. It might impede or

frustrate the most important measures of the government and in the most critical emergencies of the state. What is still worse, they might split the community into the most violent and irreconcilable factions.

This danger would be significantly increased, of course, if the powers of the head of state were left intact and unrestricted. This would be tantamount to effectively transforming our system of government. One consensus that I believe is discernible around this Convention, although not universally held, is that our system of government works well and ought to be maintained without radical or unnecessary change. An election which results in a narrow win for a candidate, especially if the contest is bitter, would then make it impossible for the victor to be a politically neutral and unifying symbol of the entire nation, which is precisely what the occupant of this office must be.

Some have argued in favour of direct election on the basis that it will give power to the people and will threaten the dominance of the main political parties. I believe that is, with respect, naive. If the people elect their parliamentary representatives almost exclusively from the ranks of political parties, they will also elect their head of state from the candidates put forward by the political parties. The elected head of state will give no more power to the people than the people's elected parliamentary representatives already provide.

The preference for popular election stems in part from an alienation from politics and a desire to bypass politicians in choosing a head of state. That dissatisfaction is a serious matter in Australia today but, in my view, it is not resolved by the direct election of the head of state. Although the public must ultimately take responsibility for the people elected, the political system as a whole, including the parties and politicians, should take note of the public's negative view of the system and work to improve it.

In my view, the best means of appointing the head of state is to have a joint sitting of the parliament and require a candidate to secure two-thirds of the vote at that sitting. In effect, the election within parliament will be a ceremonial process. The political parties represented in parliament will need to negotiate between them a candidate who commands as broad as possible support. A head of state so chosen will command at least bipartisan support and will be a unifying and impartial figure. The head of state will not feel like he or she has a mandate to act independently of the government. This will assist to maintain our system of Westminster government which has served us well to date.

Some have suggested that this method, like direct election, could also have the potential result of the head of state believing that he or she has a greater mandate than that of the Prime Minister. I think that view is misconceived. By being elected indirectly by a special majority of the parliament and by being accountable to the directly elected representatives of the people, the authority of the office of the head of state would be dependent on the authority of the parliamentarians. This would assist in ensuring that, although being above politics, the position of head of state would not assume the role of being above the government of the day.

May I turn to the issue of dismissal. Regardless of the mechanism by which the head of state is elected or appointed, dismissal should be by way of parliamentary removal. The determination should be made by a simple majority of the House of Representatives.

A question arises as to the grounds for dismissal. I do not believe the grounds for dismissal should be specified. The Prime Minister and the party from which the Prime Minister is drawn would be very unlikely to dismiss the head of state, despite there being no threshold finding of fact to be established. The electorate would hold the government responsible for any capricious or unreasonable dismissal.

If the Convention were to decide that the Constitution should provide a guide or a ground as to when a head of state should be dismissed, I think that some analogy is provided by section 72 of the Constitution which covers the removal of federal judges, including High Court judges. The formula in that section is 'proved misbehaviour or incapacity'. This does not predetermine what facts amount to 'proved misbehaviour' but, in

any particular case, allegations of misbehaviour will depend on some allegations of fact which need to be demonstrated. This broad expression would include: crimes, the betrayal of public trust, as well as violation of the Constitution.

If the Convention does decide that there is some preliminary finding of fact needed—such as misbehaviour—before dismissal occurs, neither house of parliament is an appropriate body to make such a finding. A better approach would be to appoint an ad hoc committee or commission drawn from outside the parliament. This body would be provided with terms of reference framed in such a way that its task is strictly limited to preliminary findings of fact. The question as to whether the facts once found are sufficiently serious to constitute grounds for removal should be determined exclusively by the parliament. Within the parliament, the relevant determination should be made by the House of Representatives in accordance with its standard procedures. During such a process, the power of the head of state to dismiss a government or to dissolve the parliament without or contrary to the advice of the government of the day should be suspended. Otherwise, a head of state under the cloud of investigation for some alleged wrongdoing or incapacity could seek to escape the mechanism of accountability by causing a precipitant election.

In conclusion, I believe that the parliamentary appointment method contains the correct balance between the desire to maintain the best features of our current constitutional arrangements and the introduction of democratic input into the selection of an Australian head of state. The system of removal that I have outlined makes the Australian head of state accountable to the people of Australia through the majority of their parliamentary representatives. Thank you.

Mr COWAN—Before providing answers to the question before the chair, there are some quite fundamental issues which must be addressed by this Convention. The Constitution and the Commonwealth were created by the states arising from the conventions and the state referenda of the 1890s. The position of the states should not be ignored in attempts to shape a model for a republic. With a change to the head of state we will still have a federation, we will still have the states and we will still have one indissoluble federal Commonwealth. So the states cannot be ignored, nor can the people of any state, nor can the position of state governors who are the umpires of vital parts of our federation.

The states joined as equal partners in creating the Constitution and the Commonwealth. I would not support a situation where that Constitution divides or downgrades the equal status of the states. We should be sure that the consensus that was achieved in creating the Australian Constitution is achieved again, if such a fundamental change that Australia becomes a republic is to be put to the people. As a matter of principle, any referendum under section 128 of the Constitution to bring into effect a republic should only be assented to by the Governor-General under section 128 if passed by a majority of all voters and a majority of voters in all states. If this is accepted, it does provide a higher point of principle and consensus for the purpose of creating such a fundamental change to a republic.

It has been claimed by those proposing a republic that it will unify us as Australians, that we can more proudly be Australians with an Australian head of state—cut out the Queen and we can hold our head high among other nations at the Sydney 2000 Olympics as independently Australian. I have spent five years travelling the world promoting Western Australia, and I have never had the question put to me that I am not Australian because we have the Queen as our head of state.

If the majority of Western Australians decide at such a referendum that they do not want a republic, are they then any less Australian? If they decide, for whatever reason, that they do not trust a move to change their head of state, their Governor, do they renounce their Australian heritage or are they simply to be treated as misguided Australians who hopefully will come to their senses in time to make the supposed essential change? On page 4 in the executive summary of the Western Australian Constitutional Com-

mittee's report, there is a very important message:

> The Committee has been impressed by the extent to which the many Western Australians who made oral and written submissions to it are conscious of their identity as both Australians and Western Australians. We would have a defective republic if, in the view of the majority of voters in any state, the Australian head of state was not really their head of state. Respect for the position comes from a general acceptance that the position carries the authority it deserves.

I would hate to see a situation where an Australian head of state would be welcome only by a minority of people in any state of Australia. A majority of voters in New South Wales cannot pave that welcome for the head of state in Western Australia if the majority of people in Western Australia do not equally think, feel and vote for it—and they will not grow into that view over time if they first reject that view at a national referendum.

If you believe this to be wrong, simply look at the issue of daylight saving in Western Australia which has had a long history of rejection at referenda. While a majority of eastern states enjoy daylight saving, Western Australia is different. While most people have an opinion about daylight saving, everyone accepts that it is not practical in that state. This is not an argument for separatism or special pleading. For those who wish to have a republic, it is not an argument for letting one state step on the hose or drag down the rest of the country; it is a democratic argument for ensuring that we are all part of the same country. It is also an inclusive and truly federalist argument.

A republic is not something that can be driven in over the top of people. I do not accuse those in the Australian Republican Movement of doing so; they do genuinely believe that the public will come with them. What I am suggesting is that should a clear model for a republic be developed by consensus from this Convention then the terms of a referendum for change should be drafted and put to the appropriate constitutional amendment processes; that is, at the Commonwealth level, a republic should be voted on in a section 128 referendum.

However, on issues that affect or concern state constitutions or governors, then state processes—whether state referenda or legislation—must be utilised. Therefore, a referendum under section 128 could be held in tandem with similar state referenda as they are required by state constitutions or legislation proclaimed to coincide with the outcome of the referenda. Should a majority of voters in all states decide to vote in the model for a republic, then this will come into effect for all Australians at the same time.

There is and should continue to be a clear distinction based on the federal nature of Australia's constitutional arrangements between the amendment of the Commonwealth Constitution and of state constitutions. Simply put, section 128 of the Commonwealth Constitution must not be used to effect changes to state constitutions. Apart from legal arguments about the limitations on the scope of section 128, the only appropriate way to effect changes to state constitutions is via the mechanisms which the states themselves have adopted.

There are no justifications either in principle or practice for section 128 to deal with, for example, the position and powers of state governors. Any attempt to do so will involve far-reaching consequences. Examples include: an unwelcome and unnecessary, not to say distinctly non-federal, development in the processes of constitutional change and amendment in Australia; the amendment of state constitutional structures, institutions and powers by a national referendum which is opposed by a majority of voters in the state. That is, unacceptable changes might, for example, be imposed on one or two states by other Australians.

If a section 128 referendum can penetrate so far into state constitutional arrangements to be able to remove state governors, then there appears to be no limit to what future section 128 referendums may do. To put it succinctly, the people in New South Wales, Victoria, South Australia and Tasmania could amend the Western Australian constitution or even the Queensland constitution against the democratic will of the people in Western

Australia or Queensland. That is taking centralism too far.

The argument that those who favour a centralist or non-federalist approach by advocating use of section 128 to impose a republic at both the Commonwealth and state levels and disregard a true Australian consensus are not only standing on dubious constitutional grounds but equally importantly are throwing away the very basis of how our Constitution was created and continues to be sustained. It will rankle state parliaments and it will rankle voters in states—most definitely in Western Australia. Similarly, any attempt to use section 15(3) of the Australia Act to impose a republic on the Australian public would be undemocratic and unwise.

DEPUTY CHAIRMAN—I call the Hon. Denver Beanland, the Attorney-General of Queensland.

Mr BEANLAND—Thank you very much Mr Chairman, ladies and gentlemen. Power and all of its aspects is the fundamental question on each issue which we are debating here at this conference. So far at this Convention, we have heard many conflicting ideas being expressed about whether or not we should have a president and, if so, what are to be the powers of the president.

I point out that our Constitution was founded on the principle that the people of the respective states, humbly relying on the blessing of almighty God, agreed to unite into one indissoluble federal Commonwealth under the Crown. If the Crown is to be replaced by a president, Australia must still remain one indissoluble federal Commonwealth. So far we have not heard any significant consideration of how this federal essence of Australia is to be maintained in the appointment of the proposed president.

Indeed, looking at the models put forward for the popular election of the president, with so-called 'open nominations', it is nothing more than an elitist proposal with a select group of people and organisations becoming a presidential nominating committee. It is this body that would control the presidential nomination in a similar way to the elitist McGarvie model, which is even more under the control of an unrepresentative group. If we have open nominations for candidates for a popular election of the president they, to be successful, would either belong to a political party or be very wealthy independent candidates. All this is highly likely to lead to the election of a non-politician, as many claim is essential if a president is to be acceptable to the Australian people.

If a new president is to be accepted by the Australian people, then it is my submission that he or she will only be acceptable if the method of their appointment reflects the essential nature of Australia as an indissoluble federal Commonwealth. So far we have heard arguments for broad propositions which all suffer from the fatal flaw that, if adopted, they would enable the golden triangle of Sydney, Melbourne and Canberra to determine who is to be Australia's president and thereby ignore the interests and concerns of people from other areas of Australia. These models centralise power, to the detriment of all Australians. Unless all Australian citizens, whether they live in the Torres Strait, the Kimberley, at Esperance or at Zeehan, feel they have a real and proper role in the selection of their head of state, then the fundamental nature of an indissoluble federal Commonwealth will be put under strain.

I note that it has been claimed that a president can have the same power as the Governor-General—no more, no less. This view, with respect, is fallacious. The powers of the Governor-General, both as legislated and arising from convention, are the product of hundreds of years of development, from absolute monarchy to constitutional monarchy. Monarchy and all that means, however, remains an essential element of all such powers. It is contradictory to suggest that the president of a republic, where the essential concept is that power springs from the people and not from the monarch, can be the same as that of a governor-general whose power springs from that of a constitutional monarch. A president will have a mandate to represent all Australians, no matter by what process they are appointed.

The president will thus have a responsibility to all Australians in our great Federation, not merely to those elites who might be involved

in the process of appointment. Suggestions for appointment of a president, even by a two-thirds majority of both houses of the Commonwealth parliament jointly sitting, will mean that, given the strength of the Australian political party system, only a president favoured by those persons who control the political parties will ever have a hope of being elected. Are the people of Australia going to accept a president so representative of the power elites?

A direct plebiscite of the Australian people will, regardless of presidential powers, give to the president a mandate to go forth and promote his or her causes which may very well be in conflict with the government of the day. The words of a president—I repeat, 'words of a president'—no matter how appointed, are going to be powerful weapons in the political process of Australia. This will be so no matter in what form the powers are given to a president.

I have heard an attempt to argue that a Queenslander or a person from an outlying state could become a president if they are good enough. However, not only will they have to be good enough; they will still have to get the numbers from the golden triangle. We all know that the only Queenslander to become Governor-General got there because it was convenient for the power elite to get him off the political stage. He fulfilled the role with distinction, but it is unlikely that the circumstances which led to his appointment would be repeated in relation to the election of a president. This is a bone the elite will never surrender.

Again, suggestions for the establishment of a council of elders or wise persons to control appointment and dismissal of a president are also fatally flawed. Once more, the self-perpetrating power elites would be in control. Where is the federal balance in all this? I have heard proposals at this Convention for various forms of filters in order to ensure that only proper and suitable people are considered for the role of president. How arrogant! How elitist! How full of their own self-importance are those who advance these proposals! And we have a number of these proposals. They obviously do not trust the Australian people if we are to abandon a constitutional monarchy. Advocates of a popular election point to Ireland as an example of success of this system and use it to justify their support for such a process in Australia. This is nonsensical as when I last looked at the counties of Ireland they had not formed a federation. Further, it is a pocket handkerchief sized country compared with this vast land with an appointed, not an elected upper house—a very important point to keep in mind.

In Australia's case, it is the federal nature of our system of government that both recognises our origins and strengthens our institutions of government and saves us from the pressures and tensions that so bedevil other countries. It is vital that this be preserved, irrespective of whether or not Australia moves to a republic.

Other federations have addressed this issue of creating a mechanism for the appointment of their head of state which gives recognition to all factors, particularly that of mainstreaming or maintaining the federal balance. In the United States of America the Federal Electoral College, in recognising different weightings depending on differing populations of states, gives a capacity for the smaller political units of the federation to have an influence on the appointment of the President. On the other hand, I am much attracted by the principles inherent in the mechanism adopted by the German federation. There the President is chosen from an electoral college, chosen by the parliaments of the German states as well as by the parliament of the federation. Thus, the views of all citizens, no matter where they might live, are able to be represented through the mechanism which has been devised.

We should give real attention at this Convention to devising a system for the election of a president which recognises the essential federal nature of Australia. Unless we do so, then this republic, should it come to pass, being so promoted by republicans, could be just the first republic and be followed over the coming decades by the second republic, the third republic, the fourth republic and so on. Under this model, there would be no need for an elitist nominating committee. All Austral-

ians, regardless of their status in life, would be able to nominate. An election would be by a simple majority, as are all other elections for public office in this country.

We do a disservice to the people whom we represent here if we do not acknowledge that a republic is a fundamental change that will flow from our abandonment of a constitutional monarchy. If that is so, then any president must be chosen in a way that not only satisfies a majority within Australia but also is acceptable by the minority as being properly representative of the essence of Australia.

Our federal system, which is the basis upon which Australia was formed as a nation, must therefore be fundamentally reflected in the discussions that take place at this Convention and any proposition that might ultimately be put to the Australian people. Our strength as a nation comes from not only the way in which power is divided between our respective levels of government but also the way in which it is dispersed across this vast nation. *(Extension of time granted)*

I fear, however, that we have already seen at this Convention and from the proponents of the introduction of a republic an attempt to attack the fundamental federal nature of Australia. If this is not so, then I look forward to propositions being advanced by those who argue the republican cause which will ensure that Australia will indeed remain one indissoluble federal Commonwealth.

Ladies and gentlemen, we must keep in mind that any changes at all will have a major effect upon the states and upon the people living in the states and the far flung parts of those states. Even though these points have not been considered to date, I implore you to give very careful consideration of these matters in the coming days.

DEPUTY CHAIRMAN—I am giving the call to Chris Gallus, but this slight pause gives me the opportunity to appeal once more to people not to have mobile phones turned on. It is a gross distraction and a gross discourtesy to the members of the Convention. If you have a mobile phone on your person, make sure it is turned off.

Brigadier GARLAND—Throw them out, Mr Deputy Chairman.

DEPUTY CHAIRMAN—I am not quite sure how far my power extends to the galleries. It is easier to throw out a member of the Convention. Chris Gallus, the member for Hindmarsh.

Mrs GALLUS—I would like the delegates here today to remember that they are the people's convention. Half of you today were elected by the people. It is important that you remember that because I get the very strong impression that there are agendas in this room that the people who voted for you would say, 'That is not what we voted for.'

In particular, I say to the Australian Republican Movement, when people ticked the ballot boxes for the ARM they never dreamt they were ticking the boxes of a party that was going to oppose a popular election. If they had known that, if you had honestly gone to the people and said, 'The Australian Republican Movement opposes popular election,' you would not have got the votes that you got and your numbers today would not be in that block, they would be considerably smaller. I want you to think in your consciences about the people who voted for you and what they expected from you.

To the delegates today and those in the public gallery, I think all of us are very much aware that the Australian public is disenchanted with our political system. We have evidence of a fragmenting society. Not only do we have a large and growing class of permanently unemployed and, therefore, a growing inequality in this society but we have a disenchantment with the structures of our society and the whole political process. If we in this election turn our backs on the people of Australia and say to them, 'The politicians will choose your president,' they in turn will turn their backs on us and the political process in Australia. Think of this when you vote.

Think about if you went today to the people and asked them who Sir William Deane was how many would be able to tell you. Everybody in this room would, but I can tell you, as somebody who deals every single day with people, that the great majority of people who

come to my office do not know who Sir William Deane is. The problem, if you do not have a popularly elected head of state, will be that the people will not know who their head of state is because they will have had no involvement in the process.

We have to draw the Australian society together and one way is to have an elected head of state chosen not by a select group, chosen not by politicians but chosen by the people who should choose the leaders in our society—that is, the people. Ask yourselves: are we really a democracy or are we not?

I have found here today that, despite having a somewhat more old-fashioned point of view, you might call it, the monarchists are more likely to consider this proposition than is the republican movement. I ask the members of the republican movement to look to what they stand for and what they were voted in for and ask themselves if the people who voted for them did indeed vote against the notion of an elected president because I think they will have to say honestly that they did not.

There are problems with an elected president, but the model that was produced here this morning does get over those problems. Denver Beanland, who spoke before me, said that one of the problems with an elected president is that the process becomes owned by the political parties or by someone of great wealth. That can be avoided. You simply say that we do not allow any paid advertising and there is publicly funded media both print and electronic.

A further objection to a popularly elected president is that people may not want to put themselves before the public and talk to the public through the media. Then do not make them. There is no reason why someone standing for president or head of state—I am sorry we have removed the word 'president' from the model we were looking at—has to speak for themself. A nominating person can speak for them. For instance, if the Manufacturing Council was nominating to the appointments council someone for head of state and that person did not want to talk for themself then somebody from that council could appear and talk for them and explain why this person has these qualities.

Do not dismiss this out of hand simply because you want another model. Think of its advantages. Think that we can find a way of giving the people what they want and still build in all those safeguards that we are so scared of losing.

The model that I presented here today has the ultimate safeguard: that if the head of state goes beyond the powers that the Governor-General presently has or that are given in the Constitution, the House of Representatives, by an absolute vote—which is simply a majority of the members of the House of Representatives—can vote for dismissal and, on that advice, the appointing counsel dismisses the head of state.

Some will say that gives too much power to the Prime Minister and to the government. But, if they make this decision and it is not a decision that is approved by the people, next time they will have to go to a popular election where the people will tell the Prime Minister and the government what they think of them. So the safeguard is built in. This is the safest model you can have to stop a head of state exceeding the powers that he or she should have. Please think of that and do not dismiss it out of hand, because it provides what the people of Australia have asked us to provide—an elected head of state.

When we vote, as we will, on the resolutions, my first request to you is to vote this resolution past the first hurdle. Many of you are coming from a different position and will not want to support it in the final analysis, but it is a good model and it needs an opportunity to be debated. If you refuse it this opportunity by voting it out of this Convention at the very first step, then I put to you that you are betraying the faith of the people of Australia who voted for you to come here to the people's Convention to represent them and what they wanted.

DEPUTY CHAIRMAN—The next speaker is Mr Thomas Bradley, followed by Professor Geoffrey Blainey, Sallyanne Atkinson and Eddie McGuire.

Mr BRADLEY—Mr Deputy Chairman, fellow delegates, ladies and gentlemen. This is a great day to have this particular debate because today, all over Australia, people are

discussing dismissal. It is not the dismissal of the Governor-General, it is not the dismissal of a president; it is the dismissal of Mark Waugh. Yesterday Bill Hayden noted the safeguards about dismissal in our present Constitution. The most important of those was the availability of an independent umpire who could give a very quick decision.

If the models for dismissal suggested by the republican groups this morning were adopted, the people of Australia would still be waiting to know whether Mark Waugh was in or out and whether South Africa had won the test or not. Perhaps they would have taken a vote of all the spectators at the oval to see what the result was. Perhaps they would have recalled a cricketing parliament to debate and vote on the issue. Some would have selected a college weighted appropriately with men and women, and people of different ethnicity to ensure total objectivity, making sure that no-one who had ever played first-class cricket could vote. Still others might have called together a group of eminent former test captains so that they could decide the issue. But the simple truth about this debate is that the motives of the various participants and the path to resolution of this issue are being obscured, whether deliberately or unconsciously, by myth making, by sophistry and by rhetoric. Sometimes the things that we fail to say speak much more eloquently about what our motives are than the words that we do use.

I have been sitting here watching, and I have listened with quiet amusement to the unconscious irony of members of the Commonwealth, state and territory parliaments criticising proposals for a direct election of a president on the basis that it would produce a politician. Somehow we are expected to believe that a body of 228-odd members and senators choosing a head of state will not choose a politician. This is mere sophistry. Really, whether the head of state is a politician or not is not the real issue at all.

On the other side of the great republican divide sit the proponents of popular sovereignty. They have transformed this idea into something that says: allowing the Australian people to elect a president will somehow empower them or give them control in a way that the current system of representative government fails to do. This popular sovereignty is really a myth. Certainly it is a powerful myth. Perhaps it is as powerful as the old myth that this country was peaceably settled rather than conquered; that the Commonwealth, rather than the Ngunnawal people, holds this land we stand on today by some means other than by force. Our myth of popular sovereignty is almost certainly a useful myth. It helps to bind us as citizens to our governments. It even persuaded Sir Anthony Mason to say that ultimately sovereignty resides in the Australian people. There has been much talk here today about theory and about reality. Popular sovereignty is our constitutional theory, but the reality is otherwise.

The reality is that the power of the state is always awesome; it is a power that can crush the citizens, particularly minorities, but sometimes even a majority. In this century we have seen, even in the heart of Europe—even in the most economically, technologically and culturally advanced nation—the power of the state reach out and crush its citizens. When it was not content with that, it launched that barbarism on the rest of the world. In this decade we have seen the same happen in the heart of Europe, in East Africa and elsewhere. In our tradition, the leviathan of state power and the argument between the head of state and the head of parliament was resolved about 350 years ago when the head of state lost his head. Introducing a head of state, however named, with some claim to legitimacy, however elected, risks reviving that old dispute. It risks reviving the leviathan of state power.

At this Convention, and earlier in Queensland in other debates, I have listened to the advocates of popular election. I have heard Clem Jones say that we Australians have lost respect for our leaders, that what we need is a strong, powerful elected president that we can all look up to and respect. It will make us feel better about ourselves. It will restore our faith. This talk has awful echoes. It says: what we need is strong leadership, someone to make the trains run on time or perhaps—if Jennie George will forgive me—someone to make the wharves run more efficiently.

Be careful what you wish for: you might get it in bucketfuls. This is the sort of talk that inspired Italy in the 1920s and, God preserve us, Germany in the 1930s to decide on very powerful, central decisive leadership. The more secure the head of state is, the more secure he or she will be in the exercise of state power. Be careful. If you live in a dictatorship it is vitally important how you choose and who the person is that is president, because the president decides everything. But, if you live in a democracy, it is the freedom, the quality and the abilities of your citizens that are vitally important because they choose your leaders.

Popular sovereignty can function only if the power of the state is restrained. Popular sovereignty depends on this and on the ability of the citizens to act independently. The drafters of our Constitution knew this well. The key to understanding the Australian Constitution is understanding how it deals with power. It does this in a very particular way. It divides it, it checks it and it balances it between the Commonwealth and the states, between the executive and the courts, between the courts and the parliament and between the executive and the parliament. Within the parliament itself, the power is divided between the House and the Senate. This intricate web of divided, balanced and checked power is itself a compromise between the spectrum that runs from the efficiency of dictatorship to the mire of gridlock at the other end of the spectrum.

I offer the view that most Australians' understanding of the word 'president' is so dominated by the overwhelming influence of American popular culture that Australians automatically associate the word 'president' with popular election. It makes no sense to them to talk of a president who is not elected by the people. But look at the United States. There the power of the president is almost entirely a negative power. It is the power to veto the laws enacted by the Congress. The only realms left free for a US president have traditionally been his personal and foreign affairs. And we should not be surprised—as that other great US institution, the media, encroaches more and more on the President's personal life—that the prospect increases daily of bombs over Baghdad.

A key element in the myth of popular sovereignty is the idea that electing a president every three, four or five or seven years somehow gives us control and empowers us as citizens. But drafters of our Australian Constitution knew that the key to popular sovereignty was really public accountability. Under our Australian Constitution, the bridge across that naked public place is the architecture of responsible and representative government. We elect members and senators; they choose Prime Ministers and ministers. Our elected representatives keep the ministers accountable to them because those elected representatives are accountable to us.

The gulf between a US president and a US citizen is enormous and unbreachable. In America that space is filled by the power of vested interests and associated lobbies. The gulf between us and our cabinet ministers is filled with local members and senators, with party bodies, with parliamentary caucuses—with all sorts of infrastructure. Sometimes they can deliver our barbs and bouquets very effectively. If sometimes they do not, the situation will not be improved by evacuating that space and leaving an US style presidential gap.

Another piece of sophistry that has been run here today is that in a republic every citizen could aspire to the highest office in the land. *(Extension of time granted)* That has been said a number of times here, but it ignores the very real role of money, power, influence and the media, particularly in presidential policies. Yesterday our Treasurer said that our national symbols had run out of believability, that the monarchy was no longer acceptable to the democratic temper of the times. For a moment, I took him seriously. But then he went on to propose a council of eminent persons to replace the Crown. How, I asked myself, was this in keeping with the democratic temper of the times? How is the secret handshake among the great and the good an acceptable symbol and process to encapsulate our national identity? Let those ways remain in the privacy of your lodges. They do not inspire me and they do not represent a symbol in

which I can believe. I think if you want a truly Australian method for selecting a president the only choice is the lotto model where every citizen is assigned a set of numbers and a fading television personality presides over an electronic draw. Perhaps Mr Vizard might be available!

If we want to change simply to get the symbols right, then the McGarvie symbols are not the right symbols. This leaves us with the ARM model. Will we buy a used car from these people? What has really astonished me about the official Australian Republican Movement is they want to design this elaborate process and mechanism to alter the Australian Constitution all for the purpose of changing the Constitution in a way that means no real change. I am reminded of a Bruce Petty cartoon with this great structure articulated in order to transfer fluid from one point to the next. I have much sympathy with the Reverend Tim Costello's view that, if you want a republic, you should at least want a real one.

But I am a republican of a totally different kind. My political philosophy is more strongly influenced by Plato's account of Socrates' views in *The Republic*. There the fundamental problem was clearly identified for republicans. The persons most suited to rule are the most reluctant to do so, while those who offer themselves readily as candidates are the least desirable. Our own history teaches us this and the great men and women who have served as governors and governors-general are not the sorts of persons who are likely to submit themselves to parliamentary or popular election. The best candidates have always had to be conscripted to serve. This is what we do today in this crowned republic, the Commonwealth of Australia.

What is the evil, I ask myself, that the republicans seek to cure? The answer lies not in Plato but elsewhere. I think Reg Withers identified it very clearly yesterday when he pointed to the hubris or the pride. The answer is not in Plato or Socrates; it is in Machiavelli, who said, 'The greatest of men are the founders of new regimes'. Take care that pride comes before a fall and the greater your pride the greater the fall will be.

Professor BLAINEY—While many of the delegates express increasing concern about public attitudes to politicians, my feeling after the third day of this ordeal is that my respect of politicians has increased out of sight.

May I briefly look at several merits and defects of the evolving constitutional monarchy in Australia, including the qualifications of the Queen and the Governor-General, and then offer a few comments on the replacement that might be sought? First a word about the monarchy. I think, in the debate in the last couple of years, there has been a tendency to overkill; and more effort has been put into destroying or distorting our present system than into finding an alternative.

For example, it is right that the talents of Australian women, so often neglected, should be prized. At the very start of our proceedings there was a firm call for 'gender balance' by those eager to strike out the monarchy. The calls were repeated by a working group this morning. But the calls would have been more persuasive if they had humbly acknowledged that in the history of Australia since self-government the monarchy was for long the only official position where women had a chance. For 100 of the last 150 years, a woman has been the monarch. In your quiz days, Mr Deputy Speaker, you would only take a second to confirm that conclusion.

There are valid arguments against the hereditary principle embodied in the monarchy and I am mindful of them. The arguments sometimes have to be taken with a grain of salt. Mr Keating, in attacking our constitutional monarchy, our de facto republic, said that the hereditary principle was outrageous, but he was slightly indignant when it was pointed out to him that his own chosen version of the native title legislation relied more comprehensively on the hereditary principle than any law hitherto passed by an Australian parliament. If it is right to uphold the hereditary principle in this important law, we should be a little more discreet in denouncing other hereditary institutions which are essentially symbolic.

After listening to Mr George Mye's eloquent and moving speech about the place of the monarchy and the church on Darnley

Island in the Torres Strait, I began to think back; and I became aware that Catholics were acutely conscious that somebody of their faith could not become a monarch, and it was probably true of the evangelical Methodists, Salvationists, the members of the Church of Christ, Baptists and many others. One has to be conscious of the defects there are in the monarchical system.

Politics in Australia is played with vigour and intensity, and the vigour and intensity have probably increased since the early 1970s. This vigour would impose pressure and strain on the Governor-General and the presidency, if such a post should be created. Under these pressures, a neutral political umpire and an appropriate bearer of national symbols is vital. If the umpire is not neutral, or is not perceived as being neutral, the danger of a polarisation is high at the very time when the umpire is called upon.

Significantly, many of those who were foremost in denouncing Sir John Kerr are also to the fore in praising Sir William Deane. And many of those who praised Kerr are now beginning, both privately and publicly, to criticise Sir William Deane, whom they see as combining the twin roles of Governor-General and shadow minister for social welfare.

In the last two days it has been revealing to see in this Convention the enthusiastic minority support for Sir William in his present activity as a persistent advocate. One does not mind a Governor-General advocating, and sometimes one will agree, but to be a persistent advocate is to take on the role of a parliamentarian. The same enthusiasts would be indignant if the next Governor-General or president turned out also to be a crusader, but crusading on the other side of politics.

Australia needs a relatively neutral Governor-General, a representative of every Australian of every background. This is essential for the sound operation of what is a highly combative political system. Many Australians, wishing well of the Governor-General, as I do, will hope that he will quietly pursue a more representative role.

I do not agree with Malcolm Turnbull when he says that the day of the politician as governor-general or president has ended. My own view is that we have had, in the last 40 years, four political Governor-Generals—McKell, Casey, Hasluck and Hayden—and I think they have done their task with skill.

My belief, my own fear, is that if Australia becomes a republic, even a minimalist republic, the Governor-General, whoever he or she is, will become much more influential than today. The temptation to make use of that influence in partisan ways will be higher. The temptation of governments to appoint a partisan governor-general or president will also be higher. I see no way in which a new president will have merely the same influence as the present Governor-General. Everything will create an aura of prestige and influence around that person.

What then is the answer? At this stage of the Convention, my preference is clearly to retain, at least for the time being, the system we know. That means reminding the Governor-General of his duties and his delicate role. But if there is to be a change in the way of appointing or electing the Governor-General I see no easy answer.

Should we elect the president or Governor-General? I am not completely against the idea, but the arguments against election are strong. An election might well give us in the space of 10 years a very different system of government—an elected president competing with an elected Prime Minister in an atmosphere of perpetual instability. If more democracy is to be implanted, it should be implanted in the body and not in the ceremonial head.

I believe I am a democrat, and one of the Australians I most admire is John Quick of Bendigo, who devised a democratic formula unique to the world—setting out the steps by which the six colonies should become a federation. I think I am sympathetic to the idea of initiative referenda, but I am wary of turning the Governor-General or the president into a competitive Prime Minister.

Again, should the president be appointed by a joint sitting of the two houses with the selected name requiring the support of two-thirds of the combined members? In my view, and I could be wrong, this would give the president a double political blessing and a

higher political platform. This worries me. I do not want a president who is too powerful. Moreover, if the electoral system is changed and proportional representation is abolished in the Senate, it will happen in the future, as has happened in the past, that either the coalition or the Labor Party will possess that two-thirds majority in its own right, thus enabling a partisan appointment.

The Hon. Richard McGarvie—all honour to him for his contributions long before this Convention began—has put forward his scheme of an advisory council of three wise men and women. I have some sympathy with his scheme, but so far I am not convinced. His written paper is powerful diagnosis of the flaws in an elected president and a two-thirds president. *(Extension of time granted)* I am most grateful. I will finish quickly. The Hon. Richard McGarvie has written this powerful diagnosis; it is in the papers presented to you. He also hints at the weaknesses in the present system. When I read recently page after page of recent majority decisions by justices of the High Court and I saw their belief that they see themselves as barometers of public opinion, I would not wish such crusaders, such pollsters, to be on the council.

Finally—this is really one of the most difficult questions, and I do not believe it has been discussed—which individual should be eligible as president if we have a president? The Queen could almost qualify to become an Australian citizen while remaining Queen of the United Kingdom, so lax are our present citizenship laws. The government altered the law in the 1980s to confer citizenship on those who knew nothing about the country, who had lived here only two years, who knew no English and who wished and were enabled to pursue divided loyalties. This exotic law undermines a key republican argument that the head of the state must be filled by Australian citizens who owe their first allegiance to this country and no other. I think this difficult question must be looked at with more care.

If there is to be a president, the qualifications for that office will require serious thought. A strict rule that the president be born here would be too restrictive, though it is the rule in the United States and Finland and several other nations. The recommendation of today's working group—that 'any Australian citizen on the electoral roll is eligible for the presidency,—reveals a simple faith in the accuracy of the electoral roll. Australia will be the first nation on earth to make a dead person eligible for the presidency. This makes me see some merit in the present system, though I will continue to listen and pray for resurrections.

It is easy to criticise the present system. But the devising of a superior system is a harder task. We have a long way as a nation to go.

Mr WRAN—Mr Deputy Chairman, I raise a point of order. I require an explanation. I would like to dissociate myself from the shameful attack upon the present Governor-General made this morning by Professor Blainey. I am sure I speak for right-minded people at the Convention.

DEPUTY CHAIRMAN—Your point has been noted, although it is strictly out of order.

Ms ATKINSON—The appointment and dismissal, along with the role and powers of the head of state, are at the very heart of the matters that we are here to discuss. We are here to listen, to assess and to evaluate. I think it is fair to say that we have all taken two weeks out of rich and full lives to come to Canberra to do so. We have heard not only today but in previous days some very good and thoughtful contributions and debate. None better was the contribution of our eminent historian Professor Geoffrey Blainey.

It is also true to say that this is a very representative body of men and women, young and old, indigenous, European born and Asian born Australians. It represents the full gamut of the Australian community. In that, as has been said, it is very different from the convention 100 years ago. I make these points to say that we are charged with the task of putting together and recommending a constitution for our time.

Before I came to this place, as I know many others did, I thought about what we want for a nation. I came to the conclusion then that I believe in a republic for the future of Australia. What I think we are here to

discuss in the detail is the process of such things as I have mentioned before. I have to say to this body that I have sympathy with the concept of the direct election of the president. I have that sympathy both as an ordinary citizen who likes to have a say and as someone, along with Clem Jones, who has actually been directly elected to an important political position.

I have lived in France for some years. I have seen a president popularly elected. I have seen the Irish model that we have talked about. I have watched Mary Robinson at work. I can say that those systems or presidencies work well in those republics because they are republics of other nations and they are from those nations and of those nations.

We are here together as Australians. We want an Australian republic designed for our needs, for our people and for this time. Those of us who are working for a republic are doing so in the context of a very precious democracy. I can say that I can see in the direct model our institutions at risk—those institutions for which Australians have fought and died and about which Mr Ruxton and Brigadier Garland have spoken so eloquently.

Our Constitution is a legal document and must withstand the scrutiny of the courts. I have not yet heard from my friends who are stuck fast on direct election as the only option as to how our institutions are going to be protected. They, like me, must explain, particularly to the Queenslanders who have sent us here, how their rights in the Senate will be safeguarded. They should also explain—it has not yet been explained—how under their model the head of state would actually be elected and dismissed, what powers the head of state would hold, how an election under their system would be held, what would be the cost and how frequent those elections would be.

The other model that has been put forward to this gathering is for a constitutional council, which also has a degree of desirability and attractiveness about it. But it is a model that I think I would have to reject after some thought. It is seen as being elitist. It is certainly seen as providing another tier of government, which people in this nation patently and obviously do not want. It is seen to be undemocratic because it is invisible and not transparent to public election. Very importantly, it gives no sense of public ownership. If we are talking about a republic and a president, we are talking about something and someone that will be owned by the people of this nation.

The model we have heard about, which is commonly called the McGarvie model, with its nominated candidate for head of state would probably be unlikely to include women or indigenous Australians or, has been pointed out, Australians from other states. I believe that the bipartisan parliamentary approach is the fundamentally democratic one. It provides an avenue by which any person in Australia could potentially be considered. The diverse make-up of our parliament will mean that many perspectives will be represented. Those choosing will represent a real cross-section of Australia. Those of us of the female gender have complained in the past that parliament is not yet made up of people in exactly the same proportions as the general population. But it cannot be denied that it is diverse and becoming increasingly so. Women, young people and those of ethnic backgrounds all enjoy more than token representation.

I am a democrat. I am a member of the Liberal Party of Australia. I am a Queenslander, and those of us who come from north of the border know that is a fairly important distinction. I believe very strongly in our institution of parliamentary democracy, and that is why I strongly support our elected representatives in the federal parliament electing our head of state by a two-thirds majority of a joint sitting.

This is the ARM's position for appointment of head of state, and it is innately democratic. It has always been our main position. We have always said that we are prepared to entertain other suggestions and look at other models, but I think we are firmly of the view that the Prime Minister would nominate and recommend the proposed head of state to the parliament. It would be the responsibility of the parliament for our elected representatives—accountable to us in an open, transparent forum—to elect our head of state, our first

citizen. The parliament would also be accountable to the people, in the extraordinary circumstance of removing our head of state by a simple majority, in the House of Representatives in which governments are formed.

I believe that Australians are ready and desirous of moving towards a republic. I believe, in keeping with our national character and history, we shall do this by evolution—a revolution certainly would not suit us. Here this morning I believe that the system put forward by the ARM is one that is truly accountable, truly democratic and certainly truly Australian.

Mr McGUIRE—Mr Chairman and fellow delegates of this historic Constitutional Convention, first may I say what an honour and privilege it is to stand here today as the No. 1 elected candidate for the state of Victoria. This is the first time that I have been involved in affairs of state, and I must admit that during the past two days I have enjoyed some of the theatrics, overblown rhetoric and political dogma of those desperate to claim a big headline and perhaps an historical footnote for prosperity.

Despite the humbug, however, I have been inspired by speakers of integrity who have thought deeply about the historic significance of the task at hand and who appreciate the degree of difficulty in achieving constitutional change with support from the majority of the people and the majority of the states.

Becoming a republic is not about barracking for your favourite team. This is about judging the strengths of arguments to ensure that we deliver a system of government that in 100 years will be respected as we respect the document that formed our Federation. The principles of the document have endured but, given that we are coming to the end of the most tumultuous and progressive century in the history of mankind, it is not surprising that an overhaul is overdue to deal with the needs and aspirations of a sophisticated, multicultural, egalitarian society on the eve of the 21st century. As I said, I have sometimes enjoyed the drama, the hype and the posturing of the first two days of this Convention, but let us get back to reality and let us get on with the job at hand.

So how can we elect the head of state? Despite exhaustive discussions about what a direct election would look like, other delegates and I are yet to hear a simple, practical and realistic proposal that delivers the goal of an apolitical head of state. We have all heard the arguments from the Prime Minister, the Leader of the Opposition, the Treasurer and other eminent constitutional experts who confirm the paradox that a directly elected head of state would almost certainly be a politician.

So how do we go about beating the system? Whenever I ask this question, all I see is blank faces and vague and myriad proposals. The proponents of direct election have an opportunity here, indeed a responsibility, to clearly spell out what they want, how it will work and what the legal consequences of their model really are. It is time for them to deliver the detail and answer questions such as what kind of election is proposed, how often it would take place, whether it would held in conjunction with other elections or by itself, how much it would cost and whether it would result in a consensus outcome if a candidate could win with a small primary vote and become Australia's head of state by riding into office on the preferences of weird and wonderful single-interest groups, especially those opposed to diversity in our community.

The opponents of direct election have told us that it will inevitably become a race between major political parties or those who can garner enough financial support to turn it into an election extravaganza. What about the concept of an Aussie having a shot at the top job then, let alone the inherent dangers of our head of state owing electional favours?

The kind of person who should be Australia's head of state would not be part of such a process. Our head of state would stand above and beyond party politics, act as an impartial, constitutional umpire and embody the very character of Australia. Until I hear a viable alternative, I keep returning to the policy that has always been preferred, the preferred model of the Australian Republican Movement, the result of a seven-year campaign. And, despite some curious claims, this policy is very well known: that the head of

state should be elected by a two-thirds majority endorsement of the Commonwealth parliament, the core of our democracy—thus ensuring bipartisan support. We fundamentally agree with the desire for direct election but believe, in the absence of a realistic plan that we have been waiting on for some time, that the onus should be placed now on our parliamentarians to deliver what we elect and pay them to do, and that is to consider and appoint the best possible person for the job. The proposition that some highly politicised election campaign at a cost of up to $50 million will deliver a better choice just does not add up when you think about the person we are looking for.

The proponents of direct election have not been silenced by yesterday's events. They still have every opportunity to argue why an election will unearth the right head of state and how this can be achieved. Today and tomorrow are set aside for this very purpose, and I look forward to it with interest. The debate is not over, but if this option is to gain support we need to hear a detailed, coherent case for direct election which will be acceptable to the Australian people. Former Victorian Governor, Mr Richard McGarvie, has proposed a model for an Australian republic with a head of state who is appointed by a constitutional council of three eminent Australians, on the Prime Minister's advice. This model has positives and negatives. As a method of choosing a head of state, it is elitist. Under this model it is highly unlikely that a woman, an indigenous Australian or Australians without a lofty legal background will ever be members of this council—never mind be considered as a head of state.

I maintain that the election of a head of state by a two-thirds majority of a joint sitting of federal parliament is far preferable and can deliver a head of state who really does reflect the diversity and richness of our nation. However, the former Governor and I have discussed at length his concerns over the potential difficulty a Prime Minister could face in obtaining a two-thirds parliamentary majority to dismiss a Governor-General if the government did not have the numbers in its own right and opposition parties obstructed the move.

For that reason, as a method of dealing with the rare and exceptional occasions when the Prime Minister might want to sack the head of state I propose that the Prime Minister with a simple majority of the House of Representatives be able to do so. I believe this improves the McGarvie model, because the Prime Minister would have to go before the people's house to dismiss the head of state, return then to parliament to secure a replacement and, ultimately, be accountable to the people at the next election for his or her actions.

I believe that these are the improvements that the Prime Minister, the Leader of the Opposition and others have been seeking. I urge them to examine them and reassess their positions. My belief is that this Convention must go beyond political self-interest and put the nation's interest first. We have been elected to be responsible leaders, and if that means making hard decisions instead of decisions driven by popularity polls or working hard to find consensus then so be it. I look around this chamber and see a lot of famous faces: men and women who have been—and those who still are—part of the daily political process, and a number of others who show every sign of making their contribution in the future. I wish them well. But I come here having been given a once in a lifetime opportunity to make a contribution to the beliefs about this country that we hold dear that, whatever your birthright, your race, your gender or religious beliefs, you are entitled to the opportunity to make the most of being an Australian. Unlike my father, and others here today, I have not had to put my life on the line to defend liberty. Fortunately, my sacrifice for my country will have to be enduring 10 days of speeches here at the Convention. But I am prepared to hear all arguments in pursuit of the right outcome, because I know the right decision is not necessarily the easy option.

DEPUTY CHAIRMAN—Point of order?

Brigadier GARLAND—During the discussion this morning, we have heard a number of people use the term 'absolute majority' and others use the term 'simple majority'. Can we

get an explanation as to what people mean when they say 'absolute majority' and what they mean when they say 'simple majority'?

DEPUTY CHAIRMAN—An absolute majority means 50 per cent plus one—of all the members of a chamber, whether or not they are all present. A simple majority would mean 50 per cent plus one—of those present at the time of the vote. That is the difference between an absolute majority and a simple majority. Obviously there is a tendency to use the terms as if they are identical, and they really are not. Ms Wendy Machin.

Ms MACHIN—Thank you, Mr Chairman. I will try to avoid that terminology. Delegates, earlier today I was talking to a fellow representative here at the Convention who said to me, 'I am a little bit daunted by this. It seems that everybody has come here and they have got very strong views, very definite opinions.' I could understand how one could have that perception, but I would like to say that I stand here as a member of the largest group, the Australian Republican Movement, with still very much an open mind. Obviously I have a preferred position on a number of issues, but we do not have a mortgage on all constitutional wisdom. We are not all lawyers in our group, obviously. I think that many of the issues that have been raised in the last few days are worthy of consideration and they continue to be so. It is continually happening, which I think is a very healthy thing, as a result of this Convention.

Yesterday we voted on the issue of powers of a head of state, and today we are discussing the method of appointment and dismissal. To me, the two go hand in hand, and I think that point was made yesterday in debate. I think that shows that with all of these issues, whilst we have separated them for practicality, for the purposes of discussing them separately, they cannot at the end of the day be considered in isolation. In that context, I make my remarks about the method of appointment and the method of dismissal this morning.

I came here on the understanding that we would look at discussing the options relating to each specific topic, regardless of whether or not it was our own, particularly in the working groups. I came here, as I said, with particular views but with an open mind and, from that perspective, I was very interested to participate in the working group yesterday, Working Group A, which discussed direct election with open nominations. I know a number of delegates are disappointed because they feel that option is off the agenda. I would simply say to them that I think there are many opportunities left, over the next seven or eight days, particularly in the main plenary debate, to ventilate their point of view, to build their arguments and maybe to persuade more delegates as to why their point of view should prevail.

I would like to restate very briefly my position and that of the Australian Republican Movement. I have to say that there is no conspiracy that three of us just spoke in order. I think that was just the luck of the draw. Eddie McGuire and Sallyanne Atkinson before me enunciated our position very well. The Australian Republican Movement view has been arrived at over a long period of time. For some six years as a formal movement it has been considering these issues and looking at all of the options—tossing them over, working them over. I think it was Julie Bishop who said, 'Trying them on for size, seeing how they fitted, if they were too tight, if they needed some adjustment here and there.' Through that process, and through the investment of a huge amount of intellectual capital, we have come to the position we bring to this Convention, namely, that the best of all options is to have the elected representatives of all the people of Australia choose who our head of state should be. The reasons for that are: firstly, because they are accountable. At the end of the day, you and I and all our fellow Australians vote for them. If they make a bad decision, then they will pay for it. Increasingly, Australians are making their politicians pay the price at the ballot box.

In effect, as we have said, you will get a bipartisan approach. I do not take such a harsh view of politicians as my chair, Malcolm Turnbull, does. I have to confess an interest. As some of you may know, I was once a member of parliament. I do not think we should necessarily say forever and a day

that a politician is not good enough to be our head of state. I am glad to hear that point of view. I think the point of view that a politician is not good enough to be our head of state continues to perpetuate the myth that all politicians are somehow crook and not people to be looked up to. We need to start reversing that trend and start saying that the bulk of people try to do the job to the best of their abilities and they go there with all the best intentions. That is my plug for all politicians past, present and future—and I am sure there are plenty of future politicians here.

We have taken the view that dismissal should be similar and consistent with the mode of appointment. For that reason, we initially talked about a two-thirds majority of both houses of parliament to dismiss. Richard McGarvie, amongst others, has rightly pointed out the practical difficulties with that. If a government wanted to dismiss a Governor-General, a head of state, it could be on political grounds and, therefore, why would the opposition cooperate. For that reason, we have moved to looking at—I am going to say that terrible phrase—requiring a majority of the House of Representatives, not a two-thirds majority but an absolute majority, to dismiss. Again, we prefer this because it is transparent and the people making that decision are at the end of the day accountable to the public.

With regard to the ARM's position on direct election, we always said we would look at this. As I have said, many of us are still looking at ways in which it can work. As we look at it—and as I look at it as one of the newer members of the Australian Republican Movement—more and more questions arise and I think these need to be fully discussed.

I find a small irony in the suggestion that an overwhelming majority of Australians want to discuss and participate in the selection of our head of state, that they want a direct election. At the same time, we are told they do not like politicians, they get irritated at having to go to the polls for local council elections, state government elections and federal government elections, they are compelled to vote, there is no choice, and Australians do not particularly like being pushed around; and so we are suggesting that they be compelled to vote in yet another national election, presumably held at a different time so it would not be politicised. We are going to have at least four rounds of elections on a regular cycle in the country. I do not know that many people would be too fussed about that.

We are told that the public does not like politicians—wrongly in my view. If you do not get a politician out of a highly competitive national electoral process what on earth will you get at the end of day? As others have pointed out, you could have a person elected with just over 50 per cent of the vote on a preferential basis, which is hardly what you would call a thumping mandate, assuming they get something like 30 per cent of the primary vote in the first instance.

Those delegates who have been elected here on a direct election platform need to spell out to us a number of things. These came up in the working group I was at yesterday and were not really fully discussed. I have to say that there was a little bit of emotion running around the room at that time.

The integrity of the nomination process is very important. For example, I feel there must be a screening process or else we could end up with a ballot paper like a phone book. That is a logical progression. We need somebody to set criteria or eliminate or screen candidates who nominate or are nominated. How do those who are screened out take comfort in the process? How can they be sure that there has not been some unfair treatment of them, rightly or wrongly? What would be the criteria for nomination? Are we going to do as other countries do and look at an age limit, qualifications and citizenship, which I guess would be a logical requirement? In the resolution, section 44 of the Australian Constitution was looked at as a rough guide.

What mode of election would we have? I have not heard that discussed at great length. Some delegates have put up some ideas. Yesterday when we had the opportunity to flesh this out we did not really get to that point. Would we have a first-past-the-post vote, which was discussed and had some attraction to candidates? If that were the case, you would have a president publicly elected

with perhaps as little as 20 per cent of the vote with 80 per cent of the people not voting for them. I do not think that is a particularly desirable outcome.

Are we going to have full preferential voting? Again we could still have someone with only a small percentage of the primary vote ending up as our president. What is the term of office? Should a president be allowed to be re-elected?

What is the role of the political parties? I was very interested in other comments. Chris Gallus as a serving politician intrigued me. The suggestions that we will have regulations that either limit or ban the participation of political parties are, frankly, just cloud cuckoo land. *(Extension of time granted)* I think this is a very important point, given the apparent antipathy felt towards political parties. How can you possibly keep them out of the process even if you make regulations, as we have, for public funding of elections? Most hardheads around here know that there are very creative ways around those regulations. So there is simply no way you could keep political parties out of the process.

The counter point to that then, which will upset Ted Mack, is to be transparent about it: let them be involved. That raises the point fleshed out by Malcolm Turnbull and others that you could have a Labor president with a Liberal Prime Minister and a Liberal government, a constitutional crisis arising or there could be collusion and our whole system of stable democracy is vastly changed, if not entirely put at risk.

A number of delegates have expressed concern for a gender equity. I think that a direct election makes the chances of women getting an equal go more difficult. We have not seen them thrown up through the political process at this stage. Direct election requires lots of money, private money as well as public money, to actually conduct the election. I think that would militate against the success of a woman candidate. The relationship I talked about between the head of state and the Prime Minister directly elected is a difficult one. The Prime Minister raised that point and I think he was right in doing so.

So I guess at the end of the day we also need to be practical. It seems the majority of people here would like to see an Australian head of state. The issue is how do we get to that. So we have to take that in sequence. I exclude the monarchists on that. I accept their right to be here and their point of view, but if Australians would like to have their own head of state we have to be little bit practical about this.

Do we as a nation want to shift the seat of authority from the Prime Minister and the elected representatives to a potentially powerful president or head of state, depending on the system we might come up with? I think we don't. Do we wish to make major changes to our Constitution, especially the relationship between the head of state and the parliament, and in doing so make major amendments to our Constitution? Again reality suggests that the Australian people would not like a major overhaul of our Constitution. We are very conservative about our Constitution and we are to take a lot of persuasion before we will even make relatively dull and minor changes, let alone a change of the magnitude we are talking about over these two weeks.

The other practical point of view again pertains to those who have criticised the attempts by some of the delegates here to persuade the major political parties of their points of view. It has to be recognised—and it has been pointed out here before—that if a referendum is to succeed it must enjoy the support of both sides of politics. So at the end of the day we have to have broad consensus on the political scene.

I would appeal to those people who are interested in direct election not to throw the baby out with the bathwater, continue to discuss the nuts and bolts of your proposal so that we and all Australians can in full knowledge think about the best outcome for our great country. Frankly, I am not convinced, for the reasons that I have just set out. I do not think the Australian people have been presented with a full enough argument of the detail and support of direct election, the sorts of issues that I have raised and others have raised for them to fully consider it is a real goer.

DEPUTY CHAIRMAN—Before I call the Hon. Don Chipp, I want to very quickly mention that the Resolutions Committee meeting will be at 1 p.m. today. The venue will be Committee Room 1—that is, M112—and the members are Lloyd Waddy, Kerry Jones, Malcolm Turnbull, Wendy Machin, Jeff Shaw, Pat O'Shane, Moira Rayner, Daryl Williams, Julie Bishop, Stella Axarlis, Gareth Evans and, to provide a kind of aura of sanctity to it, the Most Reverend George Pell. No less in the aura of sanctity, the Hon. Don Chipp.

Mr CHIPP—It has been an awesome week for me. The place is littered with ghosts of the past. Twenty-six years of my life I spent in this building: 17 years in this chamber and eight or nine years in the other chamber. Ghosts like Billy McMahon keep appearing. I remember once he was about there and he was clowning around and saying, 'I am my own worst enemy,' to which the unmistakable interjection of Sir James Killen came: 'Not while I'm alive you're not.' I was standing in this very spot in 1975 defending the then opposition's health policy on the occasion of a joint sitting of both houses of parliament. Those are the sorts of memories that this place evokes: a wonderful place and you could not possibly find a better location for a convention of this kind.

'Should we become a republic?' has been a topic for a long time. It has rather amused me in a way because people enter into heated and animated discussion about whether we should be a republic without quite knowing what they mean by the term. A very close member of my family said to me, 'Dad, I admire your guts for going up to Canberra on this Convention, but you are on the wrong side.' I said, 'What do you mean by that?' He said, 'You're going for a republic.' I said, 'What do you understand by a republic?' This kid has a university degree and he said, 'Oh, don't get technical, I don't want to go into that.' That has been a general sort of view. People have argued about this hysterically without quite knowing what they mean.

There has been a philosophical discussion on it. 'No Queen! We have grown up enough. We are beyond the point of needing a Queen,' is one argument and that has some sort of running because of its popularity. 'We need to be independent. We have grown up. We are now more almost 100 years. We need to be independent.' That gets them running. We hear that it will help our trade and our tourism if we become a republic, and other nonsensical arguments like that. We hear that there will be an abuse of powers by the Governor-General. That has got some running. All of those arguments are really academic. They are good for a dinner party, until you come down to the crux of it by saying, 'How are you going to appoint the Governor-General or new head of state and how are you going to dismiss him or her?' That is this section, as I understand it, that we are discussing now and I would like to restrict my remarks to that.

The real effect of this particular section is the palpable results of change and how they will manifest themselves on the nation if we do change to elect or appoint our head of state in a different way and remove the Crown. It is tied up with the question of appointment and dismissal. Before I discuss that, I would like to generally look at some of the powers of this person. Stripped of convention that restrains the present Governor-General, the powers of our head of state or virtual head of state are awesome. This person, academically, is the most powerful person in Australia. You can sack governments, sack prime ministers, call elections and, arguably, direct our troops into battle.

The one that attracts me, that is easily understood, is section 58 and the power conferred by section 58. I know the republicans say, 'Look, don't worry about this; we will fix that.' Section 58 says this unequivocally and very simply: the Governor-General may veto any bill passed by both democratically elected houses of parliament. That is an awesome power. Substitute the word 'president', if this side of the chamber has its way, and you have a president who could veto any bill that has been laboriously discussed and debated by both houses of parliament. What an awesome power that is. I join that with other powers of similar severity.

Then, getting down to the nitty-gritty, you have to think: how are we going to appoint this person? How are we going to transfer this power to someone else who is an Australian? As far as I am concerned, we already have an Australian as head of state, a virtual head of state. I would like to argue that, for anybody who wants to say, 'What's the Queen's picture doing on the side of a 20c coin?' As a matter of personal preference, I am proud to have that engraving on a 20c coin. But, apart from that, has anybody seriously suggested that the Queen has any real power in Australia? Of course they have not; the Governor-General virtually is the head of state.

Senator WEST—Virtually.

Mr CHIPP—Virtually, yes. I concede your point; it is only 'virtually'. What sorts of risks do we run in the various models put up for substituting the Queen? The risks are awesome. The risks are terrifying. Let us take one of them: the popular election. The popular election has quite a few fans here. It is put forward by people I deeply respect and admire. They are sincere and passionate in their belief that a popularly elected president is the way to go. Firstly, that would immediately politicise the office. It would necessarily do that because both political parties—or even the three political parties—could not resist the temptation of putting up a candidate.

Secondly, there would be the question of financing the campaign of that candidate. How many millions of dollars would be required? Why don't some of the republicans who are pushing this model tell us their estimates of the amount of funding a person in this country would need to stand as a candidate for president? The corollary of that is to whom he or she would be indebted and for how much after receiving those millions of dollars.

Senator BOSWELL—There's no such thing as a free lunch.

Mr CHIPP—There is no such thing as a free lunch. As ever, I am indebted to my friend Ron Boswell. To what extent would the debt be? To what extent would the debts be called up, and at what time and by whom? The Governor-General at the moment is free of any sort of inhibition of any decisions that he or she might make.

I believe the popularly elected president is the worst of all worlds. It would also have a risk. Steve Vizard, who I admire intensely, says, 'Look, don't worry about that. The new president would only have the power presently enjoyed by the Governor-General, who has never abused them.' I agree with that, he has never abused them.

Mr GARETH EVANS—Never, ever?

Mr CHIPP—Well, there might have been one exception to that, but it is arguable.

Mr GARETH EVANS—Well, hardly ever!

Mr CHIPP—It is arguable; I go no further than that. But they forget the convention that restrains the Governor-General from stepping over those bounds. With a popularly elected president strutting around saying, 'Fifty-one per cent of the Australian people voted for me; they put me here,' there would be no restraint at all. He would be a free agent to trample on any of the conventions and to use any of the powers, whether they are implied, reserved or not.

That is a danger. You on that side of the House say, 'That would never happen.' But it might happen. And that is my reservation; that is why I am proud to belong to this side of the House, to the Australians for a Constitutional Monarchy. I am saying, 'Why change something that has worked well, that is working well, that continues to promise to work well for something we don't know, that runs these awful risks?' Why change this engraving on a 20c coin? It is not worth the risk.

What worries me even more is a two-thirds majority of both houses of parliament. I spent 26 years here. I know a little bit about politicians and politics. I have seen a few deals go through in my time.

Brigadier GARLAND—Just a few?

Mr CHIPP—Just a few. The mind boggles at the kind of wheeling and dealing that would take place between the various parties when some person or persons were put up for president. What sorts of deals would he have to make? What sorts of agreements would

have to be secretly done, hidden from the body politic?

I have a view, and it may be controversial to put this at this stage, for the Convention to think about. I would think that if the bells rang and we had a vote today, right now, 90:60 would be the result for a republic. But it will not end there, will it? You 90 who are going to vote for a republic are evenly split about whether to have an elected president or a two-thirds majority of both houses. It could well be that a funny number will go to the Prime Minister as a result of this Convention.

What terrifies me more than anything is the Prime Minister's quaint promise that he will have a plebiscite. Good heavens! Will that be a tick a box thing like we had with the national anthem? I hope we can dissuade the Prime Minister from that. Unless this Convention comes up with something positive, we should forget the whole thing and stay with the status quo.

Proceedings suspended from 1.00 p.m. to 2.15 p.m.

CHAIRMAN—Before calling on the first speaker, can I advise that, during the lunchtime break, there have been such pressures on *Hansard* with requests for the Internet copy of the proceedings that they are downloading all this morning's proceedings. They should be available on the Internet by 3 p.m.

With respect to another matter, Ms Christina Ryan, on behalf of the Steering Committee of the Women's Constitutional Convention, handed me a letter dated 4 February which reads:

> On 29-30 January 1998, 300 women from a diverse range of backgrounds and organisations met in Canberra at the Women's Constitutional Convention to consider issues relevant to the Republic and Constitutional and legislative change. Delegates debated these issues in discussion groups and a plenary session and arrived at a harmonised set of outcomes, covering the Republic, selection of the Head of State, powers of the Head of State, civic education, the Preamble, a Bill of Rights, electoral reform and other reforms.

As Chair of the Women's Constitutional Convention, Ms Ryan wishes to present to me formally these outcomes. Accordingly, I take pleasure on behalf of the members of the Australian Constitutional Convention in receiving her letter and attachments, which contains a report on the outcomes. I table that for the information of delegates.

May I then return to the list of speakers on the day 3 issue. Can I remind delegates that at 3 o'clock we intend to return to the general debate on the general subject of whether or not Australia should become a republic and the debate on the issues at that stage will be adjourned until tomorrow. Depending on how many speakers there are, it may be that tomorrow morning we might wish to commence for an hour on the general debate, depending on the number of issues on the issues. There will be no formal consideration of the resolutions on the issues until tomorrow afternoon when, according to the adopted order of proceedings, the requirement is that we have an hour's session on the floor followed by resolutions. That will be the time when we will consider the issues in detail.

In response to Delegate Don Chipp's recommendation, we will take that on board for the proceedings on Friday morning when it would seem appropriate that we might perhaps consider that alternative; but I will report back to the convention on that in due course. May I call then on the next listed speaker on the issue of the day, Mr Eric Bullmore.

Dr DAVID MITCHELL—Point of order, Mr Chairman: this point of order would in other circumstances probably be referred to as a matter of privilege of the House. This morning, you presented in a very gracious and statesmanlike way a rap over the knuckles to those delegates who have not read their papers. May I say that delegates are barraged with a great number of papers and it is very difficult to distinguish the official papers of the convention from other papers. There is a huge bundle of papers. I ask whether it would be possible to mark the official papers of the Convention in some way so that it is easy for us to perceive what needs to be read for the purpose of the Convention and what can be put aside until later.

CHAIRMAN—Thank you very much, Dr Mitchell. Have you finished your point of order?

Dr DAVID MITCHELL—No, I am afraid I have not finished. In this context, I presume that the paper headed 'Hand microphone usage for all delegates' is an official document. I would be grateful for an explanation as to how this procedure is to be implemented. I would have thought that the word 'level' could not mean 'length' in any sensible use of the English language. This memorandum states:

> For the benefit of all other delegates, please keep all discussion to a minimum level.

It cannot be read as length. Is this intended to be an intellectual level; are we to keep our speeches to kindergarten level; is it intended to be a level of quality; or is it to be level of sound?

CHAIRMAN—I suggest you might conclude your point of order. We have got your points. I will respond to them both. Have you any further points? I do not want you to be protracted.

Dr DAVID MITCHELL—Yes, I am afraid there are.

CHAIRMAN—I suggest that you draw your remarks to a conclusion, Dr Mitchell.

Dr DAVID MITCHELL—On your direction, there are two other matters.

CHAIRMAN—Raise those, please, but do not persist. We are taking up time of the Convention and it is now twenty past two. I will hear the other two matters.

Dr DAVID MITCHELL—Who are the 'other delegates' referred to in this memorandum? There is a further memorandum headed 'Registration to join a working group' which states 'I'—blank—'wish to join the working group'. That is presumably where I would put my name. But suppose I do not wish to join a working group, I still need to fill in the last of the blocks on that page. Am I supposed to put my name on it then or not?

CHAIRMAN—Thank you, Dr Mitchell. You raised three points of order that I can identify. The first was with respect to official delegate notice papers. Each day you will receive a Notice Paper as we do in the Australian parliament. In the House of Representatives we call it a 'blue' and in the Senate it is called a 'red'. In order to ensure that we be different, we thought it was appropriate for the purposes of the Australian Constitutional Convention that you have a 'green'. An official 'green' is identified as the official Notice Paper for the day's proceedings. It identifies all those matters that we will be dealing with and to it are attached any official papers, as in today's Notice Paper, the papers of the working groups that are reporting on the issues of today.

With respect to your second point regarding the level of microphones paper, a point was raised with us about difficulties of people hearing yesterday. I am afraid I do not know the particular document that has been distributed, but the purpose of it, no doubt, was to try to ensure that delegates would be able to hear each other when speaking through the microphone. There was also reference to a number of people talking in the House and troubles with mobile phones that you might recall, to which the Deputy Chairman and I have both referred.

On the third issue, you referred to papers regarding working groups. I have not seen them. I will have a look at them and take note of the remarks you have made. I now call on Mr Eric Bullmore.

Mr GIFFORD—Could I just ask you—

CHAIRMAN—Must we really have another point of order? Yes, I will hear you.

Mr GIFFORD—All I wanted to do was ask you what time we are finishing tonight; that is all.

CHAIRMAN—At 7.30 p.m. On the paper we have before us, it sets the sitting hours. If you look at it, you will see the session times. Session 2 goes from 2.15 p.m. to 4.45 p.m. and then from 5 p.m. until 7.30 p.m. I announced this morning that we would be resuming the discussion on the general debate at 3 p.m. Therefore, we will continue from 3 p.m. until 7.30 p.m. as is specified on today's Notice Paper.

Mr GIFFORD—I was not certain of the finishing time.

CHAIRMAN—If you follow the Notice Paper which is distributed and available to everybody, that tells you the program for the

day. Can I call then for the third time Delegate Eric Bullmore.

Mr BULLMORE—Thank you, Mr Chairman, fellow delegates, ladies and gentlemen. I am the Shooters Party's elected delegate from Victoria. In many of the addresses and discussions that I have taken part in leading up to this Convention, one point is crystal clear and that is, if there is to be a new head of state the people want a directly elected head of state.

I hear the Australian Republican Movement boast they have the numbers. Well, they do not have the numbers in Victoria or Queensland. In Victoria, the people who elected me will not support at a referendum a republic with an appointed head of state. Mr Turnbull keeps stating that he has a mandate. I can only assume he is using the numbers from the postal ballot. Well, when I do the calculations from Victoria, I have the Australians for a Constitutional Monarchy at 500,524; I have the Australian Republican Movement at 434,375; and I have the direct election groups altogether at 373,929. All we need is for 33 of the direct election groups to vote 'No' at a referendum for an appointed head of state and it will fail.

I listened to the numerous addresses in this chamber. I see a clear consensus between the appointed politicians and the Australian Republican Movement that their preferred model is anything but a direct election. For all the words of wisdom that have been quoted to date, none seem appropriate for how I feel. However, the words of exasperation coined by tennis player John McEnroe 'You can't be serious' must be on the lips of millions of Australians. You can't be serious if you think the people are going to support a model that hands more power to the politicians. I will not support such a model.

Ultimately, if that model is put to the people at a referendum, it will fail. There is no point in change for the sake of change alone. I will only support a better system. Please don't insult the Australian people by blatantly disallowing them the right to be involved with a direct election of an Australian head of state. Therefore, I believe that, if elected by people by popular vote, the head of state would be charged with upholding the Constitution and safeguarding all the rights of the people. In fact, I believe that he should have more power than the existing Governor-General.

I see his appointment and part of his duties as follows. First is the appointment by a direct election with open nominations. The head of state must ensure that no government shall enter into any treaty with any foreign state or organisation unless that treaty has been ratified by both houses of parliament. If any party that has been elected misleads the electorate by false promise or deceit, whether intentionally or not, it is the charged duty of that head of state to issue a veto to both houses of parliament over the legislation, except, of course, in time of war or national disaster and only then in consultation with the head of state and limited by a time frame set by the head of state.

The head of state should at all times be seen above the party politics process. The head of state should be an Australian citizen. I believe that the head of state should be elected during the middle term of a parliamentary term for three years. No-one should be permitted to serve more than two terms. Removal from office may be effected preferably by impeachment before the High Court on a vote of a two-thirds majority of a joint session of both houses of federal parliament. Following this, the parliament itself should be dissolved and a federal election called. The new head of state would be elected after two months from the day that the new parliament is convened but not at the same time. The parliament would not be permitted to pass any legislation without a duly elected head of state being in office.

This is the kind of model I would have supported. However, decisions of yesterday have destroyed any hope of a directly elected head of state. I cannot believe you people can support an appointed head of state. We already have an appointed president and deputy president in parliament, the President and Deputy President of the Senate. I have a copy of the *Hansard* of 20 August 1996, which I will submit to every delegate, of the appointment of the President of the Senate,

Senator Reid, and the appointment of the Deputy President of the Senate—guess who?—Mal Colston. The deals and manoeuvring that take place are an outrage. This is precisely what will go on in the appointment of a head of state, the president of Australia.

I will read a small passage from the *Hansard*. It is the Senate *Weekly Hansard* of 20 August 1996 at page 2678, where Senator Faulkner said:

> What we have now is a slimy, sleazy little trick from the government. They are not satisfied with breaking the convention in relation to the election of presidents and deputy presidents in this place. Senator Hill was too gutless to stand up in the earlier debate and nominate Senator Colston. He passed the ball back to a member of his backbench because he did not have the courage of his conviction, he did not have the ticker, he did not have the intestinal fortitude to stand up in this place and put forward his own sleazy deal and arrangement.

You can't be serious if you think the people of Australia will support a head of state that is appointed. It is an insult to the Australian people. I will not support the Australian Republican Movement. We all know that we can't trust politicians. Thank you, Mr Chairman, and thank you, ladies and gentlemen.

CHAIRMAN—Thank you. I call on the Premier of Western Australia, the Hon. Richard Court, to address us. He will be followed by Dr Baden Teague.

Mr COURT—The working parties today have given us a good summary of the options that are being put forward in relation to the appointment of the head of state. I accept that there is a strong and growing sentiment in the Australian community for an Australian head of state. Many people believe, including me, that, in reality, we already effectively have an Australian head of state. Since 1965, we have continuously had Australians as the Governor-General. The people of Australia also know that we already have a workable parliamentary democracy. If there is to be any change to that, we are going to have to be very careful.

They will not accept radical change. They will accept the system evolving, but they will not accept radical change. Some delegates quite rightly are putting forward a position that they do want to move down the path of quite radical change. They can put it forward, but I believe that it is unrealistic to think that the Australian people would move from a constitution that has basically been working well for us. I share the sentiment that any change must be simple, practical and easily understood and, as Professor Craven said this morning, it must be saleable. That, I believe, rules out a major rewrite of the Constitution.

Also, in any change the position of the states must be protected. It must certainly not be weakened. Preferably, I believe that it should be strengthened. Over the last 100 years, we have seen the continuing centralisation of political power in a number of ways, mainly through the financial muscle that the federal government has in Canberra. I have always seen that as very unhealthy.

The people of Western Australia certainly want to defend their voice in determining their own arrangements within the state, including the arrangements in relation to our governor. They certainly want to protect their voice within the federation. As we are aware, both in Queensland and in Western Australia, we need to go to a state referendum if we are to change the office of governor. We must take into account the circumstances in each of the states and what we need to do if there is to be change.

In listening to all the different proposals, I believe that the model put forward by Mr McGarvie is the most satisfactory model that I have seen presented to date. I certainly listened closely yesterday to the comments made by Bill Hayden in relation to this model. I believe that it does allow a proper distance from the political process. It is a model that is federalist in essence. I believe that it can be made to work.

I listened closely to the comments made by Bill Hayden. I agreed and disagreed with many of the views he expressed in his speech. But he certainly does have practical experience. He has been a backbencher, a minister and a Leader of the Opposition, he went through the events of 1975 in the parliament and he has been a Governor-General. I think he can bring a lot of wisdom to bear on what actually happens in practice.

Brigadier GARLAND—Then why don't you listen to him?

Mr COURT—I have just said I agree and disagree with some of his views. One of the models being put forward that I believe will not work is that of an appointment whereby two-thirds of the parliament select the head of state. I believe with that model, in practice, you will end up seeing a political hatchet job being done on nominees who are being brought forward to the parliament. I believe that the process of having that sort of debate in the parliament will tarnish irreparably in the public's mind the status of the office of Governor-General.

When you look at the position back in 1988 when Bill Hayden became the Governor-General, you can see he went from being a minister to being appointed to the position of Governor-General. Even if the opposition of the day had wanted to provide some sort of bipartisan support, that party would have been under huge pressure from their support base around Australia to run a campaign within the parliament of 'jobs for the boys'. I believe the appointment was handled in such a way that Bill Hayden was given the opportunity to perform in the position of Governor-General, and he did a terrific job—he did perform—but I believe people in a similar position to him simply will not come through the particular scrutiny that the parliament would put in place.

Bill Hayden made the comment that Australians are not very good at providing bipartisan support on these sorts of issues, and I agree with him on that particular matter. We have seen what happens in the United States with the appointment of Supreme Court judges. For appointment, they have to go through an incredible exercise where their personal backgrounds and the like are certainly dissected.

The other concern with that way of appointment is that the Governor-General of the day could also, I believe, become a political rival by saying to the Prime Minister, 'I have a mandate of two-thirds of the parliament and I believe that you should be doing certain things.'

In relation to the proposition of a popularly elected head of state, again I have expressed my opposition to that. I definitely see that becoming a rival power centre to the Prime Minister. We could have a person answerable to no-one who could certainly destroy the Governor-General's position as an umpire.

So we have a situation where there is a strong feeling in the community of support for a popularly elected head of state, but I believe they have only been presented with half of the story because they have not had fully explained the need in that case to codify the powers and the fact that in practice it will be very hard to actually codify those powers. Without doubt a very party political election would take place.

I would also like to comment on the models put forward today whereby different mechanisms for nominations to a panel of people were suggested and that those people would then be put to the people for election. The only one I could even think of supporting is the proposal put forward that allowed the states, both the Premiers and the Leaders of the Opposition, to have some say in the nominations going forward. Again, in practice, I believe very few people would want their names to be put forward as one of, say, half a dozen that were then going to be put to the Australian people. I believe people would not want to be humiliated by having to go through an election where they will be ranked one to six according to what Australians think of their particular position. It is fair enough for a politician. We expect that, we expect to win and lose elections, but for this position I do not think we will be able to attract the calibre of person that will be suitable for this particular job.

In relation to the term of the appointment, I believe there should be flexibility. I do not believe there should be a limit of, say, one term on an appointment because people's circumstances change. If a person is doing a particularly good job I think there should be the opportunity for that person's term to be extended. Similarly, if people want to get out for personal reasons or whatever, there should be that flexibility.

On the question of the dismissal mechanisms, it is important that there is a mechanism in place. I agree that the choice of the mechanism should be up to the Prime Minister, but in practice I believe it would rarely, if ever, be used to get rid of a Governor-General because it would put huge pressure on the Prime Minister of the day to explain to the people of Australia why they had used that particular power. In practice, I believe that a term would be completed and then a change would take place.

In summary, I want to say that I think we have got to be very cautious as to what model is put forward to the people so that it meets the basic criteria of being practical, simple, saleable and understood by the electorate as a whole. I believe that some of the proposals put forward would quite severely damage the office. I believe that they would damage the position of the states within the federation and I believe that they would damage our existing system of parliamentary democracy. I go back to my original comment: I accept that there is a growing sentiment for an Australian to be the head of state and, of the models presented to date, the one I see as most preferable in meeting the criteria is that which has been put forward by Mr McGarvie.

CHAIRMAN—Thank you very much, Mr. Court. I call on Dr Baden Teague to address the Convention.

Dr TEAGUE—Mr Chairman and delegates, we have come to the only item that we have reserved two days for, the item which must be central to any model for the establishment of a republic, for a change to our Constitution, and that is the process of appointment and dismissal of the Australian head of state.

I had the honour of being elected to chair Working Group C, whose proposed resolution is in front of you all, having been circulated with the *Notice Paper*. I stand here to fully support resolution C. It proposes that the Prime Minister put forward one nomination and that that nomination be endorsed by a two-thirds majority of a joint sitting of the Commonwealth parliament. I have held this position for many years and have argued it in every state of this country. It is the position that I put in the election process in my campaign to be the number one Australian Republican Movement candidate elected in my state of South Australia.

I want to say at the outset that I enormously value having listened to those who, in my view, spoke with fabulous clarity and genuineness—for example, Julie Bishop, who spoke this morning, and Professor Greg Craven—in putting forward the resolution of their working group and its arguments. I think we must all listen most carefully to the several speeches that Professor Craven has made with regard to the criteria for what will eventually get up in the referendum and what therefore will be viable; something that can gain as much unity as possible in Australia.

I listened to the excellent speech of my old friend Don Chipp before lunch today. Don Chipp's speech expresses the views of very many of the Australian public: they are prepared to be convinced, but they are not yet convinced; they have put down a challenge that the model needs to be defined and they will vote for the model only if they believe it is superior to the status quo, to the current situation. As I said to Don at lunch, it is a bit like saying, 'Is there anyone here who is prepared to tackle Goliath?' If a David comes forward and kills Goliath, I think we will have Don Chipp voting for change.

I see Bill Hayden rising. I welcome the credibility of the contributions yesterday that urged support for Working Groups 1 and 4, and theirs were among the resolutions that got up yesterday. I also happen to support and called for resolutions from Working Groups 1 and 4. I could mention a number of others. Mr McGarvie was sincere in consistently arguing a position for a constitutional council throughout the lead-up to this Convention and in his remarks here. We are listening to each other. We are aware that there are at least 40 delegates who are making up their minds and are listening to this argument.

I want to now go on to note the two starting points of my position on this matter. Firstly, I believe that the majority of Australians do support us moving to a republic. They want us to demonstrate that it is a soundly defined republic and that the Australian head of state has the same powers as the Governor-

General, no more and no less. I welcome that. I believe it is a starting point.

Secondly, the outcome of that—and the flaw of even our vote yesterday—is that this Convention and the people of Australia are looking for a change, for an improvement, that is in the terms that the Prime Minister put before this Convention, and in his opening speech, that the symbols associated with the Crown are no longer in tune with the values and nature of the Australian people and that we do need to revise those symbols. I welcome the speech of my colleague Peter Costello when he says, 'Yes, the time for change has come.' So my starting point is that I believe the majority of the people do want change. I am listening to everybody's genuine view that this model is to be, as much as possible, a clear, sound model for change.

The two proposals in so far as appointment and dismissal which have already convinced me must be in the court for final decision are the resolutions of Working Group C and Working Group D; that is, the two-thirds model and the McGarvie or Constitutional Council model. I very much prefer the two-thirds model. That is the group which I happen to have chaired yesterday. But I will concede this: both of these models are workable, in my view, in terms of the criteria that the Prime Minister has set forth as the purposes of this Convention: to find and define a model that can be put to the Australian people in a referendum that is so sound that it can be seen by a majority—and they will all have to make their own decision—to be a step forward in the development of the Australian Constitution.

Let me give you what I believe are the merits of the two-thirds of parliament model, which I support. First, let me state what the status quo is. The status quo—it is, of course, referred to in group E's report—is this: the Prime Minister has all the initiative at the moment for determining by recommendation direct to the monarch who will serve as Governor-General and then fulfilling the virtual head of state role that we have all been discussing. The Prime Minister, acting alone at the moment, has all of the initiative for the dismissal of any Governor-General or virtual head of state. This is the starting point.

It is no accident that the two-thirds model that I am commending has the initiative starting with the Prime Minister. The Prime Minister will nominate one person to a joint sitting of the Commonwealth parliament, reflecting direct democracy, reflecting that the parliament is that group comprehensively elected by the Australian people. This method is democratic. It is open—much more open than the present situation, which is a private phone call to Buckingham Palace backed up by an appropriate letter.

Mr RAMSAY—A phone call? It is not.

Dr TEAGUE—It is. It is not public. It is not open. The proposal we have to improve the Australian Constitution will, firstly, be more democratic and go before every one of the elected members of the parliament. Secondly, it is open. Thirdly—this is the important reason for the two-thirds majority vote, which Steve Vizard made abundantly clear in summing up for our group this morning—it is designed to be bipartisan. You cannot have the friend of the Prime Minister being successfully nominated if a two-thirds majority of a joint sitting is called for. Why a joint sitting? In this one decisive motion by the Prime Minister in one place, a joint sitting—and we already have a facility for arranging joint sittings in the Australian constitutional framework—will be a wonderful symbol of the unity of this country and the unity that we expect from the Australian head of state.

As I have said, I concede that Working Group D's Constitutional Council model could work. It must be in the ring for our discussion on the final day. I do not prefer it because I believe it is not—Mr McGarvie, please correct me when you come to speak—as democratic as the two-thirds model I have described. It is not as open. It does not ensure bipartisan support for that nomination. These are three major difficulties. Dame Leonie Kramer, in her remarks this morning about the resolution of Working Group E, mentioned some of the deficits of the so-called Constitutional Council model. With regard to popular election, I am not yet convinced. *(Extension of time granted)*

I want to refer to the third model that is before us. There are three models. They are all urging popular election. They are quite different, and they are models A, B and F. Christine Gallus MP, my friend from South Australia, has spoken clearly about model F. We have in Paddy O'Brien a spokesman for group A, and I think it was Geoff Gallop who put forward the Leaders 16 group with regard to another direct election model.

What I would like is this. I do not see that all three of them can possibly get up. I do not prefer any of them. I have made my priorities clear. I am still open to some discussion, but I would love it if there were a working group of the members supporting those three models who could get together and at least prepare what they regarded as their best shot for a direct election. I think that that would be very helpful to us when we come to the final vote. It is in their hands. I am not saying that this must be. I am just putting it to you that the arguments from such as Professor Craven and even Mr McGarvie and me have been, I think, very strongly put that direct election has the potential for disaster by having an alternative mandate that rivals that rightly with the Prime Minister, who has the majority in the House of Representatives. So I want to avoid any such rival mandate. I do not believe that our head of state should be in any sense a challenger as an alternative Prime Minister of the day.

I conclude by putting the challenge to those who are supporting direct election that you have a working group. Try to put these three groups together. I think we would all facilitate some way in which you could survive our direct procedures in the standing orders to allow us to see your best shot. I am not promising to support direct election. I believe that, however you put it, it is going to be very difficult. I conclude by urging delegates, when the vote comes, to support the Working Group C resolution, which is the two-thirds majority vote of parliament.

CHAIRMAN—Thank you, Dr Teague.

Ms PANOPOULOS—Mr Chairman, I raise a point of order. Dr Teague, you spoke of Australians wanting—

CHAIRMAN—Is this a point of order?

Ms PANOPOULOS—No, it is a point of clarification.

CHAIRMAN—That does not really constitute a basis for intervention, I am afraid.

Ms PANOPOULOS—No. He mentioned that the Australian people were looking for an improvement.

CHAIRMAN—You can make a personal explanation if you wish. You cannot have a personal point of explanation or whatever you are after.

Ms PANOPOULOS—No. I would like to ask Dr Teague what sort of improvement he is offering.

CHAIRMAN—I am afraid that is an interesting point of order.

Ms PANOPOULOS—Where is it? We have been asking for it for years. There is no improvement. What are your improvements, Dr Teague? Go on, tell us. Put them on the table, Dr Teague. You have no improvements.

CHAIRMAN—Thank you very much. We have heard you. I deny you the further call. Will you please resume your seat. I now call on Professor Greg Craven as the last speaker on the issues for today.

Professor CRAVEN—The one thing that has emerged so far at this Convention is that there will be no successful outcome unless there is successful consensus. Unless there is strong consensus in this Convention any proposal at referendum will fail. The truth is that those people who will ensure that it fails, the greatest opponents of the proposal, will be sitting in this chamber as I speak. So it is the case that there must be consensus here or there will be no consensus elsewhere.

No-one in this Convention is going to get all that they want. I wish to reiterate what I said this morning when giving the working party report that it is my belief that the McGarvie model presents the greatest chance of consensus for simple and clear reasons. It delivers a republic, so republicans can, so far, agree with it. It is minimal and safe, so it appeals to those who are undecided. For that reason, those monarchists who are considering their position may be persuaded to support it.

It is, in short, the closest thing to common ground. It impresses me that considerable sacrifices have been made for it to get there. I was extremely impressed by the actions of people like Mr Abbott who was prepared, in the spirit of compromise—and compromise is not a dirty word here for, as our founding fathers said, compromise was the watchword of the great conventions—to try to produce a solution. I believe that that is the spirit in which we should proceed. It is not surprising that the McGarvie model represents compromise, represents an attempt at stability, because it retains the strengths of our present democracy.

Ms PANOPOULOS—Wrong!

Professor CRAVEN—With great respect to my former student, Ms Panopoulos, I do not believe that I have heard any arguments that suggest to the contrary.

It seems to me that it is absolutely necessary that the proposal we come up with succeed at referendum. It must succeed at referendum, and it must be strongly supported for that purpose. I accept, I may say with no strong enthusiasm, that the people want a republic. I accept it for the simple reason that it is true. I believe absolutely that Mr Court was right when he said that we are going to need, as part of our constitutional mechanism, the consent of all the states. You are going to have to aim to win every state. This is a big ask and it takes a big compromise.

Turning to the other models, in relation to the two-thirds majority of parliament option, let me say that I accept, with Dr Baden Teague, that that is the other option. There is no question of that. I have two worries with that model. One is that it assumes bipartisanship on the part of the Prime Minister and the Leader of the Opposition. I have little doubt that in this parliament in Canberra that might well follow. It does not necessarily follow in every parliament, the proceedings of which I have followed. What happens if there is disagreement? What is the mechanism if opposition and government cannot agree? I will need to be persuaded on that point.

The second point that I worry about is what happens when you have the parliamentary election and you have five or six or seven or eight or four candidates. Is there a demolition of reputations? This worries me. On the other hand, I accept that unless one accepts the McGarvie model, that is the only plausible model that I can see, with those imperfections, as I have explained.

In relation to dismissal by the Prime Minister, sanctioned by the House of Representatives, this is, in the spirit of compromise, a move towards the McGarvie model. It is a move towards common ground, and I acknowledge the generosity of spirit in which it has been given. It is, like in the McGarvie model, effectively dismissal by the Prime Minister. Mysticism notwithstanding, that is our present system.

I see two relatively small problems with it. One is the lack of delay that would occur between the Prime Minister initiating action and that action occurring. It is a feature of the present system which makes the Prime Minister think, because he can garrotte the Governor-General but not shoot the Governor-General immediately. And it worries me that there is a lack of advice and counsel under this model. There is not the embarrassing possibility of the Queen telling the Prime Minister that he or she really should not dismiss the Governor-General because he does not like the Governor-General's face.

That said, however, I think we have arrived at a crucial point in this Convention. It seems to me that on this one basic point—how we are to appoint and dismiss the head of state—there are three possibilities that might produce a consensus. One is the model I favour, what has been called the McGarvie model: appointment by a council, dismissal by a council. The second is the ARM model: appointment by two-thirds of parliament, dismissal by the Prime Minister. But everybody who has followed this must be aware there is a third, unstated possibility, and that is a hybrid model, where we see appointment by two-thirds of parliament but removal under the McGarvie model by a council acting on the advice of the Prime Minister.

This is not something that I have proposed. I concede, however, that it has the perceived advantage as follows. Some people—I believe wrongly—think that the McGarvie model

lacks a popular element. I have explained that the popular element is the Prime Minister. But, accepting that for the moment, the popular element is a problem at the appointment end. If one accepts the possibility of appointment by two-thirds of parliament but also dismissal according to the McGarvie model, then that achieves the one great contribution that the McGarvie model has made the central contribution to this Convention: maintenance of the conventions of our parliamentary Constitution through the facilitative dismissal of the head of state.

I prefer the McGarvie model. I believe that it is cogent and that it is consistent, but I also accept that it may not command the support of a majority of delegates. I appeal to all delegates to accept the McGarvie model as the best model. But, failing that, and I suspect it may well be failing that, I urge you to support a hybrid. I urge you to support a model that will command consensus—appointment by two-thirds of a joint sitting of parliament but effective, prompt, parliamentarily supported dismissal by the Prime Minister. I feel it is absolutely important that we all understand the consequences of failure in this respect.

There seems to be a view abroad that if this Convention fails and if an ensuing referendum fails then the monarchy will go on to another glorious thousand years—and I accept that it has been a glorious thousand years. Regrettably, the second part of the proposition is not true. As a result of this debate, we have a constitution, rightly or wrongly, that has been significantly destabilised. We have a generation of young people who not only believe that they do not like the mechanism for the appointment of our head of state but believe, paradoxically, that we have a bad constitution when it is the best in the world.

Five more years of disastrous debate over the republic—which is what will happen—followed quite possibly by the Australian people who almost certainly want a republic accepting a bad republic because it is five years late will be catastrophic. To my friends among the ACM—and I have many friends on the ACM because I agree with them on a great many things, as they know—I say: we cannot afford a catastrophe. There are only two non-catastrophes here. One is McGarvie; one is the hybrid model. I would prefer the one, but if one cannot get the one then one needs/must get the second.

CHAIRMAN—As I indicated earlier in the proceedings, we will adjourn the debate on the issues at this point. It will be resumed tomorrow morning. At the moment we have only 15 more speakers on the issues of today and, unless there are significantly increased numbers who register their names with the secretariat by 5 o'clock, I would propose that we commence tomorrow's proceedings with another hour of general debate. But an announcement on that will be made later in the day. It would be the intention this afternoon, as I announced this morning, that having resumed the general debate in a few minutes time we proceed right through without interruption from 3 o'clock through to 7.30 p.m. The Resolutions Committee has requested a brief opportunity to present an interim report on their deliberations over lunchtime. I call on Mr Gareth Evans, one of the co-rapporteurs of that Resolutions Committee, to report to the Convention.

Mr GARETH EVANS—Thanks, Chairman and delegates. The Resolutions Committee met at lunchtime and appointed Daryl Williams and me as co-rapporteurs. Present and former Attorneys-General, I think, was the rationale, although that is sometimes a status I prefer to forget so far as I myself am concerned. We propose to share the load of reporting between us. I will give this short report today. Daryl will move a resolution tomorrow embodying some of the key procedural things to emerge from that. That resolution tomorrow will be the subject of debate. As I understand it, this report today is simply for information.

The decisions that were made today by the Resolutions Committee fell into three categories: firstly, the process for debate—today and Monday, Tuesday and Wednesday of next week—secondly, the role of the Resolutions Committee and what kind of propositions are going to emerge from us; and, thirdly, the nature and timing of the final debate next week.

The matters arising from that, which I will quickly go through now, were all resolved unanimously by the Resolutions Committee. I think it is important for me to emphasise that, because the Resolutions Committee really does seem to represent all shades of opinion within the Convention, consisting as it does of Stella Axarlis, Julie Bishop, me, Kerry Jones, Wendy Machin, Pat O'Shane, George Pell, Moira Rayner, Jeff Shaw, Malcolm Turnbull, Lloyd Waddy and Daryl Williams, under the chairmanship of Barry Jones.

As to the process for debate, the Resolutions Committee has recommended to the Chairmen, and it is a matter for their final decision, that if possible the debate to take place tomorrow afternoon, Thursday—and the ones that are presently scheduled for Monday, Tuesday and Wednesday next week on specific topics—take the form of discussion plus voting, discussion plus voting, discussion plus voting, in a sequential fashion rather than, as we did yesterday—to the dissatisfaction of a lot of delegates—having generalised discussion with everything tumbling together and then trying to separate it at the voting stage. There does need to be consultation between the Chairman and some of the people who may find difficulty in being here for as long a period as would be necessary to do that. But that is the recommendation.

Secondly, I think it will be of acute interest to most delegates that it has been agreed to recommend to you—and this will be a resolution tomorrow—that all resolutions should go forward to the Resolutions Committee if there is 25 per cent or more support for them coming from the floor, rather than the requirement that we have been working on in an informal way so far of a 51 per cent threshold having to be satisfied. It is intended that that should apply retrospectively: there are two matters that were the subject of debate yesterday. When there is not an actual account taken, it will be left to the Chairman to determine whether that threshold is roughly satisfied.

As to the role the Resolutions Committee will play, it is our task, as we see it, to draft for consideration next week a series of resolutions in a form which will enable delegates next week to vote systematically and comprehensively on all the issues before the Convention which have attracted significant support during the debate. Significant support will again be measured by reference roughly to that criterion of 25 per cent.

It is further the intention of the Resolutions Committee to take into account in the process of drafting those resolutions not only material that has come forward to us formally satisfying that 25 per cent threshold as a result of voting in this chamber but also other material that is supplied to the committee by delegates—that is to say, formal proposals for amendment to particular matters that have been before us—and also further propositions that may have arisen out of discussions that are continuing to take place. It is obviously not sensible to require a formal process before anything can go to the Resolutions Committee if there is genuine movement occurring in corridor discussions and so on. So we will take that into account.

It is proposed—and I will not go into any detail on this—that the resolutions that are drafted by the Resolutions Committee are constructed in such a way as they ring the changes on all the key issues that have to be debated. Our present thinking, in a nutshell, is this: we will divide up the resolutions into three categories, starting by reference to the mode of election or appointment. So there will be a single resolution with a group of sub-components to it, first of all on the direct election model with its various possible ways of getting there and then, associated with that, a series of propositions ranging from maximal change to minimal change as to the kinds of powers that should be associated with a head of state thus determined. Then we will move on to draft resolutions about a parliamentary election process and the different models that have been proposed for that—two-thirds and so on—again with a set of propositions associated with that about the kinds of powers that could be exercised by a head of state appointed in that way. And, finally, there will be the prime ministerial/constitutional council Dick McGarvie model, variations on that

theme, and then the powers associated with that.

The intention is to draft these propositions in a way that is reflective of all the material that is before us from the Convention but which is also systematically and clearly enough drafted to enable everyone to come to grips with it and to vote accordingly. Of course, it will be possible for amendments to be moved from the floor if the Resolutions Committee gets it wrong in its drafting of this material, it is not comprehensive and does not cover all the nuances that people want covered. Of course, there will be an opportunity to respond to that from the floor.

Finally, as to the nature and timing of the final debate next week, consideration is being given—and I put it no higher than that at this stage; we wanted to mention it to you so we could get a response from you—to having not a one-stage process next week but a two-stage process towards the end of next week to finally determine the Convention's position on the key issues, in particular, the issue of whether or not there is a preferred model coming forward. Under this approach, stage 1 would involve us dealing with exactly that series of resolutions I have just referred to, with the debate on that possibly commencing as early as Wednesday afternoon and running right through Thursday to enable full opportunity to be given to full debate on that. It is intended that the draft resolutions that I am talking about be circulated—if we stick to that timing—no later than early on Wednesday morning to give delegates full time to prepare themselves for that.

I say stage 1 and a possible stage 2 because, of course, it may be the case that, arising out of that detailed debate, there is still at the end of the process some uncertainty, some ambiguity, as to whether or not there is a single model, for example, that does command a substantial consensus degree of support. It may be, because of the way the earlier debate will conduct itself, that there could be two or more models, for example, which have more or less equal support. If it is a matter then for the Prime Minister to have to determine whether there is consensus about a particular model, his task may be very difficult unless he has some further guidance from the Convention as to whether, when push comes to shove, this model is to be preferred to that one. So we want to think about the possibility of a kind of run-off ballot, a stage 2 process, some sort of exhaustive process. We would like to hear from delegates their views about the sense in doing that and, if so, the particular way in which that might best be done.

That is where we are at at the moment. The intention is for the Resolutions Committee to meet again at lunchtime tomorrow to formalise some of this stuff into resolution format which will be debated early tomorrow afternoon, certainly before we move to debate on the next stage of the provisional voting arrangements.

CHAIRMAN—The normal course would be for us to consider procedural matters first thing tomorrow morning, if you could be ready by then.

Mr GARETH EVANS—We would like a little more time than that. The crucial thing—and I will defer to my co-rapporteur on this—is that the Convention have guidance on all this before we move to the next stage of voting. That is not intended to be in tomorrow afternoon. Frankly, we would welcome a bit more time to get feedback from you on these procedural issues. If we could have the opportunity to have the morning and a lunchtime session again tomorrow, I think we would appreciate it.

CHAIRMAN—We can do that at lunchtime.

Mr RUXTON—I have a question, Mr Chairman. I must preface my remarks by saying I am always suspicious of former lecturers in law. Having said that, I have been listening to Gareth. To me, because I am simple man, I suppose, what he has been saying is about as clear as the water of the Yarra River in flood. But I ask one question. I did hear that if a resolution gains only 25 per cent of the vote of this chamber it will still go forward to the Resolutions Committee. I think I heard that. I presume then that proposition 6, on which Mr Evans got rolled yesterday afternoon, would then go through to the Resolutions Committee because there

was a 25 per cent support of that motion. Is that right?

CHAIRMAN—You will consider the motion tomorrow, Mr Ruxton. At the moment we are having a preliminary report. Could I suggest that we look at the remarks made by Mr Evans, and we will be able to consider it at leisure tomorrow instead of considering it on a proposition which is only giving us advanced warning of motions that will be submitted tomorrow.

Mr GARETH EVANS—I do not want to dob him in, but Lloyd Waddy and Kerry Jones—and I do not want to dob her in—thought it was a pretty good idea.

Mr RUXTON—Any motion with 25 per cent support should be out the window forever. That is the way I see it.

CHAIRMAN—Thank you, Mr Ruxton. Mr Hayden.

Mr HAYDEN—I would like to ask a question about the formulation of this draft resolution that you are proposing to bring in. But first, can I congratulate you on your very successful negotiating skills. Can I advise Mrs Jones and Mr Waddy that perhaps they need more wiliness when they are dealing with you in future. I think it was Paul Keating who observed once that a souffle does not rise twice. You have proved him once wrong once again.

I have no problems about these issues coming back, if people really feel they would like to re-explore them. Given the important nature of this Convention, I am happy to support that. Of course, as people would recognise, there is backroom horse-trading going on in a way that is not foreign to the experience of many of us who are here. It often works out that we get a better result, I guess. I hope that is true this time.

Gareth, what worries me this time—not necessarily worries me—is that I do not have a clear perception of how that draft conglomerate resolution is going to come forward. For instance, all those items—7 and 8, I think—which were before us yesterday from the various working groups, are very long and in many cases contain quite contradictory propositions. Of course, seven was rejected yesterday because of the ironclad approach which was seen in respect of reserve powers.

How would you propose to construct this sort of hybrid thing so we can delete what we do not want? For instance, George Winterton proposes that there be partial codification, which appeals to me. You propose total codification. You cannot draft this as a conglomerate, as it were, resolution of 'This is what we suggest you take; it is the best of everything.' We know that the 25 per cent that did not get up yesterday will get the 75 per cent of the resolution. What we need is something that will identify different constituent parts of various resolutions and what the alternatives are. Could you tell me how you are going to present it?

Mr GARETH EVANS—It is proposed to do exactly that—to draft the resolution set of resolutions in each case in such a way as to make it very easy for delegates to work their way through the logical alternatives. The idea is to start with the maximum change models for appointment, working through to the minimal change models, and then, within each of those categories, to start in terms of subset propositions with the maximum change proposals as to powers and so on through to the minimal change. How best to actually lay that out—whether you have a parent resolution and a series of identified amendments to it which could then be debated and passed upon sequentially, or whether rather you do it as a tick a box exercise—is something that the rapporteurs will work through.

The intention is for Daryl and I, together with the secretariat, to have a go in the first instance of drafting this in a way which meets the concerns of all delegates. Then it will go to the full Resolutions Committee, which is broadly representative with a lot of the eagle eyes on it, to make sure that the major themes are all there. Then it will come on to the floor with a further opportunity for amendment if people are dissatisfied that we have got it wrong. Hopefully, it will be clear. It is not just a matter of throwing into some sort of washing machine all the stuff we have done so far; it is a matter of rethinking what the essence of these various proposals are and laying it out in a way that everybody has an

opportunity to systematically debate upon them.

CHAIRMAN—Can I suggest that we should have a fairly full debate on this tomorrow. I think we are all a little bit bemused by the nature and character of the recommendations. I have not seen anything in writing, nor has anybody else. Mr Hayden has the call, and I will let him respond in a moment to Mr Evans, but I think we will then adjourn the debate, proceed to the general debate and we will consider the report when it is submitted to us. Would you be available by about 12 o'clock tomorrow? Could you have that report by then?

Mr GARETH EVANS—We won't have had an opportunity to have another meeting of the committee.

CHAIRMAN—I think you better meet before then because if we do not we are going to move into a process tomorrow afternoon that will make it very difficult. I think we should set aside 12 o'clock tomorrow for a report from the Resolutions Committee and arrange a prior meeting of the Resolutions Committee so that the Convention has before it whatever the recommendations are.

Mr HAYDEN—When we get to the stage, if it is accepted by the Convention, of considering these sorts of comprehensive patched up resolutions, I sincerely trust we are going to have an overnight opportunity to consider them. These are very vital issues and they can affect the destiny of this country in lots of ways if they were to be adopted, adopted in spite of being defective because we have not had a chance to consider them. Some groups will want to caucus to work out their position. I am in a very happy position that I have the best caucus. Graham Richardson said that a caucus of one is the best you can ever get. So I do not need as much time. But I hope, Mr Chairman, you will make sure we have plenty of time and not have the things turn up in the morning and go into debate a little later.

CHAIRMAN—It will be my intention to receive the report at 12 o'clock in writing. We will then at least adjourn until later in the day. We have an arrangement that there are to be votes only from a certain hour of the day. Given the nature and the consequence of this vote, it would be wrong for us at the very least to have a vote before the afternoon. It could be that we defer it until the following day, as you suggest. Mr Waddy, do you really need the call? Can't you leave it until tomorrow?

Mr WADDY—I hope to make a personal explanation. I have not had the wool dragged over my eyes. The committee was unanimous that nothing should be precluded from the members here, the status quo or any of the models, by provisional motions which may have had consequences which were not foreseen by some who could not even see the amendments. The Resolutions Committee is purely the handmaid of the Convention and the principles that we espoused were to put into rational resolutions everything of which there should be decision. No delegate should feel affronted by what is suggested. Whether they adopt it or not is a matter for the Convention.

CHAIRMAN—Thank you, Mr Waddy. At 12 noon tomorrow we will expect a report from the Resolutions Committee. At that stage I hope we can proceed with debate. Do you really need to speak now, Mr McGarvie?

Mr McGARVIE—Just to ask a question: those who are on the speakers list for tomorrow would naturally prefer to speak to a particular resolution. Will they be given a choice as to which resolution they speak to?

CHAIRMAN—When we start proceedings again in a moment we will be dealing with addresses to the general question. When we resume tomorrow morning, given the time it looks as though we will need to spend on the procedural debate, I suspect we should return to the issues first thing tomorrow morning, which will be the issues of the six working group reports we will be dealing with today. We will start tomorrow morning's proceedings on a continuation of the issues debate which we adjourned a quarter of an hour ago.

Professor PATRICK O'BRIEN—It is very difficult to hear at the back of the hall here what people are saying because I do not think the acoustics are all that good. It really is very confusing. With great respect, I ask both yourself and Mr Jones to articulate your words with clearer diction because you tend

to mumble a lot. It is not a personal criticism; we just do not hear.

CHAIRMAN—It has been said.

Professor PATRICK O'BRIEN—I am quite serious. That is one of the causes of confusion. I really did not hear what the previous speaker said because of the acoustics. That is causing a lot of the confusion. I think we must all try to do it that way.

I support what Mr Waddy said, if I heard it correctly. On this question of the method of appointing or election, I accept to a degree what Dr Baden Teague said. However, I agree with the point that four major strands of approach have clearly emerged in this Convention on nearly every issue. Those four models are the so-called McGarvie one, the ARM one, the ACM one and the general Elect the President proposition. They are four clear positions. I think as a matter of principle that those four general areas should all go to the Resolutions Committee. If that happens, it will save us a hell of a lot of time tomorrow. They should all go. We can then come back and have a debate. That gives more time for the general speakers. I think it is the sensible thing to do. I do not know whether that is in order. It is a recommendation. That means that, on the particular issue, I would be the first speaker tomorrow morning. Is that right? I want to know what time to get here.

CHAIRMAN—I will have to look. I do not have the issues list. I do not know that you were next on the list. The order of speakers, as I have it, tomorrow morning is that Mr Alasdair Webster will be the first speaker.

Professor PATRICK O'BRIEN—On my list, I come after—

CHAIRMAN—Mr Alasdair Webster dropped off. He came to see me. He arrived in the House, but he was not here. I called Professor Greg Craven. I said that Mr Alasdair Webster would be the first speaker tomorrow morning. He will be followed by Mr Kevin Andrews and then you.

Professor PATRICK O'BRIEN—Fine.

CHAIRMAN—I will elucidate where we are. Tomorrow morning, time is set aside for a continuation of debate on the issue of the arrangements for the appointment and dismissal of a new head of state, if there is one. When we open tomorrow morning, after any procedural matters on which I need to report, we will continue with the debate on the issues that we have been debating today, the debate being adjourned at about 3.10 p.m. When we reach 12 noon, there will be a report given by Mr Darryl Williams, the federal Attorney-General, from the Resolutions Committee. That report will set out, both verbally and in writing, the recommendations with respect to the future conduct of proceedings, the order of resolutions, the manner in which each of the issues will be considered and the way in which thereafter we should deliberate upon them.

It would be my intention not then to take a vote but, subject to the recommendation of the Resolutions Committee, either to defer the vote until later that day when we have our normal voting procedure or to defer the vote until the following day, subject to the recommendations and what they contain and the mood of the Convention at the time.

Mr WILCOX—I raised a matter yesterday and said that there was some confusion. The Deputy Chairman gave what I thought was a ruling. He said that yesterday's debate in relation to the resolutions is not a final position and that it is possible for you to vote for two, three or four or however many you like. Those that receive a majority of votes will go to the next stage. Later, he said, 'What we are really deciding today is whether, of the seven points on powers, all seven go to the next stage or some of them die.' I believe that the interpretation of that was as he said. I know that one resolution was substantially lost yesterday. I hope that that is not still a matter to be considered by the Resolutions Committee, because they are only going over the same ground.

I concluded my thanks to the Deputy Chairman for his ruling yesterday, his interpretation, and I concluded by saying it has helped me, because at least we know that if some of the proposals from the working groups do not pass—and that was so yesterday—then it will save the Resolutions Committee quite a lot of work.

CHAIRMAN—Thank you, Mr Wilcox. The recommendations, as I understand them as now presented by Mr Evans, are related to some variation of that ruling. That will be a matter that we cannot judge upon until we know what those recommendations are. Those recommendations will come before us tomorrow. If that ruling is to be varied, then it will certainly be a matter for the Convention to decide. Until such stage as the Convention has otherwise decided, that ruling remains in place. You have already had one speech, Mr Ruxton. Do we really have to? We have lost half an hour.

Mr RUXTON—I believe that a fair amount of snake oil is going around at present. There was a ruling yesterday; now it has been overruled.

CHAIRMAN—It has not been overruled. There has been no overruling of anything. I explained to you that the ruling given yesterday will prevail until it is reversed by a decision of the Convention. It will not be reversed by a resolution of the Convention until it is put. It will not be put until we have received a report from the Resolutions Committee. That will occur at 12 noon tomorrow.

We will now proceed to consider the addresses. Before I call on Mr Tim Fischer, the Deputy Prime Minister, to open the debate on the general question of whether Australia should become a republic, I point out that a number of names on this speakers' list appear to me to be people who are holding proxies for some who have already spoken. Those people who are here holding a proxy cannot exercise the same right that the person for whom they are holding a proxy has already exercised. If you are holding a proxy for somebody, I am afraid you cannot have a second go. The Hon. Tim Fischer, Deputy Prime Minister.

Mr TIM FISCHER—Thank you, Mr Chairman and delegates. Looking at the deliberation of the last few minutes, of course this is democracy at work. The matters will come back before the Convention tomorrow in a procedural sense after noon. The one additional thought I have is that at the end of the whole process surely there must be one additional vote, a rollcall vote on whether you are for the Constitution as it stands or in fact for an alternative, for a republican model. Lest there be no doubt, Bruce Ruxton, I will be voting for the existing Constitution in that rollcall vote.

DELEGATES—Hear, hear!

Mr TIM FISCHER—One hundred and five years ago at a place called Corowa on the banks of the Murray River there was a very special gathering of a group of now famous Australians. As I pay tribute to all our federation pioneers I want to remind you of the actions of a Bendigo lawyer—yes, it seems we have to recognise that the lawyers were in there too at that time—a Dr John Quick of Bendigo, who moved for and succeeded in having a motion adopted which effectively rerailed the process and march towards the development of the federation of Australia, the amalgam of the states after a somewhat faltering initial effort.

What Corowa did, at a very critical juncture in the lead-up to the turn of the century just 105 years ago in 1893, was to provide renewed momentum from the input of the people to bring some sense to the state colonies and other elements opposed to federation and get the process under way again. Corowa's role deserves recognition and acknowledgment as the focus of that first people's conference. Indeed, it is matter of record—and I guess this is the most important lesson out of Corowa and the subsequent events—that each state colony went on to pass enabling legislation for federation and provide a majority popular vote for the Constitution. In the case of Western Australia, it was a little later on but before the proclamation of our Constitution.

Delegates, 100 years on, the preferential benchmark in both practical and Realpolitik terms is that any referendum to change the Constitution will need to be carried in all six states and two territories or rejected in all. Only by this criterion can you best avoid the constitutional Balkanisation of Australia. In one sense, I think our predecessors had an easier time than we do at this 1998 Convention. They were drawing up a federation. They were developing a federation on a greenfields landscape, whereas we have to

deal with all the complex practice which has arisen since 1901.

Yesterday and today the very real difficulty of dealing with a federation in practice has started to sink in. Suddenly we are already a long way past simple emotion and simple symbolic change. We find ourselves faced by such thorny issues as whether our head of state should be a ceremonial figurehead or a constitutional guardian with reserve powers; whether convention and precedent established under a monarchy can carry authority without a monarchy; whether convention and precedent should be codified wholly or partially or, indeed, whether it can be at all; and whether the powers of the Senate should be changed.

So the Convention has already delivered a growing realisation that the apparently simple change of a head of state is a complex and difficult matter which has far-reaching implications for the way our great country is governed. Frankly, this does not surprise me. I always knew that the minimalist model had the potential for maximal change. I fully expected the Convention would by its very democratic processes bring this out.

This Convention and the Prime Minister's reaffirmation of the commitment to provide a vote of the people in calendar year 1999 are absolute commitments and they will be delivered—if you like, they are core promises. This is an absolute obligation to the Australian people and, given the circumstance of the situation, one I want to dwell on.

When the federal coalition came to power in 1996 there was a strong feeling within sections of my own party, the National Party, that the commitment to hold a Constitutional Convention and proceed to some form of vote of the people was one we could and should break. There was a feeling in some quarters of the public that it was a Keating idea and that, once Keating was gone, we could forget about the whole idea. I resisted that feeling and made a point of telling my party that I was determined that there would be a vote of the people to decide the issue, as promised, preceded by a Convention as initially suggested by my colleague the Minister for Foreign Affairs, Alexander Downer.

I always felt that the best way to move past the emotive appeal of the Australian head of state issue and draw out its real complexities and drawbacks was to have a debate out in the open. All of you have delivered that debate in spades—and full credit to the goodwill of all delegates and the way they have stayed to the task to date. It is exciting and a privilege to be participating in this Convention in this historic chamber.

The debate is now out in the open through this Convention. As has been demonstrated, the really difficult issues are starting to emerge. In terms of that debate, let me respond to one or two delegates's contributes by saying that Australia as a nation can be proud of the achievements of the body politic over the decades at local, at state and at federal levels. Yes, there will always be exceptions, but the general denigration such as brought forward by Delegate Ted Mack, a former local state and federal politician himself, I submit are untrue, unfair and unwarranted. Mr Mack had nothing good to say of political parties, despite the fact that the heart of any political party is the coming together of people of conviction to help achieve a shared vision of what they believe is good for their people, for their district, for the state or for the nation.

This country and its body politic survived such horrific chapters of our history as World War I, the Great Depression, World War II, the Cold War and at the economic level such extraordinary events as the advent of the EC, now the EU, and its impact on our traditional markets. Because of the efforts of our soldiers, our politicians and our Constitution, in times of war we as a country were able to stay united and come through all those difficult chapters.

If you want a more modern and practical example, let me give you another one—the Snowy Mountains scheme, which involved three state governments, one federal government and people such as Playford, Bolte, Renshaw, Chifley and Menzies. It was a true political and practical achievement delivered by the much maligned politicians of this country acting with a great mind and purpose for a particular project which has delivered

huge dividends for the standard of living of all Australians. So I defend the Australian body politic. Let me now in clear-cut terms defend the Australian Constitution under which the politicians operated.

As constitutions go, our Constitution has delivered one of the oldest continuous federated democracies in the world. It has allowed a great modernisation and transformation of this nation, including the very style of government, within its overarching parameters. It is not a document of dead history; it is a document of living, evolving tradition facilitating and underpinning a modern, vibrant political democracy. Against our Constitution we have ranged several options, and I am against those. As Rob Borbidge has stated, they are, in shorthand terms: the mini-model—the McGarvie model; the midi-model—the ARM model and some variations emerging with regard to that, a president elected by a two-thirds majority of the federal houses of parliament and now perhaps removed by a simple majority in the lower house, the House of Representatives; and the maxi-model—a popularly elected president with mainly ceremonial duties involving, quite frankly, huge changes to our political system. Others have dwelt on the McGarvie mini-model and on the maxi-model.

I want to bring this Convention's attention to the midi-model. I turn to the *Hansard* of November 1975. It is, for example, very true to point out that, had the midi-model applied on 11 November 1975, the Prime Minister of the day could have been summoned to Yarralumla at noon to be dismissed by the Governor-General. Soon after he could have returned to the House of Representatives to force through the vote to dismiss in turn the Governor-General. All of this could have been done by 3 o'clock on that particular day, before the passing of supply by the other chamber and before the issue of writs for an election. Under this scenario, we could have no Prime Minister, no Governor-General, no supply and no properly issued writs for the conduct of an election.

If the Governor-General had acted quickly enough, perhaps a caretaker Prime Minister might have been installed. It is really very tenuous and points to why even the seemingly attractive to some midi-model is not without real pitfalls when you get down to examining the detail and the nitty-gritty of it.

The point about constitutions is that we need them, particularly in times of crisis. Whether it is a soccer team, the netball club, an RSL club, a constitution is often only referred to when people are uncertain about the way forward given a crisis or division within the organisation. The reason I am critical of the so-called midi-model of the ARM is that it does not effectively deal with what could suddenly emerge in a true crisis situation in our country. In 1975, under the midi-model we may well have turned to the Constitution and found ourselves in the log jam of all times.

I am also critical of the maxi-model because there is a risk that it will engender crisis by pitting the parliament against the head of state. If there is to be a new Constitution, we should all hope that it will sit on bookshelves for decades or centuries. It will only be called on in a crisis. We must ensure our alternative to the current system can effectively deal with crises in any model developed but, for my money, let us stay with our existing Constitution.

As federal leader of the National Party and Deputy Prime Minister I am very much against the midi—unless it is in a glass. I am very much against the maxi-model because of the much stated double mandate problem. And I have reservations about the mini-model, namely, the McGarvie model. No doubt it will be studied and examined in more detail over the next few days.

I salute the spirit of this Convention and the goodwill amongst delegates of all persuasions. I salute the spirit of Australia and I am confident of the capacity of our people to decide this question at about this time in 1999 once and for all, and for a very long period to come.

Let me close by dwelling on one other aspect which has not had much airing at this convention but which from time to time is trotted out by those who would propose change. In this regard I speak as Minister for Trade. Sometimes it is argued that, if we were

a republic, somehow magically our export figures would be a whole lot more. Does anyone believe that the $104 billion record exports for the last financial year would have been $204 billion had we been a republic versus a constitutional monarchy? I do not.

If you look at Thailand, in recent weeks their trade figures have improved. They are working through a very difficult situation. They are making some hard yards and some progress. But is their recovery any quicker because they are a constitutional monarchy, or would it be even quicker again had they changed from the Rama regime—with King Rama IX currently reigning—and switched to a republic? I do not think so. Indeed, King Rama IX has chosen not to travel overseas and not to travel outside Thailand for many years, except into Laos on the occasion of the opening of the Friendship Bridge between Thailand and Laos.

Then again, some of you—and I can hear it just about coming from my good friend Phil Cleary in a moment's time—would argue that, when the Queen travels, she helps the export of British goods.

Mr Cleary interjecting—

Mr TIM FISCHER—I am sorry, I misquote you, Phil. What about the Queen's recent visit to India last year? Yes, she went to celebrate the 50th anniversary of the independence of India but, through no fault of her own, I think it could be adjudged that that visit was neither positive nor negative for the export of British goods and, if anything, somewhat neutral. So I make the point as Minister for Trade that that argument can well be left to one side.

The Convention should nevertheless focus on the three models. The Convention should work through the processes which are being developed by the Resolutions Committee and, above all else, we should end in a rollcall vote so that everybody can look back at this Convention and see the precise outcome and the way each person voted in respect of that outcome as a way to move forward to 1999 and a vote of the people. The case for changing our mighty Constitution which has helped modernise Australia remains distant, divided and ill-defined. I say: stay with a system that works and works well.

CHAIRMAN—I now call on Dr Lois O'Donoghue.

Dr O'DONOGHUE—Mr Chairman and fellow delegates, I must begin my speech by acknowledging the Ngunnawal peoples as the traditional owners of this region. In paying my respects to the Ngunnawal people, I must introduce myself and explain why I am on their country. My name is Lowitja and my traditional country is the area around Uluru in Central Australia. I am here as a visitor to this region to attend a meeting that will attempt to define Australia's future. I am a proud republican and I come as an Aboriginal person and a woman. There are too few of us in either category in positions to influence the processes of government in this country.

I come as a representative of Aboriginal people everywhere to remind delegates of their responsibilities. I have an obligation at this Convention to make some important changes to the government of this country. But I am left wondering why it is so difficult to turn around the colonisation process that continues to dispossess Aboriginal people. Perhaps it is something to do with the grandness of the venue and the theatrical style of some delegates, but I think we could do with a little less showmanship and a little more reason in this chamber.

I am sure that, if we leave our egos at the door, they will not get lost and we are likely to see a relationship between egos left outside and an increase in the number of delegates who get their chance to speak. I am aware of the fact that some delegates are resisting the logic and the inevitability of the move to an Australian republic. I have heard arguments that the present system has served us well and provided stability, so it does not need change. I have heard arguments that we should look for minimal change for similar reasons. I have also heard arguments for the minimal change that suggests that the Australian electorate lacks the vision and the confidence to manage its own affairs.

I reject both sets of arguments. I do not believe that the existing system has served Aboriginal people well. I do not accept that

the Australian electorate is immature and needs to be nursed along by power elites. This second attitude seems to have solidified into a lump of constitutional concrete over the past two days. But any proposal that seeks to patronise the Australian public will fail to win my support, and I dare say it will not be supported by much of the general population.

The people must have a say in the appointment of the head of state and we can argue over the means but anything else will be a republic in name only—dare I say, a banana republic. I believe we have a lot more work to do on the manner of appointment of a head of state but, for now, I will return to the theme of why we need a republic.

We need a republic if we are to grow as a nation. I do not for a moment suggest that we should abandon our history. I have consistently argued that we need to remember our history and be honest and inclusive about it. I believe there are a number of aspects of our recent and ancient past that should never pass from our minds, but they include issues that we need to learn from so that we can move on to make ourselves into a better nation.

Australia as we know it is a federation of colonies rather than an integrated nation, and we have all the ceremonial rigmarole and duplication of processes to remind us of this fact. Proof of our fragmented status as a nation is evident in the importance placed on the concept of states rights and the limits imposed on national leadership. Much of our history over the past 100 years shows that states retain far too much autonomy and far too much influence over the affairs of national government.

From the point of view of most Aboriginal people, there is little to reward us in holding on to the present arrangements. We have carried the brunt of all the faults that are intrinsic in the existing system. We have had state and federal governments pass responsibilities from one to another without any lasting effect. We have endured the policies of family separation that have caused so much havoc to our health, culture and standing in the mainstream community. We have had to put up with the discriminatory measures in such areas as health policy, education, housing, and law and justice matters. There has been no uniformity in the standards of service provisions from one state to the next, and no consistency in the regard for our rights as humans.

On this point, I am not waving the banner for Aboriginal rights, although I will come to that very shortly; I am simply saying that our people have experienced unequal standards in the application of human rights from one part of the country to the next. Some would seek to preserve this federation of colonies that has delivered that result. But it is a rationale for a hierarchy of discrimination and why would Aboriginal people see value in that? There might be only a couple of people in this chamber who can honestly say they understand that experience. For most of you, you just cannot know or understand the experience of being a second-class citizen in this country. You cannot tell me how your family would survive living under a bridge while suffering a range of chronic diseases, while facing limited employment prospects and while not knowing where to find your mother or your siblings.

Some Australian traditions need reviewing. The recent conduct of a large number of our elected representatives suggests that other people share this view. Many of them, monarchists to the core, with a fine respect for traditions and institutions, had no hesitation in participating in an unprecedented attack upon the High Court following the Wik decision—the High Court, the supreme, non-political institution in our land—but there is a strange inconsistency in the reasoning of such people. They attacked one of the pillars of our legal system for its impartiality and diligence that has brought benefit to the community. At the same time, they argue for the preservation, for sentimental reasons, of a system of government that has not served us well. How will we get sense out of these people?

The dispossession of Aboriginal land has been one of the great achievements of our system of federated colonies. There are individuals at this Convention, even in this chamber right now, who have argued passionately that justice has been served through this

dispossession. You see, it is all about the different interpretations of land management that the states have pursued and this difference in the treatment of Australian citizens is held to be justifiable because of the government structures we have in place. But this reasoning is just not acceptable. I do not believe that the transition to a republic will answer all of these problems, but it will produce some further thinking about relationships and responsibilities.

There are a range of other issues that this Convention must give some time to considering if the result of our two-week talkfest is to have any meaning and relevance to Aboriginal people. We need a new preamble for our Constitution that acknowledges the status of Aboriginal and Torres Strait Islander peoples and that indicates respect for the land and Aboriginal cultural heritage. At the appropriate time, I will introduce a motion for a new preamble for delegates to consider—a preamble that also acknowledges that the Constitution derives its power from all of the peoples of the nation.

We need to amend section 51(xxvi) of the Constitution, the race power, to make it an affirmative power to guard against detrimental acts by governments. On the eve of the Hindmarsh Island hearings in the High Court dealing with that very issue, it is important to consider that these are very real, live constitutional issues for Aboriginal Australians. I hope the newly appointed Justice, Ian Callinan, sees fit to maintain the traditions and the integrity of the High Court by disqualifying himself from that case. These constitutional changes must be part of the package of changes that this Convention recommends. With all due respect to those indigenous delegates who may have different views on the head of state, I believe none of us here can overlook these important and essential changes.

We are here to fight for changes that will benefit our people, not entrench for all time the problems we face. I cannot be as relaxed as some about the timetable for a republic. I believe that we need to bring it forward to protect the interests of Aboriginal Australians. I believe we are losing our culture at such a rate and our rights are under such threat that we cannot afford to wait for a more relevant process of government operating under a more just Constitution.

I believe we should set the year 2000 and the Sydney Olympics as the target time by which we should have these changes in place. We should show the world a modern, inclusive nation where the rights of all citizens are given constitutional guarantee. The timing will be perfect because of the surge in national pride that will accompany the Olympics. It will be perfect because our young heroes, such as Nova Peris-Kneebone and Cathy Freeman, will be able to accept their gold medals on behalf of a free and just republic under a new Australian flag. I believe that we have no choice at this Convention other than to embrace a move to a republic.

CHAIRMAN—I now call on Mr Ed Haber, to be followed by the Hon. Robert Hill.

Mr HABER—Fellow delegates, I am honoured to follow such a great Australian as Lois O'Donoghue. This Constitutional Convention, the first to be elected, or at least partially elected, in a century, presents Australia with a unique opportunity to embrace its identity and confront its future. In terms of Australia's identity, the time is right to cut the formal ties with the United Kingdom and the British monarchy and establish an independent Australian republic.

In proposing such a change, no disrespect is intended to Her Majesty the Queen, whom the majority of Australians, I am sure, greatly admire and hold in high esteem. The relevance of Britain to Australia has declined over the years, particularly with the advent of the European Community and Britain's membership thereof. One is particularly aware of this factor on entry into Britain these days when you are confronted with the choice of joining one of two queues: one marked 'EU' for holders of European Union passes and the other marked 'Alien or others', or some similar designation, obviously with no special privileges for Commonwealth citizens, and Australians in particular.

In the light of such developments, a change in identity is overdue. To many, the symbolism inherent in such change is as significant

as any constitutional rearrangement in declaring a republic. No better example pertains than that presented during President Clinton's visit to Australia following his re-election in November 1996. After a toast proposed to the President of the United States of America, President Clinton responded with a toast to the Queen of Australia, serving as a timely reminder to many Australians of the need for an urgent overhaul of our constitutional arrangements with Great Britain by the time we embark upon the new millennium.

Putting aside the symbolism of becoming a republic as discussed, of far greater significance to me are the long-term structural changes to our system of government which can be incorporated into such a change to our Constitution. Unless we grasp the nettle and go beyond just superficial or minimalist change to the Constitution, the rare opportunity afforded by this Convention will be in vain.

With the continuing and mounting evidence of the failure of the current system of government as outlined in considerable detail on the opening day by my colleague Ted Mack, I am calling for the abandonment of the Westminster system and the adoption in its place of the best features of the American system. I am calling for an executive head of government. Ideally, the head of state and the Prime Minister should be one and the same person elected directly by the people of Australia. That overcomes the problem presented by Malcolm Turnbull earlier today when he pointed out it could be considered ludicrous to have an indirect election for our Prime Minister and a direct election for the head of state. That overcomes one of the first objections.

There can be no other source of authority than the people if the people are to be sovereign under any new Constitution. Furthermore, there must be clear separation of powers between the executive, headed by the Prime Minister who selects the ministry from the best available people outside the parliament, and the parliament itself which should be elected for a four-year fixed term, thereby removing much of the present-day tinkering and capricious calling of elections.

The fixed-term parliament exists already in New South Wales and was a promised reform for the federal parliament by Bob Hawke in his 1983 policy speech presented at the Sydney Opera House but never proceeded with. Even more paramount is the entrenchment into the Constitution of an electoral system which enables parliamentary representation to truly reflect or mirror the nation's mind. This certainly cannot be claimed to apply to the existing winner take all, single member constituency system employed for House of Representatives elections.

The most recent so-called landslide election resulting in the current government holding 64 per cent of seats on a combined coalition vote of just 47 per cent can only be viewed as a travesty of democracy in terms of one vote, one value. Shall I repeat that? Sixty-four per cent of seats are currently held by the government on just 47 per cent of the vote. In fact, we got a minority government.

Mr FITZGERALD—Ted Mack was never elected in his own right, was he—50 per cent?

Mr HABER—Fifty per cent—before or after preferences? It is envisaged that the appropriate outcome is best achieved by dividing Australia into—wait for it—nine-, seven- or five-member seats, the smaller number applying to rural areas, with election by a system of proportional representation—

Senator HILL—Oh, and I'm sure that will go down as well!

Mr HABER—It is a serious matter! To continue: with election by a system of proportional representation truly reflecting the people's will in compliance with article 21 of the Universal Declaration of Human Rights and, likewise, article 25 of the International Covenant on Civil and Political Rights, to which Australia is a signatory, Senator Hill.

Mr HODGMAN—This is not Hare-Clark; it is harebrained.

Mr HABER—You got elected on Hare-Clark.

Mr HODGMAN—Yes, but I would prefer to be in a single electorate any day.

Mr HABER—Two key messages have come out of that covenant to which we are a signatory and choose to ignore, Senator Hill. Firstly, there are freely chosen representatives, so we do not want the list system of Israel and, secondly, it must represent the will of the people. I stress again, it is high time Australia honoured its obligation in this regard, and what better time to start than in the framing of the new Constitution for the republic of Australia. After all, the electoral system becomes the cornerstone of any true democracy which we, as fair-minded Australians, must strive for. The parliament deriving from these foregoing proposals should then be freed of the rigid party discipline currently observed and be able to function unencumbered and unimpeded by such matters as the ministerial preferment intertwined in our existing arrangements.

With the advent of true democracy in the House of Representatives by way of entrenchment in the Constitution, then and only then can the role of the Senate envisaged at federation be revisited. Certainly its role as the states house has long since become an anachronism. Currently, the sole remaining role of the Senate is that of a house of review, much to the chagrin of many. However, with the democratic reforms to the House of Representatives previously outlined, it can be reasonably argued that the Senate's role is further diminished, if not rendered totally redundant or even obsolete.

The ultimate removal of the Senate should satisfy those republicans who perceive it as an obstacle to an elected president. That point has been expressed a few times here. At the very least, the current Senate system permitting one Tasmanian vote to be equivalent to 12 from New South Wales, my home state, requires immediate addressing in this Constitution.

On the subject of the Senate, I will divert for a moment to the working group discussions this morning, particularly on the Australian Reform Movement's proposal. Working Group C, in a clarifying comment at paragraph 7, kindly noted:

> The prescription of the special majority, being two-thirds, is on the understanding that the Senate continues to be elected by proportional representation.

Is that just a wish and a dream? Unless we entrench it in the Constitution, that proposal is already constitutionally flawed.

It is all very well for the ARM to have pointed out in the debate earlier today the bipartisan nature of the special majority of two-thirds of the joint sitting of both houses of parliament, but only back to 1949 when PR was introduced for Senate elections. The only example that went near that, on checking the two-thirds for bipartisanship, was the parliament elected after the 1975 double dissolution, when the Fraser government would have been alone subject to the support of two Independents at the time, Senator Steele Hall and Senator Brian Harradine.

But before 1949, again under the then existing blocked list voting system from 1901, the two-thirds test would have failed in the parliament of 1914, the parliament of 1917, the parliament of 1919, the parliament of 1931, the parliament of 1934 and the parliament of 1946—that is a bit of quick research done over lunch. I think somebody ought to do some proper homework before we rush headlong into this sort of Clayton's republic.

I shall not be casting a vote in favour of it. We ought to go back with a fresh piece of paper and start to develop a genuine republic. Before any new republic can claim democratic legitimacy of any kind, these most basic tenets of democracy need incorporation into Australia's Constitution.

CHAIRMAN—Thank you very much, Mr Haber. I call on Senator Robert Hill, who will be followed by Dame Leonie Kramer.

Senator HILL—Mr Chairman and delegates, I believe that Australia should have an Australian as its head of state. I believe it is a change that we should embrace with pride. To me it would be an achievement, a logical and progressive step, in our evolution as a nation. Provided that the new model is crafted with care, I am sure that it can be achieved without any threat to the stability and security of the current constitutional structure.

I feel a touch concerned that I return to this building and recall my heroes when I arrived

here in 1981—the Reg Withers, Neville Bonners and Jim Killens of the political world—and here they are again but all on the other side. I can only think that with age perhaps they have lost their spirit of adventure. Seriously, though, I do understand those who, beyond sentimentality, remain wedded to the existing structure.

By any standard, Australia has been well served by its Constitution. It has provided stability where others have delivered uncertainty. It has ensured workability where others have delivered chaos. It has endured where others have floundered. Our founding fathers, were they alive today, would have much to be proud of. I agree that their unique Australian legacy must not be put at risk.

But I am sure that our founding fathers, if they were here today looking at contemporary Australia, would find it more than a little odd that we would still have the British sovereign as our head of state. It seems to me that without being prepared to embrace constitutional change when our nation has otherwise so extensively changed will be to ultimately undermine the legitimacy of the existing system. In other words, it is important to adapt to change. It is important that our institutions reflect contemporary Australia and not just our historical legacy, rich though it might be.

The British legacy to Australia has been enormous: the Westminster system of government, the common law, British public administration, the values of freedom and liberty that have not had to be codified—they have been a fine foundation for our nationhood. Despite the fact that the British and Australian nations have taken different paths in so many ways, as a result of this legacy there will always be a bond which is special.

But in building on this legacy we must continue to make our own destiny. In doing so, there have been some who have been analysing the strengths and weaknesses of the structures of other states and urging the adoption of one model or another. To me that would be a mistake. We have our own structure which is unique; as we move on it must remain unique. I do not eye the system of any other with envy. I do not see a need for radical change, as has been suggested by some. The change I believe is desirable would be largely symbolic. Some say that symbols do not matter. I believe that symbols are important. Symbols define us as people. They reflect our values, our directions and our commitment. They inspire. They are in many ways the glue that binds peoples together.

The Australian nation has, in my view, matured to a stage where we can cease to have the British monarch as our head of state and can take one of our own with confidence. It is to me, as I said before, a natural step in our evolution, as it was to abolish appeals to the Privy Council some 23 years ago—but I remember the cries of anguish at that time. Some, such as my former colleague Michael Hodgman, who is also here today, are still in anguish. Most in the British Commonwealth have already taken the step of adopting one of their own nationals as head of state without negative consequences and I have no doubt that ultimately all will do so. If you believe that shared values bind the Commonwealth together, it is a change that will not affect the strength and cohesion of the Commonwealth. The Queen will obviously remain its head.

Being convinced that the time has come for an Australian as head of state, the question becomes how that can be achieved consistent with maintaining the strength and values of the existing system. In particular, how can the existing checks and balances between the head of executive power, the Prime Minister, and the constitutional guardian, the head of state, be maintained?

I do not want to move to a purely ceremonial head of state. It would remove residual checks and further enhance the power of the Prime Minister, who, as we have been often reminded at this Convention, is not directly elected as head of government. Equally, I do not want to create an alternative political power in the head of state, which direct election and codified powers would do. I have therefore had to reject that model.

The strength and stability of the existing system must not be lost by the change we propose. We could simply provide a power of appointment and dismissal of the head of state to the Prime Minister—either directly or

through a nominal authority—which would be a near reflection of today's reality. But I prefer the election of the head of state by a special majority of, say, two-thirds of the parliament. It is true that this would modestly reduce the discretion of the Prime Minister. However, it would also modestly enhance the responsibility of the parliament. Some may object to enhancing the responsibilities of parliament, but Australia is a representative democracy. Parliament is the assembly of representatives who have been elected by, and are accountable to, the people. In this instance it includes the Senate, which might serve multiple roles but which in its composition reflects the federal nature of our system of government.

The supremacy of the parliament, subject only to the Constitution and the electorate, and the responsibility of the executive to parliament are cornerstones in our democracy. To enhance, albeit modestly, the supremacy of parliament in this way seems to me to be a sound investment. Some, verging on many, have come here lamenting the unpopularity of politicians. To that there is a simple answer, and it is in the hands of the people. But it is not to knock the institution. To use this as an opportunity to undermine the authority of parliament I believe is highly counterproductive. It seems to me a strange concept indeed that the directly elected representatives of the people would be perceived to be inappropriate or unfit to discharge the duty of electing a president.

The more difficult issue is dismissal. To maintain the existing balance, I see no alternative but to retain in the Prime Minister the power of dismissal. Some will say that this, from the point of procedural ease, enhances the power of the Prime Minister. Then, consistent with my commitment to parliamentary democracy, if the relationship of power between the Prime Minister and the head of state has to be slightly rejigged, it must be in favour of the Prime Minister.

What I therefore support is a compromise—that I concede. But, with such a change, we get an Australian as head of state; we give the people, through the parliament, a more direct role in the appointment; and we do not significantly alter the balance of power between the Prime Minister and the head of state.

John Howard as Prime Minister has given the opportunity for this reform. He has facilitated debate through this people's Convention, and he has offered us the opportunity of a referendum. He has given the republican side every opportunity to make its case, and I commend his initiative.

But the side for change must find a common position, and it will require compromise, recognising that there is an argument for and against every proposition. If those for change, in which I include myself, are not prepared to compromise on the detail to achieve the goal, we will be letting not only ourselves down but the very many Australians who are relying upon us. I look forward to the further considerations of the Convention.

Dame LEONIE KRAMER—In the background of the debate about republicanism since its inception some six years ago, two words have been repeated over and over again. They are 'inevitable', which has been repeated this afternoon, and 'symbolic', also repeated this afternoon. Words which can so easily, by constant use, turn into mere labels can threaten the quality of debate, as I believe these words do, by distracting us from consideration of the facts and the complex reality behind those words.

Let me begin with the word 'inevitable'. We have been and still are expected to believe that a republic is inevitable. By the way, if this is so, why is the ARM so anxious to accelerate the process of change? But, that aside, let us consider the implications of believing in the inevitably of a Republic. What we are saying if we adopt this notion is that we, citizens of a stable and advanced democracy, are powerless in the face of the forces of change. To say this is to treat a deliberate campaign to change our political system as though it were like the cycle of the seasons or the inevitable passage from birth to childhood to maturity, age and death—those natural forces over which we in fact do have no control.

Do we really believe that the push for a republic is a natural process like the cycles of

the seasons and human life? If we do, then we have been contaminated by the oppressive ideologies of the appalling tyrannies and dictatorships of the right and left, Stalin, Hitler, Mao Tse Tung, who brought death, torture and destruction to millions of people in the lifetime of many of us here today.

For them, political coercion was indeed inevitable for they were helpless to resist it. Unlike us, they had no choice in the election of their leaders. Unlike us, they were threatened into apparent compliance with their unscrupulous regimes whose leaders regarded history as an inexorable march into the future and as an irresistible tide of events. I once saw an emblem of that philosophy, that ideology, in a Beijing hotel in the form of a large painting depicting the march of electricity pylons across the landscape. That is a sobering image of progress. But in a free country like ours history is made not by a process of dictatorial demands but by the complex interaction between people and between people and the institutions such as parliament and the law which protect their freedoms and ensure wrongs are righted.

We are the last people on earth who should accept the republican propaganda that we cannot influence the course of political developments. It is we the people who decide the fate of governments. The opposition has an essential role in a parliamentary democracy, and I believe that it is equally essential to the process of decision making which in this case will lead to a referendum. Every single citizen has the power to influence the outcome.

I emphasise this point because in this Convention we have heard repeated claims from the republican side that the Australian people want a republic in the absence of any solid evidence, thereby implying both that they, the republicans, know the will of the people and that they have a special entitlement to tell us how things should be in the future of our country. On the other hand, we, the opposition, are concerned about the people who are not delegates to this Convention and who recognise the benefits of our existing Constitution and who do not want to be propelled into an uncertain future.

The misrepresentation of historical processes also enables the republicans to demand a fixed date for the establishment of a republic—the year 2000, 2001 or earlier if possible. But historical processes are dynamic and unpredictable. Neither individuals nor groups should claim ownership of the future, especially not on the flimsy grounds that under a republic we will all feel better about ourselves and our essentially selfish program. When we reach the year 2001 do we want to celebrate the 100th anniversary of our Constitution or to lament its dismemberment?

Inevitability suggests an omniscience which I do not have and you do not have, and none of us have. Was the implosion of the Soviet Union and the destruction of the Soviet Republic's constitution—which was to last forever, by the way—inevitable? Which pundit and which visionary predicted it? Was the Asian meltdown inevitable? Which pundit, which visionary, predicted that? If any pundit predicted either, it is unfortunate that none has left a record, at least not one written beforehand. As Keynes said, the inevitable never happens; what happens is the unpredictable.

Now let me turn to the word 'symbol'. That is, in the context of which I am talking today, usually associated with the role of the Queen, and I am grateful to one of the earlier speakers for reminding us of something that we should look at in a rather different perspective from his. I have used this word 'symbolic' myself, but I now regard it as inadequate if not actually misleading. The Crown is the word which represents the authority of our constitutional arrangements and the Queen is the living representation of that authority. But this falls short of representing her only role, but her essential role, in our system of government, which is to appoint the Governor-General, who exercises and carries all the responsibility, the powers, and fulfils the other duties, ceremonial and social, which she undertakes throughout Britain.

Some of the resentment expressed by republicans against the system focuses on matters which it is entirely in our power to change—and they know that very well and I do not know why they do not concede it. For

example, a great fuss was made and repeated today about the toast to the Queen at public functions such as the visit of President Clinton. The Prime Minister set another example this week by toasting Australia. We could also if we wished toast the Governor-General. In this, as in other matters, we have a free choice and are not bound, as the republicans seem to imagine, by irrelevant archaisms.

The ARM not only makes assertions about the views of all Australians but also makes implicit promises about the future under a republic. Let me give a few examples: our foreign trade will improve; our economic future, therefore, will be brighter; unemployment will fall; foreigners will suddenly discover who we are; social problems will more easily be solved; and we will be branded like sheep with our own distinctive logo.

Republicans seem to be infected with millennial madness as well, as history demonstrates—a not uncommon disease at the end of the century. Just over 100 years ago a group of Australians led by William Lane, a utopian socialist—and including, by the way, Mary Gilmore—left this country on the eve of Federation and went to Paraguay to establish a utopian socialist society. Needless to say, it failed, as do all utopian visions. There are lessons to be learned from history.

I want, in concluding, to refer again to Mr George Mye, whom I quoted this morning. This in one sense has not so far been an inclusive debate. I want to remind us that we need to include him. In his splendid paper he tells us that the debate about the Australian Constitution which has led to this Convention has not addressed the considerations of a range of diverse groups such as his within the Australian community. You will remember of course that he comes from the Torres Strait Islands.

I would like to quote what I think is a very moving and very significant passage which all of us who think of ourselves as Australians should take truly to heart. After talking about the 'Coming of the Light' to the Torres Strait region, he said:

> The Queen became the head of our church and central to the religious, cultural and civic traditions of the people of the Torres Strait. To this day, this remains at the centre of our cultural life in the Torres Strait. By removing the Queen, we remove a way of teaching that has been passed on to our children over many generations. The monarchy is an essential element of our history and cultural inheritance. Its removal will deeply affect the fabric of our society.

I want to thank Mr Mye in his presence for that statement and remind republicans that, if they take on this grave responsibility, they may indeed have a lot to answer for.

CHAIRMAN—I now call Mrs Christine Milne, to be followed by Mr Neville Bonner.

Mrs MILNE—Mr Chairman and fellow Australians: firstly, I would like to acknowledge and thank the Ngunnawal people for the opportunity to meet on their land with fellow Australians to contemplate the future of our country. What greater privilege is there for a citizen than to be able to participate in the process of nation building? I feel the responsibility bestowed by this opportunity keenly.

As a republican, I have been longing for this debate for years and I am personally very excited by it. As a republican, I know that the republic is inevitable. What kind of republic is what we need to define. I resent being told that anything other than what the Prime Minister has predetermined can be discussed. I resent being lectured on the dangers of derailing the republic by expressing alternative views on wider constitutional reform. If people had listened to the minimalist position on the Franklin River issue on another dam, the Franklin would now not flow free to the sea.

That is why I am not prepared to listen to those who say that widespread constitutional change is not possible and that the Australian people will not vote for it. The only way to really achieve a vision of a democratic republic of Australia, with its own bill of rights, its rewritten Constitution and new preamble to encapsulate who we are, is to risk failure in pursuing it boldly. As Martin Luther King once said:

> Cowardice asks: is it safe? Vanity asks: is it popular? Expedience asks: is it politic? But conscience asks: is it right?

It is time to consider what is right for Australia, not what is safe or politic.

At about the time I was appointed to this Convention I visited the National Museum's travelling exhibition, *Women with Attitude*. It is an exhibition celebrating 100 years of political action by women in Australia, and I began to think about how leading Australian suffragist Vida Goldstein must have felt when she stood up to address an international suffrage conference in Washington on 15 February 1902. As Jill Roe, Professor of History at Macquarie University, said:

> At that moment Australian women could feel that they were leading the world and that aspects of their experience were of international interest and relevance—and this without deluding themselves that Australia was a paradise for women any more than it was for workers.

So I began to wonder: if any of us were asked to stand in front of a global audience and identify the ways in which Australia was leading the world and to describe those aspects of our experience which were of international interest and relevance, what would we say? With less than three years to go before the beginning of a new millennium, there is no sense that the excitement and momentum which built up in the 1890s in Australian society and led to Federation, women's suffrage and the emergence of the Labor Party will be replicated. And the disappointment is everywhere. If anything, a sullenness, a dullness and a meanness of spirit have gripped this country. The Right has swept all before it. As Jeremy Seabrook has recently noted:

> Since the collapse of the Soviet Union, it has been in the ascendancy everywhere in the world. Growing social injustice and environmental degradation, the aggravation of inequality, the preservation of the existing concentrations of wealth and power are the program of the right both at home and abroad.

This Convention, with its predetermined agenda on a republic, does nothing to challenge the existing concentrations of wealth and power in Australia or to expand and improve our democracy. The radicals of the 1890s would be turning in their graves. As Randall Stewart has said, conservatism will never take on reform because it threatens to disrupt the institutional order that protects the interests of their members. The unemployed, ethnic groups, environmentalists, gays and lesbians, temporary workers, women, indigenous people and welfare recipients are all granted citizenship while—

Mr RUXTON—Mr Chairman, I raise a point of order.

Dr O'SHANE—Oh, sit down!

Mr RUXTON—It was ruled yesterday that no extraneous issues were to be brought up. We were dealing with the republic and those three issues that you sent out in the letter on 8 January.

CHAIRMAN—There is no point of order.

Mrs MILNE—I will tell Mr Ruxton why this is relevant to a republic: it is because minimalist republicans in their acceptance of the views that politics is the art of the possible are trying to create a republic which grants citizenship but deprives millions of people of power. That is why it is relevant.

SOME DELEGATES—Hear, hear!

Mrs MILNE—As we have seen over the last 10 years, today's unthinkable becomes tomorrow's orthodoxy. Who would have thought that on the doorstep to the future Australia would lurch backwards in an ugly race debate? Who would have thought that on the doorstep to the future Australia would lose its nerve in pursuing a truly democratic republic of Australia?

What has happened to the vision for Australia for the next 100 or 1,000 years? What has happened to the debate begun in the 1980s about the possibility offered by this single moment in time—the coincidence of the centenary of Federation and the millennium? It may only be a single moment, but I find the symbolism that it provides compelling—a new century, a new millennium, a time to reflect on the past, to recognise the mistakes, to put right the wrongs and to plan ahead with hope and optimism so that, as the new century dawns in Australia, our children and grandchildren will be faced with opportunity, not burdened with our failure to exercise wisdom and foresight now.

I see the beginning of a new millennium as a rite of passage, an opportunity for humankind to address the environmental, social,

economic and spiritual breakdown occurring everywhere and to end an era, to leave behind in the 20th century those things rightfully belonging there as a legacy of the industrial revolution and the excesses of capitalism and economic rationalism. It is a point in history around which to focus debate on these fundamental questions of our time. Will there be a fourth millennium and do we care? Does humanity have the capacity to save itself in the face of environmental collapse? What future do we want for our children? Is there a future for the nation state in a global system? If so, what is Australia's role? What do we as Australians want to take into the next century and what do we want to leave behind? What does it mean to be Australian and is that important to us? How can a republic with a new Constitution meet the desperate need for redefinition and social transformation that is implied by these questions?

The next three years is our time to consider these fundamental questions. We have already seen that the great man or great woman view of history has failed us. Australia has not produced the leadership at the mainstream political level to frame the context for the national debate or to participate in international debate, as Kyoto so obviously showed the nation.

That is why the people must take back the republican debate and demonstrate the leadership, vision and courage that are required. That leadership involves resourcing the Australian community to become involved in rewriting our Constitution. To that end, I would like to thank the Convention for supporting the move for ongoing funding of community education and debate. It is now more apparent than ever that change will come from the periphery of power, not from its centre. It will come from town halls and saleyards, community meeting rooms and the streets. It will not come from parliamentary and legal officers.

Change will not come for change's sake either, but rather because ordinary Australians will take up the opportunity that the move to a republic provides to encapsulate their vision for the sort of Australia they want, and it will include a new preamble which honestly chronicles our past and our present and our aspirations for the future. It will recognise injustice; it will value our diversity and proclaim our commitment to democratic values, social justice and human rights and ecological sustainability.

Regardless of the lip-service currently paid to the environment by Australia's politicians, I believe the people will demand that Australia includes in a Bill of Rights due process rights on the environment. In much the same way as citizens have a right to due process in criminal cases through a trial by jury, environmental rights could be inserted by putting in an obligation on all levels of government to make regular reports on the state of the environment, a right of all citizens to access of this information, third party standing for any citizen in relation to any legal proceedings and environmental matters, the right to environmental legal aid for all citizens, including third parties, and the right to have a public environmental defender's office to represent citizens and third parties.

Further, as an environmentalist, I will be seeking to persuade the community to insert a separate clause in the Constitution to enshrine the precautionary principle as the overriding principle for deciding legal cases or making legislation in relation to the environment. This would include an evidentiary principle which reverses the burden of proof—that is, a lack of conclusive proof of environmental damage would not prevent a law or action being ruled unconstitutional or illegal on the basis of the precautionary principle.

In addition, constitutional change is required by providing a new role for the Commonwealth to be centrally involved in environmental management as a national issue. A new power should be provided under section 51 of the Constitution so that the parliament shall have power to make laws with respect to: the discharge of substances onto land, air or water affecting more than one state or territory; the prevention of land, air or water degradation affecting more than one state or territory; the use of nuclear fuels, nuclear energy and ionising radiation; and the

protection of areas of Australia of national and international significance.

Mr RUXTON—I raise a point of order. I will get back to the ruling yesterday in this House and what we are debating. We are right back into the environment.

CHAIRMAN—She is talking about changes to the Constitution and that is entirely within the rules of debate.

Mrs MILNE—For Mr Ruxton's benefit this is a proposal to change section 51 of the Constitution to provide a new head of power for the Commonwealth. It would also give the parliament the power to make laws with respect to: the protection of areas of Australia of national and international significance, the protection of a species of flora or fauna from extinction, and the regulation of novel life forms and other genetically or biologically manipulated releases.

In the couple of minutes I have left, I would also like to say that in addition to the environment a Bill of Rights should also document unequivocally our social, economic and cultural rights and responsibilities. It must speak clearly on discrimination. It must guarantee freedom from discrimination and oppression on the grounds of race, national origin, age, sex, sexual preference, disability, marital status, religion and political beliefs. With regard to our indigenous Australians we need more than motherhood in our Constitution. We must give our indigenous people the recognition they deserve as the first Australians. Our existing Constitution fails them and in so doing it fails us.

The Constitution must also provide for the principle of equality between men and women. It must also provide for a better system of governance than we now experience and so it should introduce the principle of proportional representation to all houses of parliament in the country. This would bring a breath of fresh air in the diversity and representation of Australian people and for once we would have young people, indigenous people, people from various minorities represented in the parliaments and it would be to the betterment of our democracy.

Finally, I look forward to the day when we not only have our own head of state but also have a democratic republic of Australia which does not sweep under the carpet the failure of our existing Constitution to protect the rights of all our citizens or our environment, but which embraces the aspirations of us all and gives us a new sense of being Australian. As the indigenous poet Oodgeroo has said,

Look up my people
The dawn is breaking
The world is waking
To a new bright day
When none defame us
No restriction tame us
Nor colour shame us
Nor sneer, dismay.

CHAIRMAN—It is now with a great deal of pleasure that I call on the first indigenous Australian to become a member of the Australian Senate. He distinguished himself and his people during his time there. It is with great honour that I call on Neville Bonner to address us.

Mr BONNER—As a Jagera elder from Queensland, I pay respect to the elders of this tribal country. Fellow Australians, I speak to you today with a heavy heart. A friend of mine and fellow Aborigine Cec Fisher once inscribed a book of poems to me with the words 'to the old man'. In it is the poem entitled 'Memories and the Pain'. It tells the story of my people and it goes like this:

You came ashore, pale like spirit people
Took our land, forest, river, hills and plain
Gave us Christianity, changed our future
Left us with Memories and the Pain.
You killed our ancestors or imprisoned them
Our mother earth you plundered for your gain
From her breast rich mineral ores you extracted
Helplessly we watched, left with Memories and the Pain.
Towns were built as civilisation imprisoned my people
No longer allowed hunting, fishing, these things you wouldn't explain
Government policies and law took our land away from us

All we have are Memories and the Pain.

Two hundred years down the track will it ever change?

Land Rights marches, protest, anger, promises once again

Policies, the Aboriginal Land Bill said to make amends

Still they come back, the Memories and the Pain.

[O you delegates] . . . think a while, dispossession, stolen kids

Old Marpoon, Noonkunbah, Death in Custody, tied together by chain

In your wisdom of one people one country, help lock out

Our haunting Memories and the Pain.

Regardless of the policies, reconciliation and the rest

Thoughts of our Aboriginality will always remain

Time will never diminish the black deeds of history

We will carry forever, Memories and the Pain.

You came to my country. You invaded my land. You took our Earth (our everything). You poisoned my waterholes. You killed my people. You gave away my land. You imposed your law on my people. You ignored the instructions of liberal colonial secretaries to deal with us and respect us.

And then, 150 years ago, you were given self-government. You established your own parliaments and your own governments. And a century ago you agreed among yourselves to establish your federation. And then slowly you began to change. You began to do what the British had told you to do before self-government. You began to accept that my people had rights; that they were entitled to respect; that we were God's children too.

You employed us, paying us, on some occasions, a fair wage. You allowed us to serve in your army, to serve and honour your King and your country. You even elected me to your parliament. And today you have a growing articulate, educated body of indigenous people, a people who more and more control their own future, a people who will play an increasing role in this country. They are a people who already bring honour to the country in sports, the arts and intellectual activities.

Mr Chairman, fellow delegates, you did not ask my people if you could come here. You did not ask my people if you could occupy our land. You did not ask my people if you could stop us from living our traditional lives. You did not ask my people if we would wish to live under your laws, under your government and in your federation. I speak today, as I said, with a sad heart.

We have come to accept your laws. We have come to accept your Constitution. We have come to accept the present system. We believed you when you said that a democracy must have checks and balances. We believed you when you said that not all positions in society should be put out for election. We believed you when you said that judges should be appointed, not elected. We believed you when you said that the Westminster system ensures that the government is accountable to the people. We believed you when you taught us that integral to the Westminster system is a head of state who is above politics. We believed you when you said that, as with the judiciary, Government House must also be a political-free zone. We believed you when you said that it is not important that the Crown has greater powers and that what was important was that the Crown denies those powers to the politicians. I was one of them. We believed you when you said it is now our country too and that we should be fully involved in deciding its future.

You have taught us all this. You have taught us to accept the way in which the country is governed. You told us that this is the most democratic system, a system which is equal to Canada and New Zealand. We believed you. We accept all this and now the educated, articulate Australian is no longer your preserve alone. We, too, can be educated and articulate, respected Australians.

My heart is heavy today—not for me, fellow Australians; God has been kind to me. I have seen my 76 years in this country. I am not a rich man, but I am proud to say that I have had the great joy of having five sons, three white step-children and 28 grandchildren. But my heart is heavy. I worry for my children and my grandchildren. I worry that what has proven to be a stable society, which

now recognises my people as equals, is about to be replaced.

How dare you? I repeat: how dare you? You told my people that your system was best. We have come to accept that. We have come to believe that. The dispossessed, despised adapted to your system. Now you say that you were wrong and that we were wrong to believe you. Suddenly you are saying that what brought the country together, made it independent, ensured its defence, saw it through peace and war, and saw it through depression and prosperity, must all go.

I cannot see the need for change. I cannot see how it will help my people. I cannot see how it will resolve the question of land and access to land that troubles us. I cannot see how it will ensure that indigenous people have access to the same opportunities that other Australians enjoy. Fellow Australians, what is most hurtful is that after all we have learned together, after subjugating us and then freeing us, once again you are telling us that you know better. How dare you? How dare you?

I look across this chamber and I cannot fail to see the very rich among you. You have had the very good luck to have great wealth, to have been so well educated in your schools and universities. I ask you: what reason do you have now in 1998 to tell the indigenous people that we must again accept what you have decided about our country? Why are you doing this? You know the change you propose will have no effect on the problems of my people and of the country. I plead with you to apply your great talents and your great wealth to overcome these.

You have taught us that, in a democracy, democratic power must be limited; that in the Westminster system there must be an umpire; that he or she must be above politics; that solutions to problems—supply crises, for example—must be handled responsibly, efficiently and swiftly. Republicanism is a vote of no confidence in the existing system, but you forget that you have taught us to love, honour and respect that system.

As I said, I have a heavy heart. I ask you: what are you doing? Are you not already divided enough on other issues, real issues, real problems? Why are you diverting attention from these issues? We have come to respect and honour our Governor-General, for the reason that he cares about these issues. I cannot see that a political president, elected or appointed, who cares more about whether he receives a 21- or 19-gun salute, whether or not he is the subject of a toast, whether or not he will be re-elected and to what extent he will be funded and supported after his term, would care one jot more for my people.

From the bottom of my heart, I pray you: stop this senseless division. Let us work together on the real issues. Let us solve those problems which haunt my people—the problems of land, of health, of unemployment, of the despair and hopelessness which leads even to suicide. Let us unite this country, not divide it ever—that toy of those who already have too much: mere symbolism. Ladies and gentlemen, I would like to end what I have already said by singing my Jagera sorry chant. My heart is sad. I look around this chamber and see that the total number of indigenous people of this vast country numbers six. That is an indictment on someone—I do not know whom. Because of the lack of a populous number of indigenous people on this momentous occasion, it makes me sad indeed.

Mr Bonner thereupon chanted his tribal sorry chant.

CHAIRMAN—Thank you very much, Neville Bonner. Jim, you will need to be in good voice. I now call on my very dear former colleague and friend, the Hon. Sir James Killen.

Sir JAMES KILLEN—I never thought that the word 'gracious' could be used in relation to indictment, but this chamber, and indeed the country today, has been presented with a gracious indictment against it, and that indictment has been presented by my old friend Neville Bonner. It is a very old friendship indeed and a very precious one. There was one blemish, if I may presume to say so, which resided in my friend's speech. He said he was not a rich man. For myself, I take the view it is not what a man or a woman has in his or her house that counts; it is what the man or the woman has in his or her heart that counts.

Having said that to my old friend, let me say this: I know of few people in this country who command affection and admiration as does Neville Bonner. In that sense, my old friend, you are a very rich man indeed. If you want to regard that as a rebuke, then you and I will adjourn to the Condamine of old where I had, years ago, swum in a certain state of disrobe with your people.

It is some time since I spoke in this place. I have spoken here on many hundreds of occasions. On reflection, I am left with the impression that, on the majority of occasions, I displeased a lot of people, but I comfort myself, in some meagre sense, by also reflecting that I am not aware of any complaints that people did not understand what I had to say. Looking near this somewhat intrusive camera—this expression of technology with its splendid personality—I can recall once, nearby to there, when E.J. Ward had left this earthly existence and Prime Minister Sir Robert Menzies had delivered to me a splendid eulogy, I said to him, 'Prime Minister, I don't wish to be presumptuous.' He said, 'Oh!' as much as to say, 'This is a strange role for you.' I said, 'Given the exchanges that you and Ward have had over the years, that was a very beautiful eulogy. How do you do it?' He looked at me with what Kipling would have called a webbed and inward turning eye and said, 'Killen, every human being in this world has some redeeming feature. I suspect, if we worked at it long enough, we would find one in you.'

I understand that the search to find some redeeming feature in me goes on. Whether I disturb the reputation of previous speeches in this place would distress me, I would not like to leave on the basis that people complain they did not understand me. But, if that should be my fate, I would say to my old friend and spiritual adviser, His Grace the Archbishop of Brisbane, 'Please ask of your brother in Christ to subject me to the discipline of the Order of the Trappists because that would be a merited fate,' and I would spare myself and those around me by lapsing into total silence.

This debate I know has its origin in the political exigencies—the commitment made by my honourable friend the Prime Minister. I acknowledge the fountain of origin of this debate. I say no more of that other than to observe that I spare myself from expressing any admiration of the agenda of the debate. For example, I find it rather strange that the Convention is invited to consider the method in which the president should be dismissed. Myself I would have thought there was something positively indecent about arranging for the divorce settlement to be made before the nuptials; but I suppose this is the Irish curiosity that besieges me and has done so for many years. I did not start this debate, but I find myself participating in it.

May I invite all decorous and distinguished delegates—there is a subtle distinction as I look around at some. I am told that a pneumatic drill would be needed to do anything with me. But, be that as it may, may I invite everyone to reflect earnestly on the preamble in the Constitution:

> Whereas the people of New South Wales, Victoria, South Australia, Queensland and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown . . .

You will notice that I did not mention the state of Western Australia. It is of some importance. Just look at the elements there. 'Humbly relying on the blessing of Almighty God'—I would hesitate to say that humility has been a conspicuous feature in Australian public life in recent years. I would wonder, looking at those in holy orders, if it would be not said that there are some who, confronted by that daunting, silencing question flung by Almighty God against Job, 'Where wast thou when I laid out the foundations of the earth?', would have found themselves uncomfortable with the question. Indeed, not far from where I stand today I suspect that one may have been able to say—and it is not my honourable friend the present Prime Minister—'I was in charge of time-keeping.' But let me say this further: I would hope those in holy orders and beyond would acknowledge the fact that God today in this increasingly secular state is something of an irrelevance. But put that to one side.

Let me come to what I am encouraged and castigated about: ignoring and not responding

to properly the question of the indissoluble federal Commonwealth. I think that it deserves to be said with some candour not one editorial in a metropolitan paper in Australia has adverted to the fact that Australia is a federation—not one. I am one who has suffered the impeachments from editorials from time to time. Let me invite them to reflect on that fact. If any person can come to consider whether or not Australia should become a republic without considering a federation, may I say in the language of old 'there is neither health in us nor hope for us'. But that has been ignored.

The other aspect which I invite and I will invite my friends on both sides, no matter what your point of view, to reflect upon, is this: no editorial comment has been made about the Australia Act 1986, which uses the language 'sovereign, independent and federal nation'. Mark well those words—'sovereign, independent and federal nation'! It sums it all up. The Statute of Westminster has gone by—the Balfour Declaration. Glance back through the pages of history and read through the debates. Time is with us now very much. There is the Australia Act 1986. I invite my friends, no matter what position of comfort or discomfort they may find themselves in: reflect well on the Australia Act because in a very real sense it is part of the Constitution of Australia.

Section 7 of that act refers to the fact that the Governor in each of the states is the Queen's representative. Section 15 of that act says you are not to disturb the act unless you have the concurrence of the six parliaments of Australia. Sir, I would invite you to reflect on the prospects of getting the concurrence of six state parliaments. To inject, I suppose, some note of relevance into it, I think I would have greater prospect of picking the program at Randwick, Flemington and Eagle Farm.

Some 60 years ago a move was made to secure for this parliament—or the new place, such as it is—a power over civil aviation. It was rejected. A power over civil aviation! I have yet to find somebody in a fuss, flying over what is the border between New South Wales and Queensland, the border of respectability some describe it as, and saying that they are fussed about the fact that it is an international convention that gives to the parliament power to legislate with respect to civil aviation. Be that as it may, these are the facts of life.

Within a federation there are two powers always at work: a centrifugal power—blowing the federation apart as happened in the case of Rhodesia and Nyasaland and the West Indies—or the centripetal power, drawing to the centre. It has been the latter which has been this country's experience via the external affairs power—I mention it not to argue it—and the grants power, which has been massively expanded.

I observe in passing that the competition and consumer act would represent the most emphatic de facto amendment ever of this Constitution, and it is slowly seeping into the consciousness of the men and women of Australia. Governments, no matter what character they will be described as, will be confronted with that fact.

If the Commonwealth should get the power to alter the constitution of the states, I say to my friends from the states on both sides of politics that you will have the prospect of facing the extinction of the states. Some may glow and be zealous about all that. I must confess that that is not my attitude towards this country. I remain deeply convinced that those who take the view that you can run Australia from Canberra do not know very much about Australia. That is the simple view of the ex-jackaroo from the outer Barcoo. If you want to disturb it, so be it.

Let me come to some of the practical difficulties if you want to move from this. For my part, I take the view—and, as I have always observed speaking in this place, I try to keep politics out of things—if you are going to have the direct election, does anybody seriously say that you are going to keep politics out of that? I do not know too many people individually, one or two maybe, who have been more successful at the punting business than I have—and I am only a few dollars at the TAB in the telephone account person. How many in this chamber today would know many people who would be able

to contest as a presidential candidate? You have politics brought into it immediately.

Go to the second proposal that has been put up, the two-thirds majority. Does anybody seriously argue that you will keep politics out by bringing it here to the two houses of parliament? I look at the Delphic figure of the leader of Her Majesty's opposition; I sat in this parliament with his distinguished father. I saw the Labor Party caucus one day with a private member's motion of mine. I would be one of the few private members who ever defeated a government, the Menzies government, because some minister treated this parliament in a cavalier fashion, and I resented it. Would my friends give a free vote to the members of the Labor Party to come and to vote for whatever presidential candidate it would be if it were my distinguished and honourable friend the member for Lalor or the one who was at one stage the putative President of the Labor Party, Mr Greg Sword? Would a free vote have been given there? I doubt it very much indeed.

I finish on this note—I ask for no extension; I do not want to subject anyone to the continuation of misery—the dominant feature of the Crown has been the uniting influence in the federation. You cannot disturb that without destroying the federation. Finally, may I invite you to reflect well on this fact: this country is divided by politics and by party. The Crown is of no party, of no division and of no conflict. Reflect on that, and I think you will come with me and walk along the road to support the status quo.

CHAIRMAN—One aspect of the contributions of Sir James Killen and Neville Bonner has demonstrated to us all that there is a life after politics and that life in this old place did have some vitality. Can I now invite Dr Geoffrey Gallop to address us.

Dr GALLOP—Mr Chairman and delegates, ladies and gentlemen, I hope you will make allowances. Having been given the task of following speeches by two great defenders of the status quo—one of whom appealed to your heart and your soul, and I refer to Neville; and one of whom appealed to your mind and your intellect—I have to indicate to those two great defenders of the status quo that I come here as someone who does want to change our Constitution. But, in so doing, let me begin by saying this: thanks to the founders of the Australian Constitution we have a unique political system that contains elements not just from the United Kingdom but also from the United States and Switzerland. It is a very complex and a very complicated system in that it brings these elements together. Indeed, it is a very strange system to those who are addicted to either the Westminster or the Washington models.

The creation of this system 100 years ago required genuine intellect and real courage. The founders did not repeat the past; they created the future. In many ways they took our political system into uncharted waters. But this was not seen as a problem; rather, it was seen as a challenge. They wanted to create something new, something different, something better—and they did.

Let me say, delegates, that the test that is being applied in this Convention today by those who support what is known as minimalism or indeed those who support the status quo would have ruled out of court the very Constitution that we celebrate today. Of course, today we face a new challenge. Whereas for the founders it was inconceivable to construct anything but a union under the British Crown, we now look to a republican future with an Australian citizen as head of state.

Australia is an independent country and it is not appropriate to have a head of state who emerges from the political and constitutional processes of another country. Once upon a time such a system was largely a force for unity. In relation to the Australia of today, this can no longer be said. That it is said is more a reflection of the deeply held views of monarchists about their own reality, about their own views, than it is a statement of fact about our nation today. Just as the founders created new political institutions 100 years ago, we too need today to begin the process of creating a new political institution for Australia—the Australian head of state.

In entering this debate, one thing stands out above all else: the consistently expressed desire of a significant majority of the Austral-

ian people to elect the head of state, just as they elect their parliaments and, by implication, their governments. It is very interesting that all sorts of commentators have tried to place an interpretation and thereby a qualification on that aspiration. They have said to me, 'People don't really mean what they say. They mean something else.' Well, I say: treat that aspiration at its face value. It reflects a view that the position of head of state should rest upon the ultimate power of people to choose. It is very simple; it is very uncomplicated.

We could move to a republic differently via the so-called McGarvie model or the Republican Advisory Committee model. Both of these miss the fundamental desire of people to be directly involved. They do the job but they fail to meet the challenge. To those of the conservative persuasion in this Convention, I ask them to reflect upon the fact that our institutions and our opinions must work together if we are going to have a successful society.

In one important respect, there is now a division between our institutions and our opinion—and I, of course, refer to the fact that we do not have an Australian as a head of state and we have the remaining links to the British Crown. But, in another important respect, if we were to go forward we have to keep that link between the aspirations of our people and the system that we expect them to support.

The McGarvie model does very little to inspire. The council proposed would be drawn only from former governors-general, governors and judges in orders of retirement. The method of appointing and dismissing governors-general would also resolve around a very narrow group of people—the government of the day.

The ARM model simply takes the logic a little further. It does guarantee support from both sides of politics for any head of state. This gives the office holder significant status but, with partial codification and dismissal by the House of Representatives, the potential for conflict is minimised. Both models would work but only on behalf of a narrow range of individuals, a narrow range of values and a narrow range of interests in the community. I would put it to delegates that that fact is understood by people. That perception is held by people. That is why despite much argument they still put forward to the tune of about 80 per cent in all of the reliable polling their view that they want to elect.

So the challenge today is to broaden the agenda by incorporating the aspirations of our people into the Constitution and into the equation. We do that only in part by finally breaking the link with the British Crown—an important part, yes, but still only a part. Our role is not to treat these aspirations that people have with cynicism or scorn but to do what responsible democrats have always had to do—knock those aspirations into shape by building a workable system.

We should take the principle and make it work by balancing that principle against other principles and other considerations to produce a durable model. That is the art of constitutionalism. Nor should we forget that this matter must ultimately return to the people for judgment. We are not determining in this Convention the nature of our future Constitution. It is not just an administrative rule making issue; it is a political issue about which there will be a campaign.

I think it has become very clear in the speeches we have had today that the nature of that campaign has been outlined to all. It will be a campaign that will be based upon excessive political effort in three states of Australia: Queensland, Tasmania and Western Australia. Already those who oppose the republic are saying that only if every state in Australia supports the proposition will they support its implementation.

So I say to those who advocate and support a republic: take note of this forthcoming campaign, take note of the targets, take note of the arguments, you will need to arm yourselves well. If you are not armed with a proposition that the people are going to be involved in the future, you are weakening your position significantly. With these preliminary thoughts in mind, I would ask that you consider the following approach.

Step 1 involves the codification and limitations of the powers of a head of state. We

need to acknowledge that we have a system of parliamentary and responsible government—and I have never found any reason in either constitutional logic or public opinion to overthrow it. Codification and limitation overcome the objection that the head of state will develop a rival base of political power, more so probably than would be the case with a head of state armed with reserve powers and a special majority of parliament.

Step 2 involves a process of nomination involving representatives chosen from our federal, our state and our territory parliaments. I might ask: if parliament is suited to the task of selecting a head of state, why could it not select candidates who would stand for election to the position? The involvement of the states and the territories in that process would be a recognition of the federal nature of our system.

In fact, let me make a specific proposal along the lines of the one that we put forward from the working group this morning. A nomination panel should be given the task of selecting three candidates, at least one of whom shall be a man and at least one of whom shall be a woman. This would be a significant statement about our nation's commitment to equality. All processes based on appointment of one person to the job make such an outcome impossible.

There are of course objections to this model, for which I have no answer beyond a simple commitment to the democratic right to choose. Those arguments are these: firstly, that elections are not appropriate vehicles for filling such a job—in other words, people say that you should not have elections for that type of job—and, secondly, that certain individuals would not stand. Well, it comes down to a statement of principle.

However, we could meet some of those objections at least in part by doing a number of things. We could of course design an election process that is specifically created and regulated for the task at hand: electing a head of state. I would ask delegates to refer to the recent election we have had to this very convention. It was a different election; it was not a party political election. Those who participated in that election did so on a basis that was different from many elections that we have had. Indeed, if delegates are interested in looking at that particular issue, Emeritus Professor Victor Prescott from the Melbourne University has made some very interesting suggestions about how it might be done.

So, delegates, direct election, backed up by codification and limitation of powers, and nomination by representatives from federal and state parliaments, would give us a uniquely Australian and contemporary adaptation of the Irish model—different, Australian, but essentially coming from that spirit and that concept. It is different of course in one important respect: an election would be guaranteed whereas in Ireland there may be only one nomination and, therefore, no election.

Let me come to an important issue that I believe is emerging as a key question in this convention: how do we move on with the question of a republic in Australia? If and when we vote on this issue as a nation, we would presumably do so under the framework laid down by section 128 of the Constitution. We have heard many people in this chamber, even today, say that they support our Constitution and the clauses that are contained therein which emerged as a result of the federal compact of the 1890s and which have a clause which requires a majority of people in a majority of states, as well as an overall majority, to change the Constitution. Yet they come into this chamber and tell us that is not enough. They want a different way of dealing with this particular constitutional change: they want agreement from every state in the Commonwealth.

Where is the respect there for our Constitution? Where is the respect there for the existing Constitution of Australia that brought the people of Australia together as a nation? So to argue the proposition that every state should agree before we move ahead seems to me to take the doctrine of states' sovereignty into very new territory and very uncharted waters—the very thing that the opponents of change or the minimalists tell us we should not do. They come in here and they advocate that very thing.

The matter of how the state based heads of state are to be constituted in a republic is a matter for the people and the parliaments of each of those states, but the question of whether or not we become a republic, Delegates, throughout all of our jurisdictions is a matter of determination under the provisions of section 128 of the Constitution. To do otherwise may be possible but it would invite ridicule and could invite the type of conflict which I am sure the current monarch would wish to avoid.

I conclude by saying that the time has come, firstly, to ensure that our head of state is one of us; secondly, to ensure that the outmoded doctrine of reserve powers is replaced by the rule of law; and, thirdly, to ensure that the Australian people can vote on this matter of national and constitutional identity in a proper and orderly way.

DEPUTY CHAIRMAN—I call the Attorney-General, the Hon. Daryl Williams QC.

Mr WILLIAMS—The question in this plenary session is whether Australia should become a republic. I would prefer that the question be cast in terms of whether Australia should have an Australian head of state. For me, the answer to that is yes. I have not previously expressed my view publicly, although I have held it for some years. The reason I withheld expressing a view was that I thought, both as shadow Attorney-General in opposition and in my current office, that my capacity to be seen to be offering impartial legal advice on the issue might be impaired. In the context of this Convention where votes are being taken the time has come for me to explain my position.

My reasons for holding my view may differ from those of others. The inappropriateness of having the Queen as the Australian head of state increases as time passes. The fact of Australia sharing its legal head of state with a number of other nations is not for me merely a matter of symbolism. The inappropriateness is not to do with the residual functions which the Queen exercises under our constitutional structure. Those functions are essentially only to approve and dismiss the Governor-General on the advice of the Prime Minister.

I think Australia should have as its head of state a person for whom that office is, and is seen to be, his or her principal office. It is wrong that a head of state should attain that office as a merely secondary incident of being the head of state in the United Kingdom. Australia should have one of its own citizens as head of state. Nothing less is appropriate for an independent nation at the end of the 20th century.

In considering whether change should be made in relation to the head of state, however, it must be acknowledged that some types of changes would overcome the inappropriateness of the current arrangement but would give rise to disadvantages of even greater concern. So the question of the head of state model must be determined before the affirmative answer to the question whether there should be change can be unequivocal.

Since the republican debate took on a high public profile at the end of 1992, my own thinking on the subject has been influenced by the history of constitutional referenda since Federation. That history indicates that the Australian electors take the Constitution very seriously indeed. Constitutional change has not been approved unless there is both broad community support for the proposal and no significant opposition to it. This means at least that there must be bipartisan political support nationally and there must be support within the states. That level of unanimity is not easily attained. Only eight of 42 referenda proposals have been approved and none of the 42 proposals involved anything so fundamental as a change to the head of state.

The lesson for present purposes is that Australian electors will not easily accept a change in the head of state. They will only accept a republican form of government if they are generally comfortable with it. The electors will not accept a republican form of government they are not generally comfortable with. Australians generally recognise that our current constitutional system, in so far as it relates to the relationship of the head of state, the parliament and the executive, has worked well. Support for a change in relation

to the head of state has, however, grown significantly in recent years.

It seems likely that support will continue to grow, although growth in the past has not been rapid. The mood for change will not, however, result in change if there is significant opposition to the particular kind of change proposed. The challenge for delegates, and an important responsibility, is to advance the debate in this Convention without fostering or exacerbating division that might prevent or postpone change if and when the community is generally supportive of it. Public debate has not yet advanced to the point where there is widespread understanding of detailed issues such as those involved in a choice between a people's model and a parliamentary model for the election of a head of state. This Convention will not be productive if it simply polarises debate on such issues. It is difficult to see how it can be productive if it simply highlights and promotes division rather than workable consensus.

The Convention will send a strong message to the public on the possibility of developing a workable and generally acceptable model for change. If the proposals for change that emerge from this Convention are not developed and presented in such a way as to convince the broader community that a generally acceptable republican alternative is available, it is difficult to see how they can succeed. In that case, the Convention may actually set back debate on the republic. An unsuccessful referendum on a particular model would deliver a significant rebuff to those who favour a republic, even if the broader community is generally receptive to the idea of change.

As the Prime Minister has also pointed out, it will ultimately be for the Australian people to decide whether reservations about our current arrangements should outweigh the stability they have produced for Australia. Constitutional change will not succeed if the community perceives that change as a dangerous rupture of present stability. I think this Convention would do well to adopt as a guide Alfred Deakin's words about the work of the High Court. He said that we should take:

> . . . well considered steps, that enable the past to join the future, without undue collision and strife in the present.

The constitutional changes required to have an Australian head of state also affect state constitutions. All relevant constitutional changes should come into force at the same time. This necessitates coordinated action. The notion that one or two states could stand out and retain the monarchy while Australia and the other states change to a republic is, to me, absurd. The Australian people would not agree to it, and it would be highly unlikely that Westminster would. The change should be made by all parliaments to be effective at the same time. That makes it even more important that, to the extent practicable, all Australian people should support change when asked to approve it.

When it comes to the republican models, I propose to comment on the three principal forms which have received the most attention, namely, the popular election model, the parliamentary election model and the prime ministerial appointment model. I have sufficient confidence in the Australian people to believe that they could successfully operate each of them if they were enacted. That is not to say, however, that I believe that if a referendum were held in the near future the Australian electors would approve each of them. The popular election model has popular appeal because it enables the electors to elect the head of state. People appear to want to avoid electing a politician but, as this Convention has convincingly demonstrated, a person standing for election very quickly becomes a politician.

I have less concern than some that an elected head of state would, by reason of his or her popular mandate, seek power beyond the formal and ceremonial functions exercised by the Governor-General currently. However, I do not believe that a popular election would achieve what most of the voters would seek—the election of a non-politician. Given the role of the head of state under our system, it is simply unnecessary to have an election. There are other difficulties created in relation to the removal of someone who came to office in that manner.

The parliamentary election model in its various forms could work. The purpose of a two-thirds majority vote would be to ensure widespread acceptance. That may occur, but not everybody who would be appropriate would want to go through any parliamentary procedure, and the involvement of politicians would inevitably, to some extent, make the appointment a political exercise.

The current system involves the nomination of the Governor-General by the Prime Minister and formal appointment by the Queen. The so-called McGarvie model seeks to retain as much of that system as possible, but makes the Governor-General head of state in all respects. For about four years I have been mentally tinkering with the same thought as has plainly appealed to the Hon. Richard McGarvie. The only question is: to whom do you give the formal functions of acting on the advice of the Prime Minister in relation to appointment and dismissal?

A variety of possibilities spring to mind. None has the same dignity and status as the Queen. However, the residual functions are few, despite their intrinsic importance as part of the checks and balances that exist under our constitutional structure. They do not necessitate the creation of a new office just for the purpose. For me, the prime ministerial appointment model respects the system that we know works well.

Given an appropriate recipient of the functions of appointment and dismissal of the Governor-General as head of state, it is a model which I strongly prefer. For me, it has virtually no disadvantages. There is another factor. This model is one which I believe the Australian people would generally feel comfortable with. It has a much better prospect of being approved in a referendum than have either the popular or parliamentary election models.

I conclude with two points. The first is that Australia should become a republic if, and only if, the Australian people understand and want change. We know that change depends on a broad consensus. The second point is that the Australian people, and only the Australian people, can approve the republican form of government. Australian sovereignty rests with the Australian people.

DEPUTY CHAIRMAN—I give the call to Dr Glen Sheil.

Dr SHEIL—This is the second time I have spoken in this hallowed chamber. I am very proud to be doing so. The first time was after the double dissolution of 1974. I was then opposing Mr Hayden. He was bringing in Medibank, the father of Medicare, and I was dead against that. I got rolled then—just as we are being rolled now—by the numbers. It was a sensitive and delicate time, and we have all come through it.

I notice that today people were referring to the half-dozen or so survivors of the joint sitting of the parliament that are here today. They should take note of the fact that we are all on the one side. That is significant. One of the republicans said, 'That means you are just old hat, past it, and set in concrete.' That is not so. We realised the importance and the significance of the decision they are taking here, and so we saddled up and stood for election again, which in itself is not an easy thing to do. Lady Florence Bjelke-Petersen and I stood against all flags, because the other candidates were supported by political parties.

Of all the issues in Australia that are non-political, the Constitution is the most important because it belongs to all the people—from the most rabid left-wing socialists to the most right-wing hard-hearted conservatives. It is the basic rules by which we all agreed to be governed. Admittedly, it is governed now by many other factors, such as the Westminster system and the practices, conventions and usages that have developed over the years. The Constitution is a different kettle of fish now from what it was on the day it started.

First of all, I would like to talk about the people who claim that a republic is inevitable. It was refreshing to hear how gently it was described this afternoon in the quiet, sepulchral, ivy colonaded academic halls of Dame Leonie Kramer. She really was very gentle with it. I would like to say that those people who claim the inevitability of a republic are making a downright despicable, deceitful and defeatist claim that is designed to rob us of the ability to think about our problem and to

take action and fix it. By saying that it is inevitable, they are really saying, 'Just kneel down and wait for the lions to eat you or for the juggernaut to pass over you and Bob's your uncle.' But I prefer to fight on my feet and not put up with—it is not an argument—the claim that it is inevitable. I would like to get rid of it.

I think that a constitutional monarchy is the best sort of government in the world. Everybody who says, 'Oh, it is old hat and back in the horse and buggy days, or why don't you move up and come into the jet age?' is wrong. It is republics and monarchies that are old hat and sunk in concrete and on the wrong tram. It is the constitutional monarchies that are the new, young, active, dynamic, changing forms of government.

Look at the constitutional monarchies under the British Crown. They are the freest and most democratic countries in the world. There are about 16 of them. There are 130 republics in the world. All the refugees in the world come from the republics. There are no refugees from the constitutional monarchies. I think that fact speaks for itself.

I do not know why this bunch are going for it. There is no great call for it out there, although they keep telling themselves there is a call for a republic in Australia. I have not seen people marching in the streets with pitchforks and shovels singing militant songs. They are not at all. I found that on the election campaign as well. People are very happy with the stability that they already have.

A lot of legal people, including the Attorney-General, are not aware of the developments and evolution that have taken place in the Crown in the time that we have had our own Constitution in the last 98 years. The Crown itself has evolved. The British Crown has shown itself to be eminently divisible. It is a bit like the magic pudding. It gave a piece of itself to all these other nations, who used that Crown in their own way and developed their own constitutional monarchies. Australia stands out from all of them as the best, freest and the most democratic of all the countries in the world bar none. The beauty is that the English Crown has not suffered at all by giving a bit of itself to all of these other countries. I will go a bit further; I think it shines a little brighter for having done so.

But we have developed the use of the Crown in our own way. I think the founding fathers were very clever. They put the Crown at the head of all our great institutions of state. While the Crown is there, nobody else can be the boss. That is why the republicans want to get rid of it. The Crown is the ultimate and untouchable guarantee of our freedom, our democracy and our Constitution. It would be a smash hit for the republicans if they could get rid of the Crown. I think this is the whole thrust of their argument.

They keep thinking that we are under the British Queen here still. Even Mason CJ thinks that Queen Elizabeth is still the head of state. She is the sovereign. Our Constitution was written with the idea of having an absent sovereign and all the powers of the Crown passed to our Governor-General. He is the kingpin here doing the work of a head of state.

The Queen reigns but does not rule over all these nations. I do not know how you can equate that with a head of state, such as the President of the United States or the President of Ireland. Fancy saying that they want to be like Ireland, Finland, Iceland and Austria. I do not want to be like those countries. We have a better system here than you could ever imagine.

You have heard this afternoon the story of the Aboriginals and the split in the arguments between them. They are quite marked. There is a split between the Torres Strait Islanders and the Aboriginals. The Aboriginals are really selling the Australian people short in what has happened over the years. A story has been told in this chamber this week that the Aboriginals were not recognised as people at federation and that they have been degraded, discarded and treated as nothing, I think they said. That is not true. At federation, all of us, including the Aboriginals, were entitled to be on the state rolls. There was no federal government.

We had racial minorities here. We had Afghans plying their trade up and down the dead centre. We had Japanese pearl and trochus shell fishers in the north, Chinese in

the goldfields and Kanakas in the sugar growing areas. The federal government thought that it may have to pass restrictive legislation about those racial minorities. The federal government also had as its income only one quarter of tariff collections. There was no more money, and it was supposed to be able to function like that. It was not allowed to pass restrictive legislation on Aboriginals because Aboriginals were inland, scattered, nomadic and hard to count. That is why the federal government was precluded from passing laws about Aboriginals. It was to protect them.

Anyway, I see that Lois O'Donoghue has left. I do not know why she is insulted about that. It is the true story of how things were in Australia. By 1967, the taxation system had altered and it became appropriate to count Aboriginals on the federal rolls. About 92 per cent of us voted to put Aboriginals on the federal rolls. In other words, people were not being racist about this exclusion and preclusion. They voted to put Aboriginals on the roll and to remove the restriction on the federal government.

It was not until the 1970s that the federal government took over the administration of Aboriginals in its entirety, which was not in the protocol that the people voted for. The 'Yes' case that was given to us said that the federal and state governments had to act together for the benefit of the Aboriginals. The federal government took over. They brought in legislation and made the definition of 'Aboriginal' so wide that Aboriginals themselves are divided. They are also divided from the Torres Strait Islanders. The Torres Strait Islanders want to create their own nation now, which is a very sad result of all the do-gooding legislation that has been developed in Australia. I think that successive federal governments were acting beyond the authority that had been granted to them by the people in the 1967 referendum. Of course, that has been compounded by the actions of the High Court.

I will return to the Constitution. The Constitution was obviously written to make a federation that protected the states. The greatest engine that has been disadvantaging the states over decades has been the High Court. We are in a difficult situation with the High Court now, if people look at it carefully. This is my opinion; I will say that it is my opinion in case I am sued.

DEPUTY CHAIRMAN—You have no parliamentary privilege here.

Dr SHEIL—Yes, I know. These are facts. The High Court now gets billions of dollars to operate. It is a one-line entry in the budget. They do not have to explain their expenditure to the parliament or the people. They just get that money and they can spend it. On the other hand, there is no appeal of its decisions. I would say it is a dangerous position to be in that a powerful body like that does not have to account for its expenditure and there is no appeal of its decisions.

The Constitution was written with an appeal provision in it. Somehow or other, through the passage of time, the High Court has absolved itself from any appeal of its decisions. Since then it has expanded its operations into all sorts of areas such as social engineering and finding implied rights in the Constitution. The High Court has really been dealing hammer blows to the states over the years. I think we probably should have some sort of appeal from the High Court now to a body made up of the Supreme Court judges of the states or some such body like that.

You may think you are quite safe here in Australia, that you cannot be robbed of your freedom of speech. In Germany, for example, if you are caught discussing certain subjects in the streets you can be gaoled. In Australia, in recent years Labor governments have passed legislation to ban criticism of trade unions. They passed legislation to ban political advertising. Those acts were struck down in the High Court because they felt they were—

Senator Faulkner—That is rubbish.

Dr SHEIL—It is not rubbish. They are an intrusion on the freedom of speech. It can happen here in Australia. It has been Labor leaders who have been sacked. The reserve powers have only been used twice: once to sack a Labor Premier of New South Wales who borrowed money overseas and refused to

pay the interest on it and the other to sack a rogue government here in Canberra that was attempting to govern without supply and borrowing the money overseas. It was a rogue government. Somehow or other they have turned it around. They claimed it was the rape of democracy. It really has been the trigger for this convention that we need a republic to fix it. There is no need to maintain the rage we have heard in this room. I am proud to be in a constitutional monarchy and I am going to defend it to the end.

The Most Reverend GEORGE PELL—We are gathered symbolically in this chamber, which is steeped in Australian history, to answer three important questions: should there be a republic, what model should we recommend and in what time frame? These are not the most important challenges facing Australia. Nearly all of us would agree on this even as we disagree about the greater challenges. There has been no Boston Tea Party, no complaints about taxation without representation. We are not rewriting the Constitution after a long and violent struggle against apartheid. As we are already a sovereign and independent nation, we are not grasping for freedom because our imperial masters have been weakened by years of war. Our sister state of New Zealand has not as yet even felt the need to take this step of assembling a constitutional convention.

None of this implies that our tasks are unimportant. I speak as an appointed delegate, an Australian citizen who is a Catholic archbishop. There is no mandate to express a single political opinion for the Catholic community, which now comprises more than one-quarter of the Australian people, much less to speak for the 70 per cent of Australians who call themselves Christians. Opinions on these matters differ among us. Catholics and Christians, like many others, recognise that in a democracy the people under God are the source of authority. We want to strengthen and preserve parliamentary democracy and our precious inheritance of freedom and tolerance. We all want what is best for the Australia of tomorrow, even as we might disagree about the means to achieve this.

Almost since European settlement began, there was a lively tradition of political activity in the Catholic communities. There were Catholic prime ministers in Australia many years before there was a Catholic president in the United States. In fact, for a combination of religious and ethnic reasons, and almost unintentionally, Catholics here, then largely Irish, were among the first to think of themselves as Australians. It was Archbishop Polding—English born, the first bishop of Sydney—who, I believe, first spoke of 'Australia for the Australians'. In the conscription debates, Dr Mannix was heavily criticised for putting Australian interests first. Naturally, there were other traditions too, much more sympathetic to the British Empire. I grew up happily reading the *British Empire Youth Annual*.

For many years, Catholics were a poor, self-conscious minority, denied educational justice, often prickly and hostile to Christians of other denominations. Most often, the other churches returned these compliments. Cardinal Moran, Archbishop of Sydney, frequently spoke in favour of Federation in the 1890s, but his candidature for the 1897 Sydney Convention was rejected amid deep religious bitterness and he even felt unable to participate in the Federation celebrations in 1901.

Times have changed and they have generally changed for the better. Some schools in my archdiocese have children who have come here from more than 60 nations. The Catholic community is educated and often prosperous, part of the mainstream. Most importantly, the old antagonisms among Australian Christians have almost entirely disappeared, and I thank God for that. Catholics have many reasons to thank God and their fellow Australians. We are proud of what we have built and are keen to work together for a better future. We acknowledge the mistakes that were made with the original inhabitants, but we have come in gratitude and without grievance to this Convention.

Many Australian Catholics, here for some generations, now share through intermarriage a British heritage too. We cheerfully acknowledge the English prototypes of all our great civil institutions—the parliament, the law, our

universities—and we share, of course, the precious heritage of our common language. Some of us have more personal debts. I completed my tertiary education in England in those bygone days, long gone, when the British government paid all the academic fees not only of its own students but also of foreign students.

The histories of Britain and Australia have been inextricably linked, not least by the sufferings of two world wars. All this helps us to understand the immense affection, usually unstated, that allows us to be such uninhibited opponents in sporting contests. But it is time for change. The British Crown is no longer an appropriate symbol of Australian nationhood; not because it is British but because it is not Australian.

Despite easier travel and communications between the ends of the earth, the Crown has lost much of its mystique and power to inspire, particularly among young Australians. Even if Britain had not joined Europe—and it has—we need the republic and an Australian head of state to remind ourselves that we are on our own in climes very distant from the homes of most of our forebears. Our neighbours need to see this. As Chairman of the Caritas Catholic Agency for Overseas Aid and Development, I have travelled into many Asian countries and there is still great confusion in some quarters there on this matter. Our neighbours need to see that we are proud of our traditions, but committed to the region; keen for friendship and cooperation, but proud, disciplined and emotionally self-sufficient.

It is a crude misunderstanding to see the republican movement as primarily or basically about power shifts or the retention of power. Even those who want radically different constitutional arrangements and were disappointed by this assembly yesterday—and I am sure they will live to fight again—realise the importance of appropriate national symbols, of a local head of state as one focus of our loyalties and of our unity of spirit that transcends economic interests and day-to-day concerns.

I agree that it is demeaning to claim that we can only preserve traditional Australian freedoms by appeal to a foreign legal cornerstone. There is no reason to imagine that our good sense will evaporate with the passing of the Crown, the passing of hereditary monarchy. Our freedoms will continue to be preserved by intelligent committed democrats and ultimately by the Australian people at the ballot box.

The higher, more important dimensions of our quest were captured poignantly yesterday by Graham Edwards, Vietnam veteran and survivor of many years in politics. He pointed out that most Australians believe it is acceptable for Australian men and women to fight for this country, to die for this country. How could we think, he asked, that it is not good enough, it is not acceptable for an Australian man or woman to be head of this country? For me, there is only one answer to that question.

By a happy coincidence, most Australian Catholics broadly share my views. A recent survey showed 51 per cent favoured a republic with only 18 per cent resolutely opposed. Our task in this Convention is not just to arrive at a consensus but to outline a proposal that Australian people will accept. I will support any proposal that will achieve this goal, provided it does not basically damage our present Westminster system of government with its prime ministerial leadership.

The new head of state needs to be a symbol of national unity, defender of the Constitution and above the day-to-day adversarial politics of the parliament, although I do not believe this excludes ex-parliamentarians from this high office. Recent experience proves the contrary. While the Senate retains the power to block supply, the new president will need the capacity to act as an umpire.

The traditional balances need to be retained without the anchor of the Crown. As Sir Harry Gibbs wrote in a recent paper, 'It is necessary to find a way of balancing the need to remove a president peremptorily for improper conduct against the need to ensure that a government could not prevent a president from upholding the Constitution in appropriate circumstances.' Partial codification of the reserve powers, if it could be achieved, could help to prevent the repetition of the worst

aspects of 1975. No future Prime Minister should be tempted to think he can remove the president with a phone call and no president should find it necessary to plan the dismissal of a Prime Minister in secrecy.

My own preference is for the direct election of the president by the people. With carefully defined and limited powers, such a position should not rival the Prime Minister's. The opposition to this from politicians across the board is formidable and perhaps insurmountable. My suspicion remains that their fears are not entirely justified.

Despite the campaigning which would accompany these elections, this close popular involvement in the appointment of the head of state would strengthen the bonds between the people and the leadership, strengthen the sense of ownership and pride.

The people's choice would help to purify the deep nationalism of the Australian people into a patriotism of service, to unify us in times of peril and especially to inspire our young people to altruism, even to heroism, away from selfism, away from preoccupation with personal difficulty. The possibility of popular nomination of candidates for appointment by the joint sitting of the House of Representatives and the Senate should be considered as a compromise solution. Another possible compromise is that nominations be made to a Constitutional Council who prepare a short list to be shown to the Prime Minister and the Leader of the Opposition for approval before the people vote.

I am sure there are many other alternatives for compromise. However, most importantly, we have been given—and it is a great privilege—a unique opportunity to complete the gradual, peaceful evolution of the Australian nation. We should not botch this opportunity. May God bless Australia.

Mr STONE—Participation in this forum has been most instructive for all Northern Territory delegates. Next month we Territorians commence our own constitutional convention to draft a state constitution. For us, constitutional development has been a reality spanning 20 years of self-government. Our deliberations have not been confined to Territory issues. In May 1993, five years ago, the Territory parliament debated and voted overwhelmingly for the republic. In the ballot for this Convention, republican candidates won all positions. Some would say that I head the most conservative government in Australia and a number of my most strident critics are in this chamber. What I am about to say may surprise some. First, I support the republic, second, let the people elect their president and, third, do not fall for the 1999 offer.

My position makes for some odd bedfellows. By Reg Wither's definition, I am a Bolshevik. I accept Reg's compliment, however, that he believes that we have 'more brains, more energy, more passion and more commitment to the republic than the Mensheviks, the ARM'. In this the year of the tiger, the tiger is well and truly out of the cage.

The ARM model—a mere pussy cat—may get up in here but it is doomed out there where it counts. Before dealing with the three issues, I express the hope that this Convention is but a beginning. I, like others, would like to be part of a broader discussion on issues that we have not been able to accommodate on this occasion. Matters such as the need or otherwise for three tiers of government, the ways and circumstances in which we change or amend our Constitution, the vote and the future of the Senate and the aspirations of indigenous Australians come to mind.

As Australians, we should not shy away from making such a commitment. Federation was 60 years in the making. My late teacher, Professor Crisp, wrote, 'It took 60 years of spasmodic official effort and fluctuating public interest to bring the Commonwealth into being.' Similarly, if we are to engage in the task of constitutional reform, it will be ongoing, as it should be.

Returning to the three issues at hand: the republic, the model, the time frame. On 16 April 1993, an article appeared in the *Australian* penned by Dame Leonie Kramer under the banner 'If a republic is the answer, what's the question?'—an excellent thought-provoking article, notwithstanding that it was written by a constitutional monarchist. The question is quite straightforward. Put simply, can we do better; or put another way, can we improve upon our Constitution and system of govern-

ment? It is important not to get caught up in the rhetoric of either side in this debate.

The Prime Minister articulated the view that the only argument of substance in favour of an Australian republic is that the symbolism of Australia sharing its legal head of state with a number of other nations is no longer appropriate. I disagree. That is not the only argument of substance.

Other delegates have opposed the republic in the belief that a republic will not deliver a better system of government and will gravely weaken what we already have. I disagree. Advocates for the republic claim that we are not truly independent and lack a true Australian identity under a constitutional monarch. That is absurd. Equally absurd was the statement by Kim Beazley that the republic is about making our way in the region. This debate is not about finding an Australian who can wield a pair of scissors. This is some of the rhetoric from both sides that causes the Australian electorate to switch off.

I support the republic because it provides an opportunity, a vehicle, to improve upon a system of government that has served us well over 97 years to date. I support the republic because it opens the door to important constitutional reform in the time ahead. It is about moving forward, consistent with our growth and development as a modern, liberal democracy. As Pat O'Shane said, it is an opportunity for nation building. We are about writing a constitution for the present and the future. Too many delegates have spoken about the need for a constitution that reflects our times. Let us take this opportunity to provide future generations with a model that can continue to be adapted, that will be able to reflect their times as well as ours and the founding fathers.

Mr Deputy Chairman, I did not come here for an 'intellectual treat', as it was described by Kim Beazley. I came here to achieve outcomes that fit the expectations of the Australian people. Those expectations are a republic, and a president elected by the people.

That brings me to the second issue: the president. Let the people elect the president. The people want to. They are entitled to. Why do we have this absurd notion that the people cannot be trusted to elect the president, yet the people whom the people elected can be trusted? Further, with great respect to Dick McGarvie, a great Australian, I do not support the three wise men.

I find it extraordinary, delegates, that this people's Convention is so terrified of democracy. Delegates from all sides of the argument have been asking, 'How would you elect or appoint a head of state? Why would you elect a head of state?' Surely the real question is, 'Why can't the Australian people elect their own head of state?' They can, and they should. We are then down to the detail.

Confine, if you wish, the president to the role as representative of the values and spirit of Australia, here and throughout the world, a ceremonial role without powers, and simultaneously deal with the co-extensive powers of the Senate with the House of Representatives by removing the capacity of the Senate to refuse money bills. Many delegates have argued that the president should have the same reserve powers as the Governor-General. I disagree. I have listened to the rhetoric about checks and balances, safeguards, and the like. Where that argument is flawed is that it ignores the ultimate arbiter—the Australian people, the Australian electorate. That is what is wrong with this argument that, if you let the people elect the president, you will not deliver a neutral, apolitical head of state.

This proposition that an elected president would not necessarily abide by the conventions and impartiality of his or her office discounts the capacity of the Australian people to get it right and for an incumbent to be subsumed by the conventions and impartiality of office. Kim Beazley said, 'In my view, Australians have long understood most of the issues.' If you really believe that, Kim, why not entrust the people with a vote? I have no doubt that an elected McKell, Casey, Hasluck and Hayden, all politicians, would have behaved and conducted themselves just as impeccably as they did in any event.

As for the inevitability of political parties endorsing candidates for the presidency, so what? It might not have been a formal preselection process, but how do you think McKell,

Casey, Hasluck and Hayden got there? At the whim of the Prime Minister and cabinet of the day. They were all outstanding incumbents. I can only speculate as to why Mr Turnbull says with such authority that the Australian people do not want a politician as their head of state.

What is so hard about directly electing a president? What is so hard about Australians casting a vote concurrently with a federal election for a head of state? What is so hard about defining the position as purely ceremonial and removing the right of the Senate to block money bills? What is wrong, Wendy Machin, with someone being elected on a preferential vote notwithstanding that they got less than 50 per cent of the primary vote? That is how most of you got here in the first place. If the idea of an elected president still paralyses the ARM with fear, why have they not reverted to the obvious solution which has already been suggested in this place? Why do they insist on a president at all if they trust not the Australian people to elect one? I trust the Australian people to get it right. Speaker after speaker have got to their feet and extolled the virtues of the ARM model. You can wax lyrical until the cows come home, but the facts are that the people, the electorate, do not agree with you. The people want to elect their president.

I come now to the third issue—1999. This offer is a poisoned chalice. It will fit the agenda of the constitutional monarchists and will guarantee that the republican cause will never have the opportunity to properly canvass their view in the electorate in such a short time frame. Federation took 60 years. What is the rush? Do it properly, and do it in a considered way.

The ARM has worked assiduously to get their model up and, based on the preliminary vote, they are looking good. That is a great disappointment for me. Mr Turnbull in his opening remarks pleaded that the best of the old is preserved as we bring in the new. Kim Beazley, in similar vein, argued for the election of a president in a way that 'causes the minimum possible disruption to our current constitutional arrangements'. How cosy. Support for the minimalist model is premised on the mistaken belief that if you do not upset the apple cart you will get a republic. Well, Mr Turnbull, you may win the battle in this forum but I share the prediction of Reg Withers that you are about to lose the war. In that unhappy event, an opportunity will have been lost for nation building. Thank you, delegates.

DEPUTY CHAIRMAN—The next speaker on the list is Adam Johnston.

Mr JOHNSTON—Thank you, Mr Chairman. I cannot rise to address you, but rising to this occasion is my ambition. In opening, Mr Chairman, I would like to table documents which outline my republican proposal and which have already been circulated to the secretariat. I would like to open also by reminding all delegates that we meet in a building less than a century old. European colonisation is just over 200 years past, yet it represents a 1,000 year-heritage from absolute monarchy to popular sovereignty. It is this inheritance which grants us our freedom, stability and democracy.

My responsibility to the youth of New South Wales is to see this inheritance preserved. Equally, accountability to the popular will means that I must consider republican alternatives, despite any personal convictions. The plan I outline today will, I hope, achieve both objectives. I ask delegates to consider the possibility of a referendum asking the people of Australia to approve the use of section 51(xxxviii) of the Constitution, giving the Commonwealth the power to legislate as at Westminster. To address concern expressed by some delegates, there would be a clause in that referendum that said that this power could only be exercised at a certain time. There would be a sunset clause.

If the parliament were to act I would ask you to recommend the addition of three acts to the text of our Constitution. The first two are historic acts of the Westminster parliament. They are the accords by which the monarchy submitted to parliament and the people. We are familiar with accords in Australia. With minor amendments, the English Bill of Rights and the Act of Settlement can be domesticated. The office of presider thus created will function as the

monarchy does now, but it will be occupied by an Australian, namely, the immediate past Governor-General. Note that I have used the term 'presider' not 'president' due to the aura surrounding the word 'president'. A republic then that builds on 1,000 firm foundations could meet 2000 with confidence, but note that I am saying 'could', not necessarily 'would'.

Let me speak briefly about the office of Governor-General. As an offer to those who seek popular election, I would propose that the people be invited to petition the parliament to tell the Prime Minister of those citizens they feel would be best suited to become Governor-General. However, the ultimate decision would still be in the Prime Minister's hands.

A republic that accords its national symbols with proper respect will endure. I propose that the flag acts be added to our Constitution. In conclusion, if there is to be a change, let us accord our system of government the respect it deserves by using its history to build a secure future. Let us accord each other respect, and let us hope that historians will accord that delegates to this Convention did rise to the occasion. Mr Chairman, I commend the bill to the House.

Mr HOURN—I remain one of the great number of Australians who have yet to be convinced that we can be made any more free or independent or democratic or sovereign or profoundly more Australian than we are today. We do not need a permit to be independent because we already are. Australian citizenship is one of the most cherished prizes this world has to offer, and we certainly do not need some form of written ratification of the worth of being Australian.

Millions of people from around the world have flocked here to partake in that citizenship. Over the decades they have done so because of what we have and who we are. Many have come from Germany, Pakistan and Ireland—three republics that have been put forward from time to time as models for an Australian republic. Those people have flocked to Australia. The reverse is not true. It is ironic that Australia's multiculturalism is now being used by republicans as a reason to change what we have. Australia is a fully independent nation and to portray it as otherwise is simply misleading.

When we actually became independent might be legitimately debated, but the fact that we are cannot be debated. There are those who believe that our independence came with Federation, such as former Labor Party Attorney-General Lionel Murphy, who ruled from the High Court that we became independent in 1901. Others identify 25 April 1915 when Australians landed at Gallipoli. Others, still, identify later years such as the Hawke government's Constitutional Commission, which identified some time between 1926 and the end of World War II.

The timing, however, is unimportant. What is important is that through an evolutionary process we are an independent nation today. I am not one of those people who believe Australia suffers from an identity crisis. I believe that the Australian identity is so distinct and our shared values are so robust and so many of our achievements such a legitimate source of pride that we do not need the seemingly endless hand wringing and navel gazing that occurs.

When so much focus is on what some people claim to be wrong about Australia, I hope that this Convention will give a proper perspective by focusing on what is right about Australia, by awakening us to the fact that we are already a truly independent nation where Australia answers to no foreign power and where our ultimate strength is derived from the sovereignty of the people.

Most Australians are proud of their national identity. Some, however, are apologists. Australians are being told that to find their national identity they must become a republic. All our feelings of patriotism and national unity will presumably then centre on a president and we will be fulfilled as never before. We are told by the Australian Republican Movement that to become a republic will be a powerful and symbolic way of asserting ourselves as free people in an independent nation. Such an argument, however, is bizarre.

Brigadier GARLAND—Rubbish!

Mr HOURN—Such an argument is rubbish. To my mind, fixing our balance of payments and reducing national debt would assert our freedom and independence. Becoming more competitive in trade with our Asian neighbours, including the constitutional monarchies in Malaysia, Thailand, Cambodia and Japan, would assert our freedom and independence more. Having the Wallabies beat the All Blacks or the Socceroos reach the World Cup finals would more effectively assert our independence as a nation, and fixing unemployment and domestic matters would have more effect in asserting ourselves as free people in an independent nation. The idea that we need to rebadge Australia to assert ourselves as a free and independent nation is wrong, and some would say it is arrant nonsense.

Being free and independent certainly does not depend upon changing our constitutional arrangements. If Australia starts disavowing its history or disowning its institutions simply because some believe that countries in the region will respect us more for doing so, then we are gravely mistaken.

The Australian Republican Movement portrayal of the importance of the debate as being only about identity and symbolism does not of course recognise the agenda of other republicans who are here. That agenda, the agenda of the real republicans, seeks to further empower the Australian people by doing away totally with our Constitution and beginning again from scratch. By inventing a totally new system, real republicans—or the Bolsheviks, as they have been referred to by my Western Australian colleague Reg Withers—want a total and radical rewrite of our system of government. Such arguments—the argument to give more sovereignty to the people—have a great deal of superficial appeal. Popular elections for presidents, gender balance, a bill of rights, changes to the preamble to the Constitution and 'resident for president' all have a superficial appeal. It is only now, however, with the Convention under way, that we are beginning to look below the surface and starting to examine the real implications if we were to adopt any of these proposals.

Most I fear have been put forward without being properly thought through. There is no better analogy of this than the example of the proposal on day one of this Convention to have a female deputy chair appointed to redress gender imbalance. Although superficially appealing, on closer scrutiny such a move would probably have disempowered one female delegate by restricting her voting rights at the Convention.

What this Convention will clearly do is highlight the fact that the more one seeks to empower the Australian people the more one understands that we are already amongst the most sovereign human beings on earth. It will, I am sure, also show that the more one tries to prove that an Australian republic is desirable, irresistible and inevitable the more one will realise that it is really none of these things at all. And the more one seeks to radically change this country the more one appreciates that it is really not worth the risk.

To change a system of government for change's sake is nonsense. To go from stability to divisiveness, from the known to the unknown, from certainty to uncertainty is the worst form of gambling. If Australia were to change to a republic, I predict it would be only the first republic and that there would be the potential for many more to follow.

If it has not been made clear enough before, let me reiterate that a move to a republic will directly question Federation. We have already heard the Premiers of Queensland and Western Australia say that those states should not be compelled to become a republic unless a majority of the electors of those states agree to do so. Although it is possible that by an amendment to the Constitution of the Commonwealth, the Constitution of each state could effectively be amended to make each state a republic, whether or not a majority of its electors were in favour, that of course would be highly improper. The Western Australian Constitutional Committee reported in January 1995 that their firm view was that a federal system of government is preferable to a centralised system of government and that preservation of the federal system is of far greater moment than the republican issue.

The committee, however, also reported that questions about the possibility of secession were frequently raised by the Western Australian public and that they recognise that calls for secession are indicative of a strong reaction against overcentralised power. Given that Western Australia has already voted once in a referendum to secede from the Commonwealth as recently as 1933, it is not impossible that our indissoluble Federation could crumble with the introduction of a republic.

On that note, in all our dealings at this Convention we must always ask ourselves: what are the benefits and what are the risks of any change from our present system of government to a republic? We must also recognise that any change to our system of government will also be a change to our culture, because the Crown is so interwoven into the fabric of our society. The Crown is no more alien to Australians than cricket, soccer, rugby or Shakespeare, and it is not alien for Australians to belong to the Royal Perth Yacht Club, to be a member of the Royal Australian Regiment, to be a submariner on HMAS *Farncombe*, to serve the Crown as a judge in a crown court or to use crown land. None of those things are alien to Australians. They are part of the fabric of our society. The links to the Crown embellish our culture and it would be a blander Australia if they were to be removed.

Such symbols of course are about our rich heritage and not about personalities. It really matters little if Elle MacPherson or Nicole Kidman or Joan Sutherland or Elizabeth II—all of whom, by the way, live overseas—is the head of state. What does matter to Australians is the way we are governed. We are not talking about personalities. We are talking about a system of government. In today's universal village it matters little to me and to many others whether that universal woman who is our Queen resides overseas, just as it matters little that the Australian of the Year in 1996 flew to Australia from New York to receive his award and afterwards hopped on a plane and flew home to the United States.

If the best that republicans can offer is only something that comes close to what we have, without any improvement, then I say: I like the way we are now; I like Australia the way it is. Any minimalist model—McGarvie or otherwise—will require major changes to our system of government. The Tippex theory, the white-out theory, whereby the word 'Queen' is blotted out of our Constitution and substituted with the word 'President' will simply not work.

Just in simple mathematical terms, a minimalist change will require the functions currently carried out by two people to be done by one. Under those circumstances, who would dismiss a new head of state? The Queen under the present system does not need dismissing. By convention, she does not interfere and is above politics, yet she still has the crucial reserve powers.

The Governor-General has no fixed term and serves at the sovereign's pleasure. A president, on the other hand, would need to have a fixed term. If he or she has no fixed term, at whose pleasure does he or she serve? The Australian Republican Movement proposal to have a two-thirds majority of a joint sitting of parliament to appoint and dismiss a president is an interesting proposition, given the potential for the balance of power to be held by one or two independent senators, as is the case now. The horse-trading and pork-barrelling that might be required for the appointment or dismissal of a president under those circumstances is frightening to consider and is clearly unacceptable to the Australian people.

On the other hand, popularly electing a president immediately politicises the position of any president. If we have an election we end up with a politician; we end up with the involvement of political parties, factions, money and influence and, of course, that means no longer a minimal change. If such were to occur we would have a major change to our system. To reduce the power of the huge mandate any elected president would have, some say that such power should be codified. Dr Evatt actually tried for five years to codify the constitution, and eventually gave up in defeat. Gareth Evans—until yesterday, that is—had said that it would take 30 years, and even then we would probably get it

wrong if we tried to codify the powers of a head of state.

My comment to those wishing to codify the powers of any president in time for that artificial deadline of the opening of the Olympic Games is that they had better start writing tonight. The greater objection to codifying the reserve powers is that the relationship between the head of state, the parliament and the government would be determined by the High Court and not the electors. That would be the absolute reverse of democracy.

Put simply, any change to a republic will make major, irrevocable changes. Any minimalist republic would unbalance our present system of government. At the moment, we have the right balance between the head of state, the head of government, the parliament and the people. If that balance is changed, then either the head of state, that is a president, would gain and could exercise enormous power, or a head of government, that is, the Prime Minister, would gain and thereby have increased power. Either way, politicians will receive more power in a republican system and electors will be the loser by having safeguards—that is, the checks and balances—removed.

Any maximalist or real republic would be a radical change—a change of revolution rather than evolution. *(Extension of time granted)* It would be a change where a Prime Minister would be the second-in-command; a change that would not only be divisive but also dangerous, and one that is clearly unacceptable to the Australian people at large. In all of the debate about a republic which has gone on now for several years, I have never questioned the loyalty of republicans, including the radical republicans, and I certainly do not do that now. There are patriots on all sides of this chamber and in the wider community outside.

The important issue for us all to resolve is how we can improve our nation. What benefit or detriment is to be gained by changing? We must constantly ask ourselves throughout our deliberations: do we really want a politician as president? Do we want a Prime Minister as second-in-command? Do we want more centralised power in Canberra? Do we want more power given to politicians?

In conclusion, I direct my remarks to neither the Australian Republican Movement nor the Bolsheviks nor, for that matter, to the members of Australians for Constitutional Monarchy, because all those people are firm in their minds as to what they want. Rather, I direct my remarks to those at this Convention, and to those Australians who may be watching or listening to this, who are still weighing up the arguments and have yet to make up their minds. Please think carefully about what we have and what we might lose if we have a republic. At the end of the day, vote with your head and not for any emotive reason.

Mr BONYTHON—Until I arrived in Canberra, I imagined that I would be the oldest elected delegate to this Convention. I was wrong. Clem Jones beat me by two years. I am what our opponents choose to label 'an anachronistic conservative'. I do not like to consider myself as a fuddy-duddy, but I hope my lifestyle up till now would tend to support that belief. However, I believe that we oldies can still, through having spent a longer period of time on this earth, give some useful guidance to those who were born in more recent years.

A couple of years ago I was asked to give an Australia Day speech in suburban Adelaide. As a senior citizen, I felt that my role was firstly to pay tribute to the courage and determination of our predecessors who created a nation with their bare hands, then to move along to steer younger and future generations away from paths such as drastic changes to our Constitution that could so easily lose for Australia the enviable stability which we have inherited.

This particular speech included the heartfelt plea—and it is bad luck that Phil Cleary is not here—for the reintroduction of national service. Our unpreparedness at the start of World War II was a truly lamentable occasion. Fortunately, we got away with it at that time, but I doubt if we will, given a second chance, especially in this high-tech age. All Australians should not only have a basic ability to defend their country but, in the

process, they learn about discipline, get job skills and get invaluable experience meeting and mingling with all sections of the community with whom otherwise they would never have come into contact.

When that speech was over, two very stony-faced local politicians took me to task and described my speech as thoroughly inappropriate for the occasion. Of course, I disagreed. In my opinion, we should cherish our present form of government, with a non-interfering monarch as umpire, a constitutional Australian head of state in the Governor-General—who, incidentally, I confidently feel should and will open the Olympic Games in the year 2000, which is the subject of so much wild conjecture—with no further power to be given to federal politicians, which would invariably and inevitably be to the detriment of the smaller states. I regret that even my own state Premier, John Olsen, in this forum a couple of days ago obviously gave this implication so little concern in the motions that he supported in his wisdom. I suspect some other elected officers of other small states may live to regret their attitudes at this gathering.

Let me state that I welcome this Convention. After years of taxpayer funded pro-republic propaganda, this is a long overdue opportunity for the people to examine both sides of the argument. I do not believe that a republic is inevitable. If there is to be a referendum, then it can only be after the public has been fully exposed to the merits or otherwise of what has been proposed so that, in the fullness of time, an educated vote can be lodged. I am convinced more than ever since this Convention got under way that what has been proposed is far from minimal and will never get up at any referendum, especially judged in the light of past experience.

The public at large is generally disinterested in the concept of a republic. The people are not out in the streets demanding it. Graeme Richardson notwithstanding, I believe that a large proportion of that 54 per cent who did not vote in the Convention election chose not to vote because they were satisfied with the present system. Surely those who so earnestly wanted change would have had the most reason to cast a vote.

Opinion polls as to those matters that should occupy the minds of our politicians rarely, if ever, include the word 'republic'. Priorities are invariably on far more pressing issues than this. Further, once the public is made more aware of the literally obscene costs of what is proposed—the figure, I am led to believe, runs into billions not millions of dollars—they would be shocked into disbelief. The cost of six new state constitutions, the vast expenses in changing the names of institutions such as the Royal Australian Air Force, the Royal Society of the Blind and so on, all adds up, and the total is unimaginable—and unacceptable, too, I suggest—and most Australians would agree with that, especially in the difficult times that we are presently experiencing. What are we going to get for all this expenditure of public moneys? That money could be far better directed towards health, education and job creation. We would get nothing that we have not already got—a fully independent Australia and a lifestyle that is the envy of most of the rest of the world.

I must admit that I felt ashamed when our past Prime Minister grandly claimed that our Asian trading partners were confused and bewildered by our continuing adherence to the Union Jack in the corner of our flag. I always thought that reverence for one's ancestors was a cornerstone of Asian philosophy. Who can deny that most of the things that have made us what we are today came from Britain?

I believe their main concern is to be able to purchase our products at the lowest possible price and then be assured that those goods will arrive on schedule and not be delayed at this end for some industrial reason. Our present stable form of government has, over the years, attracted countless thousands of migrants to this country, more often than not from troubled republics. They see in Australia a safe and peaceful way of life, with better opportunities for the future of their families.

So often it distresses me when such people, who have been welcomed into our community with open arms, then start to advocate changing our form of government in ways that

could well give rise over time to the very same conditions from which they were so anxious to escape. I do not intend to disown or erase our past links with Britain.

Let me remind you that there was a period during 1940, after France had caved in and America had yet to enter the fray, when Australia and a few other small nations such as New Zealand and Canada stood shoulder to shoulder with Britain alone in the world against the advancing might of Nazi Germany. I will not forget that and neither should younger Australians—nor some older ones too, I fear. It is part of our heritage of which we should be rightfully proud. We must not denigrate such moments of our past that have gone towards giving us our destiny and our independent and respected place in the world.

Finally, it might be a bit parochial, but I believe that you might find entertaining an appropriate verse, which was written a few years ago by one of our South Australian supporters, Tim Drysdale. It reads:

> We could be . . .
>
> Starving in Somalia, arrested in Peru, wounded in Cambodia, crook in Kathmandu. . .
>
> Hurt in Herzegovina, tortured in Baghdad, bombed in Northern Ireland, destitute in Chad. . .
>
> Threatened in Liberia, thirsty in Sudan, bleeding in Croatia, dead in Kazakhstan. . .
>
> Instead we're living happily, not hungry or afraid, fortunate indeed. In peaceful Adelaide.

I think there is a message in that! I say, leave the Constitution alone. No republic is the answer. I should remind Dr Baden Teague that our group decisively out-polled the republicans in South Australia in December. The smaller states hold the key to any push to drastically alter our Constitution. We will never let up in our resolve to retain the status quo. Naturally, that also includes our beautiful and beloved flag which, despite their transparent protestations to the contrary, the republicans will change just as soon as they can if we give them the chance.

Senator FAULKNER—I speak as an appointed delegate to this Convention, representing the federal parliamentary Labor Party. It is a Labor perspective that I put to the Convention today. Delegates, I would like to commence by reminding you that the Australian Labor Party, the oldest political party in Australia, has the longest continual history of support for the republican cause.

At the very foundation of our party in 1891, striving for a republican future was part and parcel of Labor thinking, hand in hand with an end to social inequality and injustice; protection of workers' rights; one vote, one value; and equality of access to land and resources. Labor has always seen these issues as indivisible, an essential part of our Australian identity.

In fact, even before the formation of our party, the broader labour movement was proudly nationalist, taking the campaign for responsible government in the colonies and for federation to the logical conclusion of the right to freedom and independence from the Crown. The constitutional arrangements agreed on then were a product of the time, setting out roles and responsibilities as they could be foreseen, with checks and balances as thought appropriate, and with an understanding that change in Australian society would need modification and modernisation over time.

Since Federation, Labor governments have sponsored and proposed the majority of referendums put to the Australian people. Labor has supported a majority of those proposed by our conservative opponents. In the main, where Labor has supported referendums proposed by conservative governments, the referendums have been successful. We have not supported referendums where conservative governments have proposed constitutional reforms which sought to abrogate citizens' rights, such as the Menzies referendum proposal to proscribe the Communist Party in 1951.

Labor has always addressed constitutional matters from the standpoint of the public interest of the whole of the Australian community, with referendum proposals such as four-year terms, recognition of local government and protection of citizens' rights. Contrast this with the Prime Minister's address to this Convention. For an Australian Prime Minister to submit a referendum proposal to the Australian people which he will publicly oppose is a sham. It represents the ultimate in

lack of political will and leadership. The Prime Minister knows that whenever there is no bipartisanship on referendum proposals in this country, they are most likely to be defeated.

As delegates, we should be aware that whatever consensus we come to on moving to a republic, that consensus can be effectively stymied by a lack of prime ministerial support during a referendum campaign. Our best weapon against such a cynical approach would be for a clear decision to be made here by all republicans if it seems likely a full agreement of the Convention is not possible. No-one can pretend that achieving consensus on these matters is easy. But I firmly believe that constitutional reform is worth the effort, and Labor has always stood ready to constructively pursue such reform.

I want to address briefly the events of November 1975, which have been raised by another appointed delegate, Sir David Smith, and other delegates to this Convention. Those who have sought to defend this appalling failure of our constitutional system do so by re-pedalling the myth that Kerr's actions were an appropriate exercise of the reserve powers—such a contention is absurd. They were not. During our discussion here on the codification of the reserve powers, there was unanimous support for the principle that the Prime Minister holds office whenever he or she has the confidence of the House of Representatives. I ask you: if that is an essential principle of our parliamentary democracy, then why should the Senate have the power to bring down the Prime Minister and his government by denying them supply?

Apologists defend Kerr by ignoring the fact that he deceived his Prime Minister. They conveniently forget that he abandoned the traditional function of the Governor-General, which is to advise, warn and counsel. Kerr did none of those things. Delegates, that is the problem; it was an ambush. A Governor-General ambushed an elected Prime Minister who held the confidence of the House of Representatives. Delegates, apologists ignore the fact that Kerr turned his back on his obligation to act on the advice of the government and, in doing so, I believe he betrayed his duty to protect our democracy.

I know that some have conveniently changed their minds on the essential facts of 1975, just as they have changed their allegiances. I know they are not going to agree with me. But I say that only appropriate codification will remove the opportunity for abuse of constitutional power by the unscrupulous and only the removal of the power of the Senate to block supply will prevent the Senate from acting undemocratically, as it did 22 years ago.

Delegates, I also want to address the assertion that we have heard here that Australia has two heads of state, namely, the Queen and the Governor-General. This is patent nonsense; it is not the case. Show us in the Constitution where it says the Queen is not the head of state. We have a constitutional head of state, the monarch, and we have a representative of the head of state who has distinct powers of their own, but only in that representative role. There is a fundamental confusion between the system and the Constitution as written. Monarchists act as if our great, great grandfathers said the last word in 1897. Surely we have learnt from a century of constitutional history in this country.

Mr Chairman and delegates, the core of our system has three elements: firstly, an indirectly chosen representative of the head of state who acts on advice with no executive power; secondly, executive power in the hands of the Prime Minister and cabinet; thirdly, choice of a government after an election operating under the Westminster system. None of these three elements is written in the Constitution. The Constitution was never applied as written, even in 1901. For a century, we have operated quite cleverly in working around the Constitution. The actual system of government is not reflected in the Constitution, and it should be.

Delegates, Labor's long-term support for the republican cause has been based on both symbolic and practical grounds. In symbolic terms, a severing of the constitutional apron strings would be a powerful expression of this nation's separate and unique identity. Many other delegates have referred to the humiliating situation of having visitors from overseas

governments toasting the Queen of Australia as our head of state. Of course, they are right. It is well past time for this and other vestiges of our colonial past to end. I also strongly hold the view that this country's Constitution should accurately reflect the fact that national sovereignty is derived from the people of this nation, not by the grace of past or present English monarchs and not by an act of an imperial parliament.

The reality is that Federation came about through the decision of the Australian people to create an independent nation, an unambiguous decision to end our colonial status. The continuing sovereignty of our nation and our national political and legal institutions should have a direct and determinative link with the Australian people, yet nowhere is this reflected in our Constitution. This is a real chance for the Constitution, the centrepiece of our legal and political structures, to clearly state that the independence of our nation achieved in 1901 was a conscious and deliberate decision of the Australian people. Ultimately, the identity of our head of state should not be based on the arbitrary processes of hereditary succession of a monarchy that is half a world away. Surely we are mature enough, surely we are independent enough, to have one of our own as our head of state.

What if Great Britain beat us to it, if Britain became a republic on, say, the death of Queen Elizabeth II? What would be the foundation of the Commonwealth of Australia? Monarchists argue that the Constitution hangs on a peg: the Crown. Where is the focus of our sovereignty? It should be here in Australia, not in Britain. I also believe that many characteristics of the British monarchy stand in stark contrast to essential Australian values. Indeed, hereditary succession itself is antithetical to Australian values such as equality of opportunity and religious beliefs.

The monarch occupies the throne of England by birthright, regardless of merit. The monarch must be of the Anglican faith, and mandatory preference is given to male descendants over female. Surely such archaic restrictions on who can become the Australian head of state would be complete anathema to modern Australian thinking and the egalitarian values and practices we advocate. We want an Australian for our head of state and, as our Labor Party platform says, we want an Australian who embodies and represents the traditions, values and aspirations of all our people.

The federal parliamentary Labor Party has consistently argued for a clear model for the selection of an Australian head of state, as did former Prime Minister Paul Keating in his statement to parliament in June 1995. This model provides for the election of an Australian president on the nomination of the Prime Minister and the cabinet by a two-thirds majority of a joint sitting of both houses of parliament. As Kim Beazley stated on the opening day of this Convention, we believe that this model is most likely to produce a nonpartisan figure and therefore the breadth of public support that a head of state must enjoy. We believe appointment by parliament balances the desire to have an Australian head of state above the political process on the one hand but accountable to it on the other.

We do recognise that there are other views and other models, as it is abundantly clear at this Convention. We will continue to keep talking about these options. For example, we were keen to explore the possibility of codifying and limiting the powers of the head of state and the powers of the Senate in a way that could have made the direct election of the head of state much more acceptable. Let us be clear: our priority remains the establishment of an Australian republic and we will not be in the business of closing down any sensible option.

On the matter of timing, Labor remains fully committed to Australia becoming a republic by 1 January 2001. But I see no value at all in having the Queen open the Olympics as her final act as our head of state as proposed in what I thought was a remarkably sanctimonious contribution by Delegate Ted Mack. I, for one, unashamedly want an Australian to open the Games. I think it is time for political determination and leadership to create constitutional arrangements which accurately reflect the traditions, values and aspirations of modern Australian society, just

as the current Constitution reflected Australian society in the lead-up to Federation.

Even though I have significant concerns about the legitimacy of the Convention's appointment and election process, it has become clear to me since the Convention opened that there is a majority view that we should have an Australian head of state. I have no doubt that a more representative gathering would have overwhelmingly emphasised this republican sentiment. It is up to all the republicans here, whatever their preferred model, to be maximising their chance of achieving a republican outcome.

In conclusion, a majority of delegates in this chamber and a majority of Australians know that the right thing, the appropriate symbol, the correct constitutional decision, as we reach the new millennium, is for Australia to have our own Australian head of state. The time is right for our nation to become a republic.

DEPUTY CHAIRMAN—I call Dr Tony Cocchiaro.

Dr COCCHIARO—Delegates and citizens, the time has arrived for a republic and for every citizen in Australia to share equally in the benefits and responsibilities of our nation. A previous speaker has said how wonderful it was to see so many delegates of non-English backgrounds at this Convention. Seeing that 30 per cent of Australians are of non-English speaking backgrounds you would expect to have a representation here of probably 50 people. I have done a bit of a head-count through our little catalogue and I can count only 12. There is clear under-representation here. Why is this so? I would like to explore some of the reasons.

Sir DAVID SMITH—Did you count me?

Dr COCCHIARO—I would like to start by talking to you of a couple of mainstream Australians—of which I am sure you are one, Sir—of a couple of real Australians; perhaps who the Prime Minister may have referred to when he spoke of the Australian battlers—that is, my parents. When my parents chose to leave their beloved Italy and migrate to Australia in 1956 it was to give my brother and me a better education and lifestyle. They left an impoverished postwar Italy for the opportunities available in a developing nation on the other side of the world. Most likely it was impoverished. It had just got rid of its monarchy.

When we came we did not care if Australia was a monarchy or a republic; we were looking for economic success and security, in common with thousands of other migrants. So monarchy or no monarchy had nothing to do with the primary reason. But when we arrived here we loved this country. We became Australian citizens virtually the month after the minimum waiting period, which then was five years. My father started working on the third day of getting here and he stopped working at retirement.

In their 40 years of full Australian life, my parents have learned that, under the law of Australia here, they were equal to every other Australian. But did they feel equal? Do they feel that they are just as Australian as some others? They would never say so, but I strongly suspect no. They know and they have been told by all sorts of subtle messages and symbols that there are some Australians who are more equal than they are.

Their experiences of feeling less equal are no doubt repeated endlessly in Australians of Aboriginal, Asian, European and other non-English speaking backgrounds. What is the one clear symbol that epitomises this sense of inequity? It is the fact that we still cling to the British monarchy. Our head of state is a symbol of who we are as a nation. Our head of state is not an Australian. She does not call Australia home; she does not vote or pay taxes in Australia; and her first allegiance is not to us and our nation but to the people of Britain—and so it should be. Britain is a country with other commitments, including those of the European Union. The power of this English royal symbol is immense.

My parents and millions of other Australians have got the message that they do not fully belong. Mr Bonython just confirmed for me that feeling. Admit, Mr Bonython, that deep down you are afraid to let go of the symbols of power and status of the former British Empire—the former empire. It has gone, kaput—sorry. You can hold onto it

proudly in your heart, but please face reality. Every single Australian of whatever background wants success for this country and has a right to contribute and to help change this, our country.

Dr TEAGUE—On an equal basis.

Dr COCCHIARO—On an equal basis. It is extremely important that we value everybody's contribution to this nation and that we reflect this in the symbolism of the head of state. Australia has a unique cultural heritage which is multicultural and inclusive. We must therefore have a head of state who is seen to represent Australians of all backgrounds, all religions and all walks of life—an Australian head of state.

Given the diverse nature of Australia's current population mix, it is important that all Australians see the embodiment of their national identity and aspirations reflected in a head of state who is truly Australian: someone who shares our rich, pluralistic culture; someone with whom the Australian people can identify whatever their background or history. From the four migrants of 1956, our family is now made up of 13 proud South Australians with a big investment in the future of this country.

The Australian republic is about the future. It is also about the reality of today. What sort of message are we sending to the world when our head of state is not an Australian? Are we going to be taken seriously or are we going to be still seen as a colony? We should be making our way in the world, making clear our independence, and each and every Australian should be able to aspire to be the head of state.

The Queen as our present head of state does not really represent Australia. When she travels the world, no-one believes she represents Australia. We should be enjoying the benefits of a head of state who can travel overseas on our behalf, promoting Australia and Australian exports. At present, our Governor-General only enjoys second-class status when representing us overseas.

Sir DAVID SMITH—Not true!

Brigadier GARLAND—Untrue!

Dr COCCHIARO—Of course it is. He is the deputy. He is not the head of state. We need all the means we can muster to enhance our interests abroad, to aid the reduction of debt and the creation of job opportunities.

The republic will facilitate a sense of equal ownership and belonging between indigenous, Anglo-Celtic, European, Asian and all other Australians. It is imperative that we establish our own Australian identity, one not dependent on the monarchy but one that comes from maturity so that we Australians can have the identity, stature and strength. We need identity not only abroad but also at home.

A clear Australian identity will give us unity out of and within Australia. We will have unity because we will be sharing one island continent and we will be sharing the same laws. But we will also have unity because we will be valuing cultural diversity, a fair go and achievement through hard work and determination. In this way we can think ourselves Australian. If we think Australian, act Australian and, above all, are Australian, then we can only come to one valid conclusion: we need to change our Constitution to reflect that fully and to become a republic.

Brigadier GARLAND—That's Irish logic.

Dr COCCHIARO—It is also Italian and Australian logic. The republic is about the future, a country in the forefront of multiculturalism, a country of information technology, of multimedia and education, of microsurgery and cranio-surgery. There is no doubt that the transition to a republic will send a strong message to Asia and the rest of the world as to who we really are.

Mr HODGMAN—They know who we are.

Dr COCCHIARO—They do not. What better time to send this message than the year 2000. It will be a new millennium. There will be the Sydney Olympics, when the eyes of the world will be focused on Australia. There will then be the new republic of Australia, a country fresh, clean and multicultural. It will be a country with respect for universal human rights and values, a country with a clear sense of a fair go, leading the world in removing barriers of race, ethnicity, culture, religion, language, gender and place of birth.

As you may expect, Australians descended from countries other than Britain react differently to the republic; it has been mentioned before. Many have come from countries where there has been a succession of governmental systems, such as monarchies, republics, different democracy forms and dictatorships. The monarchs were sometimes home grown and sometimes not. Many were just Queen Victoria's cousins. However, they all tended to live in and be nationals of their country.

For Australians of non-English speaking backgrounds, there is much more interest in the proposed structure of the new rather than a preoccupation with removing the old. There is no emotional bond. We do not have an emotional bond with the royal past to cloud our judgment or memories of school days marching to *God Save the Queen*. In discarding the monarchist trappings, an Australian republic will most certainly strengthen our ties with Britain. Both countries will be members of the Commonwealth of nations and both countries can respect each other as mature, fully independent nations with no hint of colonialism.

There is an important perception in many of our neighbouring countries that Australians, by clinging to the British monarchy, are still reflecting those neocolonial attitudes. This perception is contrary to Australia's professed wish to be treated as a fully mature member of our Asia-Pacific region. The old view of the ASEAN countries—what was it?—was of a closed society with the heritage of the White Australia policy. We were seen as an appendix of Asia and probably of as much use to them as that organ is to us.

It must be remembered that many countries in our region were also colonies. They are asking themselves, 'Do Australians still identify with the colonisers of old, or is Australia ready to take its position in South East Asia and the world as a fully mature and independent nation?' We can fix these perceptions immediately by becoming a republic.

We need to value and encourage the self-worth of every Australian via their values and customs and respecting their heritage; that is, we need to fully accept the concept of multiculturalism within and under the umbrella of the overarching unity of shared experiences that we have in Australia. We need one common system of government, law and responsibility to this country, Australia. We need a common response to the land and its history and a common response to the traditions of our indigenous peoples. We need one common English language while strongly encouraging multilingualism. Under this umbrella, we need to ensure that we all understand, respect and accept cultural diversity by supporting the cultures and languages of all Australians.

I am personally keen to see a preamble to the Constitution which recognises popular sovereignty of the Australian people and the indigenous peoples as the original inhabitants with a culturally diverse but united and cohesive nation of citizens who have come from every corner of the globe. The preamble must recognise and value the rule of law, mutual respect, tolerance, culture and linguistic diversity within a multicultural society, with English as the main and national language.

I will explain it to you in this way, perhaps. In the last 97 years, Australia has matured from a colony to an independent country. But we have not completed the process to full independence. This last step is very important. If you are a monarchist or an inevitablist—which is even worse—don't be fooled. Australia needs to complete the century-long process to becoming a fully independent country as soon as possible.

Our forefathers organised the Commonwealth of Australia and relied heavily on the British parliament and monarchy. If you like, these two important structures supplied the scaffolding for our initial Constitution. Our nation is like a house: all painted and gleaming but with the scaffolding still in place. Over the last 97 years, we have surely and gradually changed the colour scheme from British to Australian, but the process is not finished. Without the scaffolding we could not have done the job, so we are obviously grateful for it. The monarchists would say that the painting was done 100 years ago and it does not need renewing. The monarchists

would say, 'Even if repainting had been done, why go further and remove the scaffolding? It has worked well so far. It ain't broke.' The inevitablists would say, 'What's the rush?' They would accept that the scaffolding has to come down but conclude that it will eventually fall down sooner or later by itself and so why hurry. Ladies and gentlemen, common sense tells us that we have to remove the scaffolding forthwith, safely and in an organised way, so that we can enjoy the look and feel of a fully independent country.

The progression to a republic cannot be arrested, for to do so would be to impede the legitimate course of a nation towards complete independence and maturity. Denying Australia the opportunity of becoming a republic is also an admission of failure—that we have failed as a nation to achieve maturity. As Premier Olsen of South Australia told us on Monday, it is simply and inevitably time to move on. The Sydney Olympics, the centenary of Federation and the start of the third millennium AD offer a never-to-be-repeated opportunity for Australia to become a republic and to achieve our very own head of state. *(Extension of time granted)*

We look forward to being the toast of the world at the Olympics 2000. It will be an Olympics—please remember this—that we won by emphasising the way that we value and celebrate diversity and multiculturalism. That is how we won it. We can be bright-eyed, with the real possibility of moving into adulthood and receiving international recognition by achieving our very own head of state by the new millennium. We can have every expectation of seeing a vibrant, worldly, mature, multicultural Australia confidently take its position on the world stage in the year 2000. It is a dream package, if I can say it, for agencies that want to market us overseas. Australia can be a shining star for the third millennium. We can have identity, maturity, stature and strength. We must have an Australian citizen, one of us, as the head of state. Thank you.

DEPUTY CHAIRMAN—I give notice that tomorrow at 10 o'clock there will be a meeting of the Resolutions Committee. You will be notified first thing in the morning about the place and time that we meet.

Convention adjourned at 7.34 p.m.