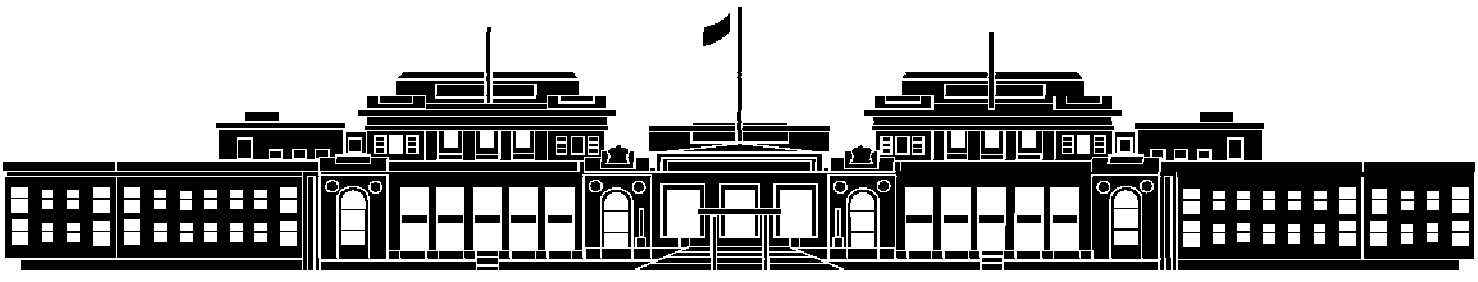
CONSTITUTIONAL CONVENTION

[2nd to 13th FEBRUARY 1998]

TRANSCRIPT OF PROCEEDINGS

Thursday, 5 February 1998



Old Parliament House, Canberra

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

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CONSTITUTIONAL CONVENTION

Old Parliament House, Canberra

2nd to 13th February 1998

Chairman—The Rt Hon. Ian McCahon Sinclair MP

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

ELECTED DELEGATES

New South Wales

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

Victoria

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

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

Queensland

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

Western Australia

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

South Australia

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

Tasmania

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

Australian Capital Territory

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

Northern Territory

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

APPOINTED DELEGATES—NON-PARLIAMENTARY

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

APPOINTED DELEGATES—PARLIAMENTARY

Commonwealth

Government

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

Australian Labor Party

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

Australian Democrats

Senator Natasha Stott Despoja

Independent/Green

Mr Allan Rocher MP

State/Territory

New South Wales

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

Victoria

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

Queensland

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

Western Australia

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

South Australia

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

Tasmania

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

Territories

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

PROXIES TABLED BY THE CHAIRMAN

PRINCIPAL	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
Mr Fox	Mr McGuire
Mr Beazley	Mr McLeay—from 3pm 5 February to adjournment; 6 February and 11 February
Ms George	Ms Doran

COMMONWEALTH OF AUSTRALIA

CONSTITUTIONAL CONVENTION

Hansard

1998

OLD PARLIAMENT HOUSE, CANBERRA

2nd to 13th FEBRUARY 1998

Thursday, 5 February 1998

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

CHAIRMAN—I have received a proxy from the Hon. Kim Beazley, the Leader of the Opposition, nominating the Hon. Leo McLeay as his proxy on certain days for certain times. I table that proxy. In addition, I have received a proxy from Mr Lindsay Fox, nominating Mr Frank McGuire for certain dates and places on compassionate grounds, which we will table.

Yesterday I had a request from Dr Mitchell about identifying official Convention papers. To make sure that delegates understand what papers are official Convention papers, I have organised for all official Convention sheets to be in green. The official papers will be designated in that form so you will be able to identify all official papers from the Convention secretariat.

The third thing is that I had a number of complaints yesterday about the degree to which some delegates interjected while other delegates were speaking. Some of us are more accustomed to interjection than others. Some delegates use them to their advantage during the course of their speech but others find the interjections intrusive. I ask all delegates to remember that interjections are difficult for those unused to parliamentary fora. It would be appreciated if they kept their interjections to themselves. If they feel so opposed to whatever a particular speaker might be saying I suggest they leave the room rather than remain and get embarrassed. It is not only that there are a number of individuals who feel quite intruded upon within the chamber; it is reasonable that individual delegates register that others are offended even though they are not the speakers. This is a Convention where we want to obtain the diversity of views that represent the Australian people. It is therefore particularly important that we behave in an appropriate way.

The next matter that I need to mention is mobile phones—not just those in the press gallery but also those of delegates. If you are here with your mobile, please switch it off in the Convention room. If you wish to have telephone calls, please take them outside this Convention room. That admonition applies to those in the spectators' gallery as it does to those in the press gallery.

The list of speakers on whether Australia should become a republic is still very large, as is the speakers list for the 10-minute addresses on today's issues. I know numbers of you have been shuffled around the queue, but we are trying to give priority to those delegates who have not spoken at all. The next priority goes to those who have spoken only once. There are exceptions to that either because a person has unfortunately been unable to speak at a particular time and they have given us notice so they have gone back on the list, or there may be other reasons. Essentially, we will try to give priority to those who have not spoken so that everyone gets an opportunity to make a contribution.

On the overall question of speakers lists, it is essential that delegates who wish to speak on the general question—that is, whether or not Australia should become a republic, on which there will be considerable debate on Monday, day 6, and Tuesday, day 7—nominate as soon as possible so that we can draw up a schedule for the rest of the Convention. I would suggest that we close nominations for that general debate, say, at 4 o'clock this afternoon. Those who wish to speak on the general question, please give your names to the secretariat by 4 o'clock this afternoon.

The debate that will take place on the last day of the Convention—the 10th day—will also be on the general question. But it will be somewhat different because it is hoped, by the evening of the ninth day of the Convention—that is, the penultimate day—that we will have taken our final votes on a preferred vote. When we are speaking on the 10th day there will be another. In due course, the Convention will have reached its conclusions on the preferred alternate model so that by the time we come to the final vote on Friday week we will actually be having another debate, but it will be more precise because we will have in mind the model that has emerged from the deliberations during the balance of the Convention.

The Resolutions Group, as you will recall, presented a preliminary report through the Hon. Gareth Evans. It is proposed that resolutions groups report at noon today. I propose that that report be debated for one hour—that is, up to lunchtime at 1 o'clock—with a strict limit of three minutes from the floor. It is intended that the vote on that resolutions group proposal take place at 4 o'clock. The vote will take place later on the day that all voting takes place, but this will enable delegates to consider, across the floor, the proposal from the Resolutions Group and then to vote on it at 4 o'clock this afternoon. As you will recall, the proposal was that all votes be taken at the end of the day so that all delegates can be present. I would propose to undertake that with respect to the concern that there be an opportunity for consideration of the consequences of a report that has been submitted.

The debate today is on the issue of arrangements for appointment and dismissal. There are a number of working group reports which were tended to the Convention yesterday. They are again appended to the *Notice Paper* for today. We have a very long list of speakers. I have a number of names of people who are apparently not on the list and I will consider what we should do with them. We have a long list of speakers and I see that three people have also asked to speak. I do not know what can be done about it. There can be some adjustments but I have tried to put on the list, as high as possible, those who have not spoken at all. It has largely been to try to accommodate those who have not spoken before.

There is one other procedural matter that I have to identify, which is that of proposed amendments to the draft resolutions for today. You would know that these six working group resolutions will be up for voting after 4 o'clock this afternoon, but in order that the amendments can be put on the screen for consideration again, as we did the other day, we will determine a cut-off time of noon—that is, lunchtime—for amendments for each of these working group proposals. I invite Mr Alasdair Webster to speak on the issue of the day.

Mr WEBSTER—I want to say at the outset what a great honour and privilege I consider it to have been invited to be a delegate at this Convention. I thank the people of New South Wales, who elected me to that position.

There is a definition of Constitutional Convention going around at the moment which says that it is a place where somebody gets up to speak and says nothing, and where nobody listens and then everybody disagrees. I hope, as a result of the prayer that you prayed this morning, that at the end of next week we will all agree and come to some reasonable consensus with regard to the future wellbeing of this country in which we live.

So far I have been a good listener to the main sessions of this Convention. I have listened intently to what all sides are really saying and, frankly, I struggle to find acceptable modes of appointment in any of the models proposed. Every alternative seems

shallow when compared with appointment at a coronation service, where our head of state accepts a Bible as 'the most valuable thing that this world affords'. He or she promises, to the utmost of their power, to maintain the laws of God and the true profession of the gospel. And, before any heir to the throne can get their hands on the sceptre, which is the symbol of kingly power, they must first accept the orb—a golden sphere mounted by a cross—with the following words: 'Take this to remind you that the whole world is subject to the power and empire of Christ our redeemer.'

The clashes so far over appointment of any future Australian president perfectly illustrate the weaknesses of republicanism. They have been clashes between the elitists and populists. Both the mini and midi proposals favour the rigidly disciplined parties and, hence, the political elite of this country. Understandably they are protecting their interests, such as prime ministerial power, by keeping the election of a president out of the hands of the people. No wonder the polls show that the maxi proposal is popular. Electors are feeling disenfranchised by power politics. They want a say in electing any future president.

Phil Cleary, Professor O'Brien and others gave us strong warnings about the strength of electoral feeling in this regard. The very struggle in this Convention between the elitists and the populists directs our attention to the central weaknesses of republicanism. Republican systems select their leader and determine all their laws on the false idea that the will of the people determines what is right and wrong. Throughout history, powerful minorities have manipulated the will of the people, producing the French Revolution and Hitler's Third Reich.

We should not give absolute sovereignty to the so-called will of the people any more than we should give it to tyrannical kings or to parliament. Those who manipulate the will of the people in a republic to make or break presidents expect to, and usually do get, a pay-off. They coerce the presidents to accumulate and centralise power and then use it to quell opponents and advantage friends.

Over centuries, our monarchical system has moved in exactly the opposite direction. The personal power of the king was appropriately regulated and distributed. Apart from infrequent personal exercise of reserve powers, emphasis was placed on kingly virtues such as servanthood. With all the talk of minimalist approaches to this Convention, ours is a minimalist monarchy.

In a republic there is no legal authority higher than the will of the people. History has shown all too often that those at the top of the republic try to manipulate the will of the people, driving it towards dictatorship. Those below drive it towards revolution because they see that the will of the people is being manipulated; they become frustrated and then rebellious. Corruption and violence are therefore inevitable in a republic. History bears sad testimony to this, including in the greatest of all republics, the United States of America, where the dismissal of the President has sometimes occurred by means of a bullet. This is a direct result of having a president elected by the people: it polarises the nation. One half of the nation think he is God's saviour who will solve their problems; the other half want him out of the way.

Recently my wife and I attended our daughter's graduation ceremony at the Defence Academy in Canberra. We marvelled, as we should, to see the Governor-General, as chief of the defence forces, get out of his box and walk across to his Holden Caprice to be driven quietly back to his house at Yarralumla.

As he drove past the guard box at Government House guarding the entrance, we reflected on what would have happened if our daughter had been graduating from the United States military academy at West Point with President Clinton as chief of the defence forces. We imagined the weeks of detailed security preparations. There would have been at least two helicopters overhead. There would have been snipers on every rooftop and metal detectors swarming around the President as he moved towards his bulletproof cadillac, and then he would be followed by a convoy of heavily armed security people, which

would be like entering a maximum security prison.

My wife and I, while we have great respect for the people of the United States, are very grateful to be Australians living under our existing minimalist head of state. Perhaps some of you are horrified that I should dare to question the so-called will of the people. If you are, I venture to suggest that you have accepted the fallacy that democracy is the source of our freedom. In reality, nothing could be further from the truth.

It was the development, over many centuries, of a biblical system in the government of Great Britain which led to what we very loosely call democracy. I will be talking about that in a later session. Our hereditary monarch guards our freedom not by the powers that the monarchy exercises but by the power it denies to others. Big money, big government, big media and big anything else, in their attempts to manipulate the so-called will of the people, simply cannot influence who gets our top job. Kings and queens are born into that position. None of the proposed methods of appointment and dismissal does anything to achieve what we prayed for this morning, namely, the true wellbeing of the people of Australia. In fact, they would be detrimental to the Godly foundations of this Federation.

I want to end on a spirit of optimism by quoting a poem about two frogs that fell into a deep cream bowl—you might call it a froggerel. These two frogs fell into this deep cream bowl and could not get out. They were going to drown.

One was an optimistic soul, the other took a gloomy view. Well drown he cried without more ado.

So with one last despairing cry he kicked up his legs and he said goodbye.

He drowned.

Said the other frog with a merry grin, I can't get out but I won't give in.

I'll keep swimming around until my strength is spent, then will I die the more content.

Bravely he swam til it would seem, his struggles began to churn the cream.

On top of the butter at last he stopped, and out of the bowl he gayly hopped.

The moral of the poem is easy found.

If you can't see a way out, you keep swimming around.

I say to all minimalist monarchists in Australia today: stay optimistic, keep smiling, keep praying and keep swimming hard because in 1999, when the referendum is held, the cream will definitely turn to butter.

Mr ANDREWS—The task of today's session of this Convention is, I believe, to test each of the propositions put forward for the appointment and removal of the head of state, which can be summarised as follows: first, the popular election of the head of state; secondly, the election and possible dismissal of the head of state by a two-thirds majority of a joint sitting of the Commonwealth parliament; and, thirdly, the appointment and dismissal of a head of state by a constitutional council acting on the advice of the Prime Minister.

Our task, I believe, is to searchingly question each model and to consider not only the rhetorical blandishments offered in favour of a particular proposition, but to identify any shortcomings and to ask those favouring each model to convincingly answer the questions put to them. Future generations of Australians will pay us delegates little credit if we blindly adopt some abstract theory without giving consideration to the practical considerations and consequences which follow. So let me examine each model.

The advocates of a popular election of a head of state insist that their model is preferable because the people ultimately decide the occupant of the office. They ask: why can't the people be trusted with this decision rather than the representatives of the elected people? But this, I submit, is the wrong question. Of course the people can make a decision, of course we can have a republican system with an elected president but what are the consequences for the stability of our Westminster system of representative government of trying to impose that sort of change upon it?

Rather, we must ask: first, will not the candidates for an election under a popular system, whether endorsed by political parties or not, conduct a popular campaign in which they seek public support for what will ultimately be political programs? Will not the popular election of a head of state create

another focus of power to rival the Prime Minister in government? If so, how then are we going to resolve the ongoing conflict between the two? To date, I believe that no adequate answer has been given to these questions by the proponents of that model.

Secondly, the Australian Republican Movement proposes the election of the head of state by a two-thirds majority of the Commonwealth parliament. This model has long been regarded and said to be the minimal republic but yesterday Mr Turnbull conceded that the model is not the most minimal, that the proposal for a constitutional council appointed in accordance with the strict formula established in the Constitution itself, as proposed by the Hon. Richard McGarvie, is the model which most replicates the current system.

What the Australian Republican Movement presents is the image of a well formed, long thought out, internally consistent method of appointing and dismissing a head of state. But when we examine the proposal in more detail, we find that, first, the revisions to allow the dismissal by a two-thirds majority of parliament have now been abandoned by the Republican Movement and the actual method of dismissal is uncertain; secondly, the rationale of bipartisan support for the head of state is compromised by removing the power or the ability of those people who are represented by the opposition and the minor parties in the Senate to have a say in the dismissal of the head of state; thirdly, the proposed candidate is exposed to possible scrutiny of his or her public life, and perhaps private life and reputation, in parliamentary inquiry and debate; and, fourthly, an inconsistency manifest in one body—that is, two-thirds of the parliament—being designated as the most appropriate body to make the appointment but the assertion that this same body—two-thirds of a joint sitting of a Commonwealth parliament—is inappropriate to undertake the more important task of dismissing the head of state.

We are told that the appointment by a two-thirds majority will ensure that the candidate is not beholden, nor seen to be beholden, to the Prime Minister or any particular political party. But this, I submit, is merely a facade, a sop to the notion that the people should decide upon the occupant of the office because the candidate will still be put forward by the Prime Minister. Only one candidate will be put forward for the election. Even though the opposition parties may disagree with the choice of candidate, they are unlikely to voice any more than the mildest expression that other suitable candidates exist.

If this is true, given the fact that opposition parties have an aspiration to form a future government and therefore will have to work with the chosen head of state, the fact is that the candidate is in reality and in perception the candidate chosen by the Prime Minister of the nation. But if this is not the case, if it is otherwise, then we have the prospect of another ministerial candidate being put forward and the unedifying disuniting spectre of a parliamentary debate into the suitability for office of the proposed candidate. Do we want in this country the sort of political witch-hunts that accompany the appointment of Supreme Court judges in the United States of America? How, I ask, can this outcome attract suitable candidates, enhance the role of the head of state and promote the office of the head of state as a unifying institution in our nation?

When we turn to the dismissal of the head of state, the logic for the proposal is exposed for nought. If it is important to have a two-thirds majority of parliament to appoint a head of state in order to improve the system—the words which Mr Turnbull used yesterday—that is, to ensure that the fullest national endorsement to the appointment of the head of state involves a two-thirds majority of both houses of parliament, why is the much more important power of dismissal not also subject to the fullest possible national endorsement by a two-thirds majority of a joint sitting of the Commonwealth parliament? The answer is simply that the model, as originally proposed by the Australian Republican Movement, is unworkable, that a head of state dismissible by a two-thirds majority of parliament effectively would be unable to be dismissed. In other words, an alternative focus of power would be established in the nation.

This shift away by the Republican Movement from a majority of two-thirds of the parliament being able to dismiss the head of state compromises the rhetoric, I believe, of the ARM about the position of the head of state being bipartisan. Consider for a moment the situation in which the minor parties in the Senate ensured the appointment of the head of state by contributing their numbers, perhaps with the government, to the two-thirds majority but then had no say whatsoever in a possible dismissal of that head of state. Unless Mr Turnbull can adequately respond to these queries, then I am forced to conclude that what he offers is a shimmering, alluring mirage that, upon closer inspection, starts to break up and disappear little by little from our vision.

Let me turn to the McGarvie model. The suggestion for the appointment of a head of state by a constitutional council on the advice of the Prime Minister has received, I believe, little technical criticism. This is possibly because it seems to me to be the most thoroughly argued model. Indeed, the only real criticism voiced to date is that it is elitist or that the members of the council could be subject to outside pressure to act in a certain way. Neither objection seems to me to be substantial. The constitutional question, though, that I have for proponents of this model is whether, by allowing retired judges to be members of the Constitutional Council, the constitutional convention about the separation of powers is endangered.

I put these questions to the advocates of each model. I am concerned about the proposals to elect the head of state or to appoint by a two-thirds majority of parliament, that those proposals involve flaws so substantial that they are ultimately unsustainable. As delegates, I believe we have a duty to seek answers to these questions. Only then can we decide whether a particular model is the best to put to the Australian people as an alternative to the current system. I look forward to detailed responses.

CHAIRMAN—The third speaker this morning is Professor Patrick O'Brien, who was unable to speak yesterday for various reasons.

Professor PATRICK O'BRIEN—I want to make four very quick responses to some points raised before delivering my particular defence of the idea of the popular election. There is a scare-mongering campaign being conducted that somehow or another an elected head of state is incompatible with the powers of the Senate. That is just nonsense. Of course, some people want to reduce the powers of the Senate, and that is a long argument in Australian history. But it is just simply nonsense to say that.

Secondly, I am quite horrified by these people who have been arguing here at this Convention and in the press and in articles for several years that we must not subject so-called eminent people to character scrutiny, to checks on their public affairs and public life, because, the poor souls, it would be humiliating for them. The taxi driver who brought me here this morning was expressing similar views to mine. He said that to get a taxi and to drive people in a taxi you have to have character searches done. He was a member of Neighbourhood Watch. His whole life and record were searched by the police. They went around checking with neighbours. He said that he did not mind that because he wanted his children to be protected by people of good character. So I cannot understand this awful argument, the secret people argument, that we must not subject the person seeking the highest office in the land to scrutiny. Of course he must be or she must be.

Another point is this idea that somehow or other an elected president would represent the power of money. Here is the power of money, to my right. You cannot buy all the people. Of course you can buy small groups of people, but the narrower the focus of power the easier it is to buy influence. Indeed, an elected head of state helps to minimise the possibility of the rich, mighty and powerful buying their way and selling favours.

As to the argument that somehow or other an elected head of state would rival the Prime Minister, dear me, poor Prime Minister! Here we have an office that has absolute powers. I wonder how many people in the gallery realise that our Australian Prime Minister has far greater powers than an American Presi-

dent. An American President is almost powerless compared with an Australian Prime Minister. The former's power derives from the simple fact that he is the head of government and head of state of one of the most powerful nations militarily and economically that has ever existed on the face of this earth. But imagine an American President who had the unrestricted power to declare war. Imagine an American President that could sign treaties without reference to the Congress. Imagine an American President who could appoint all the judges he wanted. Imagine an American President who could just send troops off to a theatre of war. They are the powers, my fellow citizens, of an Australian Prime Minister.

They need to be checked and balanced, particularly if we take the Crown out of the Constitution, which has been the institution which has acted as the balance. That balance, as Mr Bill Hayden pointed out yesterday, if we become a republic, must come directly through the people through their elected president. Yet remember what Mr Keating said in an interview with Laurie Oakes published in the *Bulletin* about 1992 or 1993. Mr Keating said that, thankfully, as far as he was concerned, anybody designing in Australia a modern democratic constitution would not give to a Prime Minister the awesome powers that a Prime Minister has under the Westminster-type system. Let us finish those nonsense arguments.

I have only a few minutes left. Concerning the matter of appointment, as we know, all contemporary public opinion polls suggest that, if the Commonwealth parliament gave the Australian people the say, they would support overwhelmingly a direct democratic say in the choosing of their head of state. They would do so by a comfortable majority. Being of our own choice, we, the people of Australia, could justly and genuinely claim that office as our own. We could claim the Constitution as our own and not as a document belonging to those who exercise power over us.

It is ludicrous to argue that having an Australian as head of state would somehow mark Australia's coming of age while at the same time denying the Australian people the most fundamental democratic right of all, which is to choose the means by which one is governed and how those who govern in the people's name are themselves chosen. To be dictated one option is to be given no choice at all. In fact, it is an absolute denial of the right to choose and thereby of democracy itself. Also civility is denied.

It has been argued that republicanism is about the national identity of Australia's head of state and that Australians need one of their own to fill that position—a person who embodies what it means to be an Australian, someone with whom all Australians can identify and who is representative of all the Australian people, and so on the argument goes. However, if an Australian head of state is to appeal to and represent all the Australian people from all walks of life, of all ages, of all cultural backgrounds, of all class backgrounds, the hierarchical means that are being proposed through both the McGarvie model and the ARM's model, and variations of it by ruling politicians, simply will mean that we will get yet another establishmentarian elitist as remote from the people in lifestyle as a far-distant monarch.

One person out of the population of this country of approximately 18 million people, one person under the ARM model will nominate a single candidate. Then approximately only 233 people—that is, roughly the combined membership of both houses of parliament—will get a say in that candidate. But they won't be allowed to scrutinise the fitness of that person for office—'Oh, no, we can't subject him to scrutiny; he'd be humiliated.' The upshot is that approximately 150 people out of 18 million Australians—that is, the two-thirds majority—will decide who our representative head of state is.

Please listen to this, my fellow citizens in the gallery and those who are listening on the electronic media. Is that democratic? Could such a person be representative of all of us? Of course not. So, contrary to ARM's schemes and scheming and Mr McGarvie's model, the only means of getting a head of state who is representative of and accountable to us, the Australian people, is through the

constitutional entrenchment—not in a preamble but the constitutional entrenchment—by the people of our right, the right of every Australian citizen qualified to vote, to have not only the further right to cast a direct ballot in an open contest for the office but also the constitutionally entrenched right to nominate candidates for that office and the constitutionally entrenched right to contest direct elections.

If we do not do that, we will finish up with a sham and a shambles. If we do not do that—if we make the move to a republic—the proposals will divide the nation. You will not get anything like sufficient support from the people of Australia to have a constitution that all Australians, despite our cultural diversity and despite all our differences, can identify with. If you do not put that into the Constitution, you are constructing a constitution with which most people will not be able to identify.

CHAIRMAN—I call on Mr Jason Yat-Sen Li, to be followed by the Hon. Tony Abbott.

Mr LI—Mr Chairman, fellow Australians, it warms my heart to be able to address all of you as my fellow Australians. Australia has come a long way since a century ago to becoming a truly diverse polyethnic nation. When launching the issues paper 'Multicultural Australia: the way forward', the Hon. Phillip Ruddock, federal Minister for Immigration and Multicultural Affairs, proclaimed that Australia is a multicultural nation. Our cultural diversity has been a strength and an asset in our development as a nation. I would like to thank Dr Cocchiaro for his magnificent speech last night, which I endorse fully.

I too wish to bring the perspective of ethnic Australians and Australians from a non-English speaking background to bear upon this issue. That is my mandate at this Constitutional Convention. I stood for election on the platform of representing ethnic Australians and all those believing in the value of an ethnically and culturally diverse society. My election articulates a clear message. It affirms that ethnic Australians have an undeniable interest in the future of our nation. They have put me here to speak for them. I believe that all Australians should be given equal opportunity to attain the honour of being Australia's head of state—all Australians regardless of their ethnic descent.

Fellow Australians, allow me to put to you a proposition, not just those of you are assembled here with me today but all Australians who may be watching these proceedings. How would you feel, what would be the reading on your internal barometers if tomorrow an Australian head of state were appointed who was of Asian ethnicity? The comments and the reaction of a certain federal member in Queensland upon the announcement of this year's Young Australian of the Year, Vietnamese born Miss Tan Le, spring immediately to mind.

I perhaps credulously would hope that all of you would applaud this appointment as a celebration of Australia's diversity, as an affirmation of the harmony with which a multitude of diverse ethnic groups work in concert for the good of our country. Perhaps more interesting, however, is whether any of you have reservations. Allow me then to ask: what is the basis for these reservations? What lies beneath them? I suggest that the reservations lie in the ingrained sentiment that an Australian head of state of Asian ethnicity does not reflect the proper image of Australia. Here lies precisely, profoundly, the power of symbols. This is a question of our Australian identity.

Without wanting to digress to the broader issue of whether Australia should become a republic, I applaud the Australian Republican Movement for their emphasis on symbols. For the forging of a national identity within which all Australians can feel a sense of belonging, a sense of fitting in and a sense that this land is their home, symbolism is of the utmost importance.

Let me reiterate that all Australians should have equal opportunity to attain the office of Australian head of state. This necessarily impacts upon the appropriate model for appointment and dismissal. Having opened up an avenue through which those people who elected me can communicate their views directly to me, I have found that those views have been remarkably consistent. An overwhelming majority of ethnic Australians

desire a direct input into who their head of state should be. They do not want to leave the decision in the hands of a body—a parliament or otherwise—in which they are staggeringly under-represented.

I therefore say that, in addition to the existing criticisms levelled against the McGarvie model and appointment by a two-thirds majority of parliament of a government nomination, neither of these models will do justice to the legitimate dreams of this generation's ethnic Australians to become Australia's head of state. The problem, as I said before, is the hopeless under-representation of ethnic Australians not only in parliament but also in all positions of high office. The lack of role models, the lack of a motivating tradition of mainstream political involvement and the inherent conservatism among the elite in Australia will mean that this under-representation will doggedly withstand correction for many decades. That is too long to wait.

Popular election from a small group of nominees chosen by parliament suffers from the same deficit. I wish to make it very clear that I am not concerned with giving ethnic Australians an unfair advantage; I am concerned with placing them on an equal footing. As two legal and moral philosophers John Rawls and Ronald Dworkin have argued, justice requires removing or compensating for undeserved or morally arbitrary disadvantages, particularly if these are profound, pervasive and present from birth.

I am not entirely happy with any of the three existing models for appointment and dismissal. These three models have divided the republican camp into three entrenched blocs, each pitted bitterly against the other. This is jeopardising not only the credibility of the republican initiative but also the credibility of the Convention itself. We must not let this happen.

As an independent delegate unaligned to any particular group, I grappled last night with whether today in this speech I should lend my support to any existing model or whether I should propose a compromise of my own. I have chosen the latter course—not because I am so presumptuous to think that I can solve all the problems or I can untie the Gordian knot and overnight be proclaimed the national hero for devising the ingenious Li model. I have done so because I would like to set an example that we all at this stage have to think laterally to find a compromise capable not only of achieving consensus but also of having the greatest chance of success at a referendum. We must be guided by this principle. We must give credence to the wishes of the Australian people, because this is the mechanism for constitutional alteration under section 128. Otherwise, a referendum will fail.

Let me turn now to my compromise proposal. Compelling criticisms may be levelled against each of the existing models. However, each model also has its strengths. I am concerned with preserving the strengths of each model while somehow at the same time discarding its weaknesses. With respect to direct election, the problems are many and have already been eloquently ventilated. The strength of direct election, however, is that it allows popular participation consistent with our democracy.

With respect to election by a two-thirds majority of parliament, the problem is that the Australian people have clearly voiced their distrust of parliamentarians. The strength of this model lies in its ability to deliver a bipartisan, apolitical head of state. With respect to the McGarvie model, it is perceived to be too elitist. The strength of this model lies in its preservation of the existing mechanism of dismissal as an effective sanction against the head of state who fails to comply with convention.

I believe that the strengths of these models may be combined without their weaknesses. My proposal begins with resolution 1 of Working Group F but then diverges from it. A two-thirds majority of parliament elects a selection body that is gender balanced, composed of people who have the respect of the Australian people and who reflect Australians in all their diversity. That selection body receives nominations from the general public and, according to a set of transparent criteria, selects a candidate—in the same way that the Australian of the Year is selected. That

candidate must then win the support of an absolute majority of parliament to be appointed head of state.

Fellow Australians, this model is non-elitist. It ensures ease of dismissal by absolute majority of parliament—the same majority as that which appoints. It will produce a bipartisan, apolitical head of state. It allows for popular input without creating a massive mandate, and it removes the actual selection of the head of state from the hands of the parliamentarians, thus allaying distrust. In addition, I believe this model affords an equal opportunity to all Australians to be elected head of state.

I was born in Australia 26 years ago. I am as Australian as anybody here. Look beyond the colour of my skin. Regardless of their origin, all Australians have a unifying commitment to Australia, to democracy and to equality. The value of ethnic diversity in Australian society now is beyond contention. The challenge, however, is for a more tolerant and inclusive democracy. Fellow Australians, I have a vision for Australia in which an ethnic Australian may be elected head of state and it will be as absolutely normal and uncontroversial as if an Australian of any other ethnic descent were appointed. I ask all delegates and all Australians to join me in that vision.

CHAIRMAN—Thank you, Mr Jason Yat-Sen Li. Before I call the Hon. Tony Abbott, I table a proxy from Jennie George, President of the ACTU, who has nominated Jennifer Doran as her proxy at certain times and places. I also note that the next speaker, Ms Clare Thompson, is not in the convention room. I urge her to come in as soon as possible. If not, she will forgo her place to Senator Natasha Stott Despoja.

Mr ABBOTT—Thank you, Mr Chairman, for the opportunity as a mere proxy to address the Convention. May I say that the dismissal issue is the key to this debate, as recognised by the Hon. Richard McGarvie. Dismissal is the only effective sanction on the head of state. Without an effective sanction the conventions will not work and without the conventions, as Mr McGarvie has pointed out, the head of state is at least a potential threat to our democracy. So this is the key issue. We cannot assume that it would not arise in the future. In fact, under any republican system, the desire of the Prime Minister to dismiss a head of state is more likely to arise given the fact that the head of state will be more likely to test the rules in any new system.

A fully elected presidency obviously requires a full set of rules because such an individual would be the modern equivalent of a priest, prophet, king, seer, sage and embodiment of the spirit of the nation. The only successful candidates to be elected presidents would be politicians, billionaires or saints. Politicians, as we know, are able to slide around rules; billionaires, as we know, are able to buy their way around rules; and saints, almost by definition, refuse to be bound by rules. If a saint ever got elected as president and Ted Mack found himself in that office, it is hard to imagine that he would be able to refrain from giving advice to the Prime Minister and the Prime Minister would have absolutely no leverage whatsoever on him. He could not even threaten his superannuation because he would refuse to accept it.

Dismissal is absolutely the key issue. There must be a means of dismissal of a popularly elected president, yet popular recall or parliamentary impeachment would be a recipe for national paralysis and chaos. The difficulty with prime ministerial dismissal is that the turmoil of 1975, when a non-elected Governor-General dismissed an elected Prime Minister, would be as nothing compared with the turmoil if a Prime Minister tried to dismiss an elected president. Short of medical incapacity or criminal conviction, any elected president would be there for the duration. There would be enormous potential for deadlock between Yarralumla and The Lodge.

The Australian Republican Movement has recommended appointment by a two-thirds majority of both houses of parliament. This is supposed to guarantee that any president would be a great Australian with bipartisan support. But it assumes in the first place the entrenchment of the existing Senate voting system. So it is unlikely that any one party would have a two-thirds majority. It also most

significantly assumes goodwill on the part of the contending parties in the parliament. This, as anyone who has sat in the parliament knows, cannot be assumed. It is possible that an opposition would simply refuse to cooperate and that Australia would be left without a head of state.

I am sure that Phil Clearly supports popular election because he realises what members of parliament would do to any government nominee who came before the parliament. It needs to be pointed out that no recent Governor-General would have become our head of state under a parliamentary process such as the ARM recommends. Stephen, Cowen and Deane would never have run for such an office. They would never have exposed themselves to this kind of partisan scrutiny in the parliament. Mr Hayden, of course, would never have got a two-thirds majority because we only discovered the greatness of the man after he left politics. Quite simply, if such a person were not a politician at the beginning of this process, they certainly would be at the end.

The Australian Republican Movement has, in the course of this Convention, modified its ideas on dismissal. It now says that the head of state should be dismissible by a mere simple majority in the House of Representatives. I find it enormously strange that, in wanting desperately to entrench bipartisanship in the appointment of a president, they are indeed entrenching partisanship in the dismissal of a president. As Tim Fischer so shrewdly pointed out yesterday, in a comparable situation to 1975 we could have no Prime Minister because he had been dismissed by the president, no president because he had been dismissed by the Labor majority in the parliament, no election because there would be no-one to manage such a process and no head of state, no president, because it would be impossible to find a two-thirds majority in a situation of such chaos to replace the incumbent.

The beauty of our existing system of government, our existing system of selection of the Governor-General, is that it gives us a selection system which is much more like that for a judge than that for a politician. The key advantage of the McGarvie model is that it preserves the political detachment of the existing system. The Prime Minister could be expected to make worthy nominations lest he suffer electoral retaliation. Members of the Constitutional Council could be expected to take their duty seriously lest their reputations be destroyed. The head of state could be expected to act in accordance with the Convention lest he be dismissed for improper conduct. Under the McGarvie model, codification seems least necessary.

But it is impossible to exactly reproduce the detachment and the impartiality of the monarch. It is, it must be pointed out, impossible to lobby the Queen, yet the Constitutional Council proposed by Mr McGarvie would comprise distinguished citizens, to be sure, but citizens who have been involved in the hurly-burly of public life. They would have friends and critics; they would have sponsors and proteges; they would be subject to lobbying, influence peddling and last-minute appeals—not in anything like the same way that a parliament is but much greater than the existing system. There would be the problem of unanimity and the problem of confidentiality. There is also the problem pointed to by Bob Carr the other day of the head of state having a power base, no matter how limited, independent of that of the Prime Minister.

For generations perhaps under the McGarvie model the existing culture would preserve the existing system, but time passes and cultures change. Under the McGarvie proposal, the head of state can dismiss the Prime Minister. The Prime Minister can dismiss the head of state. But no-one, it seems, can dismiss members of the Constitutional Council. What sanctions would hold them to their duty when their memories of the existing system had passed?

These cannot be dismissed as mere quibbles, because a constitution that might last for a hundred or a thousand years has to be gotten right. It is possible, even under the McGarvie option, that a future head of state might see himself as being more involved in day to day power and might see his Constitutional Council as something more resembling a presidential cabinet, which of course brings

us back to the morass of the sanctions issue which so bedevils the direct election and the parliamentary election model. McGarvie has proposed by far the best and by far the most workable republican alternative to our existing system, but it has to be said that it is the best of an unsatisfactory bunch.

I acknowledge in this chamber those republicans who have paid tribute to our British heritage and suggest that their generosity should also extend to those who believe that that heritage of freedom under the law, of compromise and of evolutionary change belongs just as much to our future as to our past. This country owes a great debt of gratitude to the men and women of Australians for Constitutional Monarchy, who have consistently reminded us of the strengths of our existing system when others, who perhaps should have known better, have become its critics. Finally, I congratulate Richard McGarvie for his brilliant insights into how our system really works and for his shrewd recognition that any alternative must build on the strengths we have got.

Ms THOMPSON—Last week over 300 women met at the women's convention at new Parliament House to discuss broad-ranging issues to do with constitutional reform. High in the thoughts of all of the people who attended that convention was the need to be more inclusive—particularly in including more women in the process of the appointment of our head of state. Across the political spectrum from republicans to monarchists, women from the Aboriginal and Torres Strait Islander community, women from non-English speaking backgrounds and women like me agreed that women should participate fully in the process and the outcomes of a head of state for Australia.

It is this point that I wish to address this morning and examine and test the models against. Outcome 5 of the Women's Constitutional Convention says that the 'selection or appointment process for the head of state must guarantee that women's chances of occupying the position are substantially equal to those of men'. The question is how best to achieve this. Clearly, a system which is based on heredity which favours males over females cannot meet this criterion.

We then turn to the proposals put forward by the various working groups this week. The proposals of Working Groups A, B and F, all of which are proposals for popular election in some form, are initially very attractive. They are attractive because they rely on a system of compulsory voting which sees, in theory at least, as many women as men enfranchised in this country. The theory goes that if you have a popular election women will have as great a say in the appointment of the head of state as men. Women will have, so the theory goes, an equal chance of rising to the position of head of state.

However, I do not believe that women would be more likely or even as likely to become a head of state under a popular election system. I say this because of the role that women play in politics generally. The women who are in parliaments have fought very hard to get there. Generally, women in politics, as many members of my own Liberal Party would know, tend to be the organisers in the background, tend to be the ones who do the work and do not take the glory. In that respect, there is no way that we can guarantee that a popular election would be at least as likely to provide us with a female head of state.

The second criticism I have of this model is that it opens the process up to the sort of nasty public scrutiny that we have seen Ms Kernot, Ms Lawrence and Ms Kirner undergo in recent years of their private lives, their dress and all the rest of it. Anything that avoids this, in my view, is a positive thing. It is not a pretty picture.

I could be convinced perhaps of the attractiveness of this model if only we had more detail. This morning Professor O'Brien, who was vociferous in his views, theatrical in his gestures, was very concerned about the rights of the people but light on detail.

The proposal of group D is attractive because it is closest to our present constitutional system, and that is a system which most of us here today agree is on the whole a very good system. However, by appointing a council to undertake the appointment pro-

cess of a head of state I see a number of problems. First and foremost, it assumes that lawyers, judges and former governors-generals and governors are the repository of all knowledge and wisdom in this area. As a lawyer, I dispute that. I put on record my belief that the wisdom of the wider community is more valuable than the wisdom of an elite legally trained few.

Secondly, this proposal from Working Group D is bad for women. It is bad because the process does not include women from the beginning and, more importantly, it is bad because of what the outcome will be. We all know that we are far more comfortable with people who look like us, who speak like us and who share our views. One of the great challenges of late 20th century Australia is to be more inclusive and more accommodating of diversity, and I am delighted to be part of a group here this week and next week that recognises that and places that as an important criterion. But the problem is, if we ask a council of elderly former members of the legal elite to choose someone as their head of state, what is the most likely outcome? The most likely outcome, in my view, is that they will choose someone who looks like them, who sounds like them and with whom they are comfortable. That may not be a very good outcome for this country.

The proposal by Working Group C is, to my mind, the best solution. This is the proposal that would see a joint sitting of both houses of parliament appoint a president by a two-thirds majority. It is a proposal that would be bipartisan and it is a proposal which has a great deal of merit. It is a proposal that requires a group of people who have been democratically elected by the all too frequent ballot box in this country to make a decision based on the input of all of us.

Parliament reflects increasingly the great diversity in our society. There are far more women now in parliament than there are likely to be in the ranks of former governors-general, former High Court judges, Federal Court judges and governors for the next 100 years. That is today—let me tell you it gets better at every election. Parliament is very conscious of its responsibilities in the need to reflect the hopes, dreams, desires and aspirations of the great Australian population. My experience with parliamentarians is that they are extremely conscious of the world at large. They are very clear in making sure that their decisions are in the best interests of the public, the best interests of this country and that a whole range of views are taken into consideration when making their deliberations.

This is not to say that the Working Group C proposal could not do with some refining. I would personally like to see a process where ordinary members, every member, of the Australian population had an opportunity to have some input into the nomination process. Whether this is by writing in to a select committee or simply talking to your local member of parliament, I have not really thought too clearly about, but I do think there is merit in that proposal and we as a Convention should explore it.

I support a two-thirds appointment because I believe it will best deliver the aspirations of the women's convention with which I heartily agree. It will be the only system to guarantee that women's chances of occupying the position of head of state are substantially equal to those of men. On this basis, I commend Working Group C's proposal to this Convention.

CHAIRMAN—Thank you, Ms Thompson. I now call Senator Stott Despoja, to be followed by the Hon. Neville Wran, who switched places with Ms Linda Kirk.

Senator STOTT DESPOJA—Thank you, Mr Chairman, fellow delegates. It is an honour to rise in this chamber for the first time. It is a somewhat cosier chamber, it is much nicer. I am honoured to be representing the federal parliamentary wing of the Australian Democrats at this Convention, and I am glad to be joined by my state colleague Mike Elliott, who is the Leader of the Australian Democrats in South Australia.

I am a proud republican and always have been. Like many others here, I place on record the willingness of myself, on behalf of my party, to participate in this Convention, to listen to different models, to assess the worth of different arguments. At the risk of getting

a point of order for relevance from Mr Bruce Ruxton—

Mr RUXTON—Never to you.

Senator STOTT DESPOJA—I will restrict my comments today, Bruce, to the issue at hand, and I look forward to elaborating on why I believe we should be a republic when I get the opportunity to speak on Monday.

If we are to become a republic, if we are to achieve one that has popular support, then we must begin to grapple with the public's desire to play a role in that process. My personal preference, my ambit claim if you like, is for a popular election for a president. This view is reflected by some of my Democrat colleagues, but the one thing that we all have in common is that, if there is to be an elected head of state, that must come with unambiguous safeguards in our Constitution. So my support for a popularly elected head of state is conditional. It is conditional upon broader constitutional reform, changes to the powers of the Senate and the codification of the powers of a head of state.

Many of the most successful heads of states around the world are popularly elected. We have heard about the President of Ireland. True, each of the political parties sponsors a candidate, but the Irish electorate has made clear that it will only support and vote for candidates of the highest calibre, and that is what they have had. The most recent President of Ireland, Mary Robinson, left her term of office with an 80 per cent approval rating. It is also worth pointing out that the longest serving head of state in Europe—the enormously popular female President of Iceland since 1981—is also popularly elected, but in both cases the powers of the President are prescribed in the Constitution.

The initial failure of this Convention to seriously consider the idea of codification of a head of state is a grave one. I think it is a failure that could doom any ballot on a future republic. Certainly, without codification of powers, an elected presidency cannot work. I would suggest that any head of state—even one elected by a parliament without codified powers—may not work either.

The reserve powers of the Governor-General are extensive. They have been used in the past and they can be used again. We can draw on overseas examples, of course. I note that the President of Pakistan is appointed by a parliament. That has not stopped the President sacking the last three elected Prime Ministers before the completion of their terms. So whatever the model, the problem will not go away.

I acknowledge the Prime Minister has signalled his support for the McGarvie model—where a president is chosen by a Council of Elders on the advice of the Prime Minister. It is the last rider—on the advice of the PM—that worries my party. I am not too big on the Council of Elders bit, either.

In 1969 John Gorton appointed the man he beat for the PM's job, Bill Hasluck, as did Bob Hawke in 1988, with Bill Hayden—with all due respect to those Governors-General. Indeed, this country has only had three totally non-political appointments to the position of Governor-General, all three being eminent jurists since 1975, and indeed we have had no female Governor-General in this country.

It remains the case—I think the appalling case—that the head of state in this country is still within the gift of the Prime Minister of the day. More worryingly, the head of state can effectively be removed by the Prime Minister of the day because the Queen usually acts on the Prime Minister's advice.

Under the McGarvie model, the council likewise would act on the Prime Minister's advice. Thus, if a head of state becomes too critical of government—insists that, say, some constitutional forms be pursued, refuses to consent to a piece of legislation or declines to follow perhaps an inappropriate or obviously partisan demand by the PM—they could be sacked by the Prime Minister on his given advice. What sort of constitutional safeguard would that be? So the Democrats reject the McGarvie model as too open to political manipulation.

The Democrats do recognise some of the positive features of the two-thirds model: that it would encourage bipartisan cooperation, that it would not necessarily create a rival political position to the Prime Minister and

that, theoretically, the parliament is representative of the people. But we know that the House of Representatives, by virtue of its voting system, does not reflect the true voting intentions of the Australian people. You have only to look at the current arrangement, where the government has two-thirds in the House although they received only 47 per cent of the popular vote. Ten per cent of voters—nearly one million Australians—are denied representation in the House of Representatives altogether, whereas the Senate is more representative because it is based on proportional representation. The fact that the House is twice as big as the Senate and that its numbers will dominate the vote brings into question whether or not the two-thirds model will indeed be representative. If, in fact, the House were elected by a PR, as is the case in many European countries where the parliament chooses the president, I think the two-thirds model would be much more valid.

There is a strong argument that the two-thirds model and parliamentary election would be more likely to generate a non-political head of state. It would almost certainly mean that a head of state required bipartisan support. But that decision would involve little, if any, consideration of the minor parties and independent candidates that may be in the parliament, elected by all those many millions of voters who are taken for granted by the major parties in the three years between one election and the next.

The Democrats recognise flaws in all models. Nevertheless, it is important that this Convention comes up with a workable model with some sort of preposition. On behalf of the Democrats I indicate that we are prepared to support a resolution in favour of a head of state appointed by a parliament only if some of the essentially undemocratic aspects of this scheme are removed. We believe strongly that the nominations must come from the people, not from backroom deals.

I support a process that excludes members of parliament from the nomination process. I support one that enables Australians to nominate candidates, say, to a short list from which parliament could choose the president. This is a model that has been mooted previously by the Democrats. There is an idea that we could use a petition system, which is in line with some other countries where each nomination is supported by around 25,000 signatures. This would at least ensure that the people had a say in the choice of the head of state. I acknowledge that this model is second best to a popularly elected president with codified powers. But if a majority of republicans and others at this Convention believe that a head of state should be elected by the parliament—and I acknowledge that this has been a workable model in many other countries—then let us do it in a way that maximises the role of the people and minimises the opportunity for political backroom deals.

I wish to refer, as Ms Thompson did, to the Women's Constitutional Convention. I note that one of the resolutions of that conference was that we should ensure that women's chances of occupying the position are substantially equal to those of men. I endorse that and I would like to go one step further. I would like the first president or head of state of an Australian republic to be a woman. I think this would symbolise Australia's move into the next millennium as a nation committed to equality between the sexes and to having women in positions of power. I hope that she will preside over a democratic and representative parliament, one in which the voices of previously underrepresented groups are heard, including women, different ethnic groups, young people, indigenous Australians and those from different socioeconomic backgrounds. I look forward to continued constructive debates about the methods of appointment and dismissal at this Convention. I am happy and willing to listen to all arguments and I will be guided by my party room, by my party and by its members when I vote on this issue.

CHAIRMAN—Thank you, Senator Natasha Stott Despoja. I now call on the Hon. Neville Wran QC, to be followed by Ms Mary Delahunty.

Mr WRAN—Like so many delegates who have addressed this Convention in the past few days, I feel honoured to be here as a delegate and privileged to have the opportunity to address the Convention. I also consider

myself extremely fortunate that I was one of a handful of foundation Australian Republican Movement members in 1991 and so able, as its ranks grew in the ensuing years, to pursue the cause of an Australian republic—an Australia with an Australian citizen as our head of state, a head of state with substantially the same powers as the Governor-General and powers limited and defined in much the same way as they are presently.

I can tell you, Mr Chairman, that back in 1991 the exercise seemed so much more simple than it does today. After all, the aim was merely to have an Australian republic up and running by the year 2001. That gave us 10 years to examine the various options, to persuade governments to acknowledge growing republican opinion and, finally, to seek the binding view of the Australian people by way of referendum.

Delegates, in the past few days as the debate has proceeded on various issues, including the arrangements for the appointment and dismissal of a new head of state, as that debate has swung from the constitutional monarchists 'do nothing' stance to the general election model focused on by some of our republican candidate colleagues, my emotions have swung from exultation to frustration and back again. There is no doubt that some of the models presented to the Convention by the various working groups are light years apart in concept and methodology. The challenge for the Convention is to resolve the difference.

There are many accomplished and distinguished Australians at this Convention, some practised and some not practised in the art of politics. In the past few days, incidentally, a lot of rather nasty things—indeed at times bordering on the offensive—have been said about politicians. In the result, it is with some humility that I have to confess that for the best part of 15 years I was a politician—a calling which I have learned here is a lowly one better not mentioned in polite company. In the event, whilst occupying this lowly station, I improved considerably my understanding of the values and judgments of the Australian electors and, perhaps more importantly, how to analyse and assess their significance.

In my years in politics perhaps the most critical thing I learned was that influencing change was the art of the possible. That is to say, where an objective was to be achieved or a vision was to be fulfilled, it was not always possible to obtain the perfect result. Do any of us really believe that the founding fathers walked away from the final convention that produced the Australian Constitution satisfied that a perfect result and one without compromise had been achieved? Of course not. And a cursory perusal of the records and writings of the convention make that clear beyond doubt. The Australian Constitution was not hammered out at one sitting or several sittings; it was the result of negotiation and compromise extending over a period of several years in and outside the conventions.

Over the years since 1991 it has become increasingly obvious that Australians—or, more correctly, a majority of Australians—wanted or at least preferred an Australian citizen as their head of state. To reach that point, of course, needs a referendum, and our record of passing referendums is rather abysmal. I might add that it seems to me that no-one has the perfect answer as to the method of appointing an Australian head of state. After all, the range of options extend from appointment on the sole decision of the Prime Minister to popular election with the accompanying complexities as to powers, codifications and so on.

I must confess, I thought a collegiate system involving the vote of two-thirds of both houses of the national parliament, which gave the people at least an indirect involvement in the process, was a sensible compromise capable of being approved by the people. Obviously a number of other republicans have so far not been prepared to share that view. I can understand that. The two-thirds approach is not perfect and it is not the only model; it just happened to have the attractions I referred to.

Delegates, let me say this as earnestly as I can. We are all aware of our responsibilities as delegates in this historic Convention. We are aware that in the months leading up to

this Convention there has been a growing expectation amongst Australians that something positive and permanent in the dynamic of our constitutional framework will come out of this Convention. In the proceedings of the Convention so far, as particularly evidenced by the votes taken in plenary session on Tuesday in relation to the powers of the proposed head of state, it is apparent that a strong republican sentiment is emerging. This Convention has several days yet to run, time enough to settle the Gulf War, let alone to bridge any gulf between us on important issues such as appointment or election.

There are, of course, delegates here committed to the perpetuation of the constitutional monarchy for ever. Some are intransigent and others are quite extravagant in their assessment of the consequences of having an eminent Australian, man or woman, as the head of state. One delegate even suggested that it might represent the first step down the road to a Nazi regime. Others again are less intransigent and inclined to the status quo. On the other side of the fence there are republicans who are committed to an Australian head of state with appointment or election by various methods and, finally, but just as importantly, there are non-aligned delegates who, by and large, are open to be persuaded by the force and logic of argument presented in these debates.

In this debate I impute no malice or lack of bona fides to any group. No-one has a monopoly of love of country or integrity of decision making when it comes to matters of this kind. Having said that, people can be intransigent in their attitude or just plain wrong in their conclusion. Delegates, if ever there was a time to be right in our decisions, that time is now. Republicans have striven for years for the chance to put a republican model altering the Constitution to the Australian people for their approval. We are on the very cusp of success. The opportunity must not be squandered.

In the various models relating to appointment and dismissal there is plenty of room for compromise and accommodation. I hope that the Convention will share this view when it votes later in the day to allow the recommendations from each of the Working Groups A to F to go ahead for final consideration next week. I include in that the submission from the constitutional monarchists. In the meantime, the opportunity for compromise and accommodation can be explored with goodwill and good heart, and for a good cause—the future of our country.

Delegates, if we miss the day, then heaven alone knows when we will get the next opportunity. If we miss the day, then this chance to begin and maintain a process of constitutional review and reform may well be lost. The outcome is in our own hands, hands that treasure this country for what it is and for what it can be. Let's seize the day. If we fail, we will only have ourselves to blame.

CHAIRMAN—Thank you. I call on Ms Mary Delahunty, to be followed by Councillor Bunnell.

Ms DELAHUNTY—Thank you. Fellow delegates, you know that there is a big birthday about to be celebrated. It is not mine; it is certainly not the Chairman's—as far as I know. I am talking about Australia's 100th birthday—the centenary of Federation in 2001. It is a mighty milestone in our nation's narrative. It is a story that should be told and learned by all of us because ours was a nation not born out of revolution; our Constitution came from the civic model not from the might of the gun.

Last century when the momentum for Federation bogged down, People's Conventions kick-started it again. Men of moment, men with status, property and the vote, of course, gathered in Corowa, Bathurst, Adelaide, Sydney and Melbourne and crafted a Constitution that created a nation. In the twilight of this century with a new millennium beckoning, we, as delegates to this Constitutional Convention, have the honour and, indeed, the demanding duty to complete the job began at Federation. We will give this nation one of its own citizens as constitutional head of state.

To be or not to be a republic is no longer the question. Once the conversation moved out of the academy and onto the airwaves a substantial and increasing majority of Australians are saying, 'Enough—thank you, Mr

Waddy—enough of a distant monarch we must share with competing nations; enough of a Constitution of mirrors; enough of a document that does not reflect the way we are. We want cemented into our Constitution one of us, an Australian citizen, steeped in our culture and our character, at the apex of our political pyramid.' Fellow delegates might well say, 'That is not news.' We heard this clamour as we campaigned around our states for election to this Convention. We have heard the now daily coming out for a republic of Liberal premiers and ministers. 'It is time for a change,' they have said as they have joined Democrat and Labor advocates. Also, at this dais, appointed and previously undeclared delegates have argued eloquently for an Australian head of state. So you are right, this is not news: Australians want a republic. That is the headline: 'Australians want a republic.'

Now let us look at the text. As a republican—probably by genetic inclination, but certainly by intellectual disposition—I have grappled with the form, the tone and the texture of an authentically Australian republic—constitutional umpire or purely ceremonial figurehead?; appointed or elected?; and all the permutations that are offered by these models.

I was elected as No. 2 candidate for the ARM in Victoria—I think if I had been a bloke I may have been No. 1—on my preference for the appointment of a president by a two-thirds majority of federal parliament. So I was propelled into this place with a preference but also with an open mind. I came here imbued with a sense of history. I came up those front steps past the ghost of Gough, walked through the corridors and saw the pictures of the past—there is a particularly jaunty one of Billy Hughes, and a more hirsute Robert Menzies.

I came with the challenge of working with you to effect a workable and palatable change that Australians will embrace. I came with a tremendous sense of possibility. I came to listen. I came to be convinced, not to conquer. Most particularly, I wanted to hear, and I still want to hear, the detailed arguments for direct election. We know direct election is an option, a serious option. Direct election is alive at this Convention. The wisdom of this Convention means that this proposal is well and truly on the table. So let us hear the detailed arguments for it. Let us hear, for example, proposals to give women a fair go at the contest, proposals to cap the cost, proposals to encourage candidates of real worth.

In the ARM there has been a lot of work to try to ensure public ownership of this process, including a specific proposal for public nomination. I have to tell you I have been charmed by the advocates of direct election. I have been moved by their passion and their belief. I have laboured cooperatively, and constructively, I hope, on a proposal in a working party a couple of days ago for a nominating panel from our various parliaments of the Commonwealth to nominate candidates for popular election. It was a joy. But what we did not do, except in a cursory way, was argue the case for and against direct election.

Chris Gallus, I must say, yesterday certainly got the ball rolling with some detailed explanation of her ideas about how direct election might be working. So I have asked myself and others, 'What is this romance with direct election? Why is it just so seductive?' I hope it is no risk to the courtship to turn on the lights and take a look.

There are two cries, it seems, cementing the case for direct election. Firstly, it is the will of the people. Secondly, and perhaps more darkly, we do not want another politician as our head of state. The will of the people—how do we know it? Polls, public comment and, yes, in the imperfect way of democracy we take the pulse of the nation in the election of representatives to our parliament. We do not want a head of state who is a politician.

I know this has a delicious larrikin ring of a defiant Henry Lawson. It also reveals I think the cruel contradiction embedded deep in the notion of direct election. So in the spirit of seeking a compromise, a workable solution, at this Convention, I ask: please convince me that a public contest for the top job requiring money—lots of money—campaign, media and strategic skills will not

produce a politician, perhaps a very bruised politician.

Convince me that a public contest for the votes and affection of the Australian people will not produce a president owing debts. Convince me that it is not only political parties or big corporations with the resources to mount a national campaign for president. Convince me that a jurist with the soul of a poet, a writer with the insights of an angel or just a citizen of independence and skill could compete in the public contest against the might of a media mogul or the tyranny of celebrity.

It is no secret that my heritage is part Irish. My name is Mary, and Mary Robinson is a legend. So convince me that a ceremonial, legally powerless president like that of Ireland's is superior to the notion of constitutional umpire and would work in this country. *(Extension of time granted)* My sense is—and it is not the least bit romantic—that at the heart of the appeal for a direct election is mistrust. I think it is more than that. I think it is almost some sort of crisis of civic confidence.

Direct election proponents declaring that they do not want a politician are echoing the increasing chorus of denigration of our parliaments. It is true: many Australians feel shut out of the political process, they feel denied of active citizenship, and they feel frustrated by corporatised managerialism in modern government. Could it be, then, that direct election gains its strength through the hope that somehow the people's champion, the president, will single-handedly whip the recalcitrants of the parliaments into responsive and unerring representatives of our will? Could it be that through some miracle mutation, a combination of the avuncular discipline of a Weary Dunlop or the gentle guidance of a Mary MacKillop, the president will right the wrongs of our system? Could it be too romantic a notion the state of grace that the successful aspirant would arrive at once they stopped being a candidate and assumed the job of president?

I am also curious to know when and how this metamorphosis would take place—the metamorphosis from competitive candidate to a symbol of national unity, even for those Australians who did not vote for her. Convince me that we are not seeking a saint, that we are not asking too much of one single human being.

Delegates, it would be a shame—indeed, it would be a failure of imagination and I think a diminution in the dignity of the office—if we choose a method of election for the head of state by default. Direct election of our president will not cure the dark side of our democracy or of ourselves. It will not solve the problem of our parliaments by surrendering to those problems rather than confronting them. We will not solve the problems of our parliaments by washing our hands of them and hoping the president will conquer or quell them.

If our civic culture is slumbering under some sort of doona of apathy, if we refuse to confront our feelings of impotence in holding our MPs to account, convince me that the head of state will change all that if he or she is directly elected. A republic, the republic that we want, serves the individual but, in turn, holds out the hope that individuals will serve it.

Delegates, these questions challenge us today at this historic Convention. They must be resolved, agreed upon and celebrated at our birthday, our 100th birthday, in the year 2001. Thank you.

CHAIRMAN—Thank you. I call on Councillor Ann Bunnell, to be followed by Mr Michael Kilgariff.

Councillor BUNNELL—As a member of the Clem Jones team, we formulated a codification of the proposed powers and functions of the president. Mr Jones will table that code during his address later this morning; it includes the proposal for appointment and dismissal. This morning, I wish to address the Convention on issues of the republic and events as they have developed over the last three days of this Convention. Firstly, the question I ask is: should Australia become a republic? My response is emphatically, yes.

The system of a monarchy, especially one with powers to dismiss an elected government, is anathema to the spirit of egalitarian-

ism that is Australia. Australia as a democracy is held in international esteem, but as for the monarchical link with Britain, its time has come. Australia has grown and matured into a country that we are all proud of. But, like any growth and development, it is time for an Australian independence.

I am not surprised that Peter Costello's Australia has always seemed independent to him, as he mentioned the other day on the floor of this Convention. He is one of the fortunate class; one of those men who by position, education, and now political power, looks at Australia through a far different window from other Australians, such as the poor and disadvantaged, either by gender, race, disability or ethnic grouping. Some of these groups may look at Australia through much the same window as Mr Costello, but the majority do not—certainly not the million or so children living below the poverty line.

Mr Chair, I am not suggesting for a moment that an Australian head of state elected by the people would change the life of the poor and the disadvantaged. But I do suggest that all Australians would feel a sense of empowerment if they could directly elect their first person in the land.

Many Australians currently feel disempowered in terms of our political, social and economic life. The majority of the Australian public have demonstrated clearly—and I think I would refer Mary to the recent polls taken over the last three months, if she wants clarification of this—that their preference is for a popularly elected head of state.

It was on this platform that the Clem Jones team, of which I am a member—the only elected delegate from north Queensland—achieved a significantly higher Convention vote in Queensland than did the ARM. As a comment on the ARM campaign and with the money and political power behind its candidacy, it is a wonder that any other republican candidate achieved delegate status. That we did is reflective of the determination of Australians to have in their republic of Australia their choice for a head of state.

On day two of this historic Convention we saw the ARM, led by Malcolm Turnbull, attempt to block republican delegates other than themselves from this Convention floor and the forthcoming important discussions and outcomes. The ARM and the monarchists achieved this end. I had never met Malcolm Turnbull before this Convention, but I had seen him as an objective head of one republican movement; to see on days one and two his many visits to and constant seating on the front bench of the Prime Minister caused me very curious thoughts.

Early on day three many political commentators were suggesting that Malcolm Turnbull and his group 'will deliver to the Prime Minister an outcome that the PM desires'. Of course, the Prime Minister has stated clearly that he is a monarchist. But Mr Howard is an experienced politician and knows that 82 per cent of Australians calling for a directly elected head of state cannot be ignored and some model must be offered to these people. The Australian Republican Movement is offering such a model.

I have sat opposite ARM delegates. Some of them are my colleagues and friends from the Labor Party, and I respect them greatly. But I have sat opposite them and they have said on an ABC forum, in fact, that a popularly elected head of state is a great idea but that, if the public only knew the dark issues behind direct election for the head of state, the public would change its mind. How arrogant is that? The ARM has been around for at least a year and I am sure for much longer. If they have not convinced the people of the lurking dangers of direct election, they should perhaps change their message.

In Queensland, when the success and magnitude of the Clem Jones team vote became obvious, the ARM became all inclusive and suggested that they did not have a closed mind to the direct election model and were happy to negotiate. Negotiate they did and all inclusive they were, until day two of this Convention.

Though I am a passionate republican, I have the greatest respect for the monarchists. Although some of the caterwauling near my appointed seat up near Mr Ruxton and Brigadier Garland has been less than impressive behaviour, I still maintain a great respect. I see them, on the whole, content with an

Australia as it is. I respect their single-mindedness on the issue, and I am happy to debate my point of view with them. One must admire the strength of their convictions. Their commitment to our country is without doubt.

The debate between the republicans and the monarchists is an essential milestone in this stage of Australia's history. It is the political manoeuvring that has occurred with the ARM against other republicans that has filled me with dread. It is the very political power play that happened on the floor of this Convention on day two that causes the Australian people to state over and over that they do not want the politicians choosing the head of state. The power blocs, the political manoeuvring, the behind-the-scenes deals are exactly what people are tired of.

Yesterday I heard a man for whom I have the greatest respect—Neville Wran; I know he spoke earlier, and I apologise, but I do not know whether he will contradict what I will say. He said that it will be a hard message to sell to the Australian people that only the politicians and not the people of Australia can elect the republican head of state. Mr Wran—as do many people of great political acumen, such as Clem Jones—knows that the people of Australia want the opportunity to choose. I strongly suggest to the ARM that, even if they should achieve their end on this Convention floor, this is little chance of their model being accepted by the people of Australia.

Day three, of course, brought greater joy to me in terms of the Resolutions Committee's decision to put back on the Convention floor the model of direct head of state election. Further joy came when such a diverse group of Australians, both here at the Convention and throughout Australia, rallied behind this model to ensure a thorough debate on the issue during this Convention. The public will be given a right to vote—and this is my most fervent hope—on what will be the most significant person in this century.

Mr Chair, there is such a list of speakers that I feel I may not have another chance to speak. So, as the only elected representative from north Queensland—an area larger than some Australian states—I must have it on record that my only reason for leaving my flood devastated city of Townsville is that I passionately believe in the Australian will for a directly elected head of state.

I thank our leader, Clem Jones, for the opportunity to join his team. My other colleague David Muir, who will speak later, is simply a great person. Queensland is well represented by these people.

More and more I am coming to the conclusion that I will not support change for change's sake. I will not support a head of state appointed by politicians. If Mary wishes to know why that is, she should talk to people who are in the political area. As an elected and successful politician of 10 years and four hard campaigns, I am well aware of the politics of power blocking that engenders an organisational elite.

Since Federation there has been no greater issue than that of this republic issue and how we will achieve our head of state. Wherever one is, from all corners of Australia the people have said clearly that they want to elect their head of state. This Convention must put to rest the fears and propaganda promulgated by some of our members.

To codify the head of state is not difficult. The Senate issue is the business of parliament; it has no bearing on the issue of direct election. I said on day one in a working group that to combine the issue of the Senate is to ensure a failure of the people's desired outcome. Politicians of all flavours have said that the referendum will not succeed unless both parties agree. This may be the only time in Australia's history when the will of the people will prevail—we can only hope.

In closing, I thank you, Mr Chair, for the opportunity to speak. I thank the people of Queensland for giving me a chance to be present at this historic Convention. I, like Mary Delahunty, when walking up those stairs here, felt an overwhelming pride and a deep longing for this country of Australia. There are many wonderful stories in this Old Parliament House, and I think it most appropriate that this Convention be held here. I remind my fellow delegates that we have a great responsibility over the next six days and in the many challenges ahead. Thank you, and good morning.

Mr MUIR—Thank you, Ann, for your kind words. The good Australian dictionary, the *Macquarie* dictionary, defines a republic as 'a state in which the supreme power rests in the body of citizens entitled to vote . . . '. The same dictionary defines a democracy as a 'supreme power . . . vested in the people . . . under a free electoral system.' Which is more democratic—that the politicians appoint a president or that the people elect a president? You would have to say the latter, of course.

The people of Australia have consistently expressed their opinion that they wish to elect their president in the event of a republic. This Convention has been billed as the people's convention. One half of the delegates to the Convention have been elected by the people. It would be farcical for this Convention not to give full and due consideration to the views of the people of Australia in considering a move to a republic.

Mr Malcolm Turnbull says that the ARM wanted powers to be discussed early in the Convention so that the so-called weakness of the popular election model could be exposed and put out of the way so that the other models for a republic could be given full consideration. I do not believe that the ARM model or the McGarvie model for the appointment of the president would be acceptable to the Australian people. I believe that these models for the appointment of the president will fail at referendum with the effect that the republican cause will be set back many years in Australia.

How can you explain to the people of Australia that they cannot vote for the president but that the politicians can? Over the last couple of days I have had many people from hotel receptionists to taxi drivers and unknown correspondents urging us at this Convention to fight for a popular election of the president. They want to vote for the president. We should not forget Lady Florence Bjelke-Petersen's bus driver the other day, who said to her that she wanted to vote for the president.

Mr Turnbull has dragged a red herring across the path of those who advocate that Australians should elect their president. This red herring is that the Labor Party in Australia will suffer from a directly elected president working against the interests of a Labor government in the event of the Senate blocking supply. This is a red herring, because a Labor government, or any other government for that matter, faces the same circumstance whatever model of the republic is chosen. In fact, this very thing occurred under our present system of government in 1975. I believe that the popular election model is likely to be a safer model in that the powers would be properly set out in the Constitution and leave less room for argument than that which presently prevails.

One could take this even further and set out in the Constitution that the president could not act in the circumstances where the Senate blocked supply. This would mean, of course, that it would be up to the parliament to resolve the impasse. Why not let the parliamentarians accept responsibility for their actions? The use of an umpire in such circumstances could be a cop-out for the parliamentarians.

Despite the debacle at the end of day two of this Convention, where Working Group 7's resolutions A and B were not carried forward, being resolutions most closely identified with the popular election model, I believe that this Convention should take every step to bring back on to the agenda for full consideration any resolutions which relate to the popular election model.

The people of Australia deserve to have their opinions taken into account in this Convention. Those elected to the Clem Jones Queensland Constitution republic team especially feel duty bound to the people of Queensland and Australia to do whatever they can to ensure that full consideration be given to the popular election model.

Some legitimate concerns have been raised with respect to features of a popularly elected president. We believe that these concerns are met by the provisions set out in the Clem Jones Queensland constitutional team discussion paper distributed at this Convention. An important part of the process of popular election is the nomination process. We propose that there be a presidential nomination council representing interests across state and

territory boundaries made up of organisations including the Business Council of Australia, the Australian Council of Trade Unions, the National Farmers Federation, the Aboriginal and Torres Strait Islander Commission, the Students Union of Australia and others. Members of the judiciary and representatives of the various parliaments around Australia would also be included.

Support from 30 out of 100 of these persons will be required to go forward as a candidate. In order to address any concerns with respect to party political involvement of candidates, it is proposed that, at the time of issuing of writs for election, such candidates not be parliamentarians or a member of a political party. It would not be lawful for a candidate to elicit support from a political party.

The popular election method has been criticised for allowing rich candidates to become president. We envisage that the government would fund the campaign of candidates to the extent necessary for the qualifications and individual electoral submissions of the candidates to be properly placed before the electors. Limitations will be imposed on advertising to ensure equality of exposure for all candidates. Campaign advertising would be limited by law so that all candidates should have equal exposure in all media, with the limitation of advertising size in the print media and equal time on television and radio. The publication of material advertising a political party on behalf of and in support of a presidential candidate will be unlawful.

The removal of head of state is often seen to be more problematical than the method of appointment or election. We provide under our model that the president may be impeached for stated misbehaviour. The charges would be referred to either of the houses of parliament of Australia. Effectively, one house of the parliament would prosecute the case and the other house would adjudicate. A two-thirds majority would be required in impeaching the president.

Denver Beanland, the Queensland Attorney-General, has suggested that a Queenslander could not be elected as a head of state under a popular election model. He refers to the appointment of the former Governor-General Bill Hayden and says that such circumstances are not likely to arise again. The reality is that any person elected by the people to be head of state will have a national profile. Whether that person is a Queenslander or from any other state will make no difference as to whether that person has a national profile. Furthermore, we have enough faith in the Australian people to elect the candidate of the highest calibre. Whether that person is a Queenslander, or a Tasmanian for that matter, is not the issue. We are appointing a person to a national position and we want a person of the highest calibre, irrespective of the state in which they reside.

In the early part of our history members of the aristocracy were appointed as Governors-General, including earls and barons. We then went through a period of appointing military personnel, such as brigadiers and field marshals. In the latter part of our history we have appointed lawyers or judges and ex-politicians. It is now time to move on to elect persons from a wider spectrum of our society, persons of the highest calibre who can truly represent our nation as head of state. We want somebody who the nation can embrace, somebody who can elevate our nation onto the world's stage. This can only be achieved to its fullest potential through popular election. Let us take a full-hearted approach to the republic and elect a president by the people. Do not take a half-hearted or minimalist position. Let us embrace change as an opportunity to govern our country better. Thank you.

CHAIRMAN—Thank you, Mr Muir. I call on Ms Karin Sowada to be followed by Linda Kirk.

Ms SOWADA—Thank you for the opportunity to speak today on this important question of the appointment and dismissal of the head of state. We have heard a number of proposals over the last day or so. I think we are starting to whittle them down to some workable ideas. I hope that we can reach a consensus at the end of the day on the best possible model for an Australian republic.

The Australian Republican Movement support the option of appointing the head of state by a two-thirds majority of the parliament. This proposal has been further developed by Working Group C. A number of speakers have elaborated in some detail on the merits of this proposal, so I will not labour the point again. However, I will say this: it is one of the safest methods for ensuring that the position of president retains the same powers enjoyed and exercised by the present position of Governor-General. It creates an open and transparent process whereby the parliament, the representatives of the people, make a considered and bipartisan decision.

Contrary to what some have already said, the two-thirds parliamentary appointment model will not result in a US Senate-style scrutiny of potential candidates. The Prime Minister would make one nomination to the parliament, which would undoubtedly have the support of the opposition to guarantee success. The level of debate about potential candidates would be no greater than the current scrutiny of potential High Court judges and potential governors-general. Certainly we could expect much less public debate and scrutiny than an election for archbishop in the Anglican Church.

We had three working groups discuss and consider the option of direct election. I oppose this model, not because I want to shore up the power of politicians but because I believe a direct election is unworkable and unwise within the Australian context. Despite our best efforts, a direct election would have the outcome that those who are fed up with politicians would dread—a politician would certainly end up in the job. The Irish presidential system is often held up as a model for direct election here. It should be noted in the words of the RAC report that, 'Every candidate nominated since 1938 could be said to belong to the political elite in so far as each had previously either sought election or been appointed to the Irish parliament.'

Phil Cleary in his election campaign speech the other day highlighted the candidacy of former Irish President Mary Robinson. Most agree she was an outstanding president, but she was a member of the Irish Senate for 20 years prior to her election. What is more, according to the RAC report, she was approached to run by the Irish Labour Party. Surely this outcome would be an anathema to those here and in the wider community who support the cause of direct election.

As in the American system, election campaigns would become the domains of political parties and those with money who could afford to run. It would ensure that with a popular base of support, the office of president would come to rival that of the Prime Minister's. In time, with political parties involved, the campaigns themselves would inevitably become politicised.

Is this what the Australian people want? It is for them to decide ultimately, but such an outcome is at odds with a general desire to depoliticise the process. Under such a circumstance, without complete codification of the reserve powers of the head of state, direct election is at odds with our system of government. It is probably unfortunate that the term 'president' has been used in this debate because it is, in the minds of many, synonymous with the American political system. I have no problem with retaining the term 'Governor-General', particularly if in an Australian republic state governors retain their own title.

But the American system of direct presidential election is one with which most Australians are familiar. American elections receive wide media coverage to be sure they are unique events. I had the privilege of attending the Democratic Party National Convention in Chicago last year. There is surely no greater spectacle or celebration of democracy at work, but we should not let a superficial understanding of the American system delude us into believing that this model is right for Australia. Their system of government is very different from ours, as the president occupies a different role as both head of state and head of government. However, this does not mean that this option should not be put on the table here and examined, particularly as a large number of Australians find it attractive.

What we need to have is a proper model for debate. Working Group F has made a serious

attempt to do so, but neither of the reports from the direct election of Working Group A, of which I was a member, and Working Group B discuss the method that might be used to dismiss the head of state. Neither report addresses the question of how the election process might produce a result.

Firstly, the direct election supporters have to address the question of how the process will not deliver a politician or an ex-politician without a punitive exclusion clause. Secondly, we have to ask the question whether it is fair to include such a provision at all. Is it fair to exclude politicians or ex-politicians from the process, in the same way that section 44 of the Constitution currently excludes public servants—a provision that many people feel is manifestly unfair? I hope that the groups considering further constitutional change might address this. An exclusion clause for politicians or ex-politicians would be at odds with the general desire to have a preamble reflecting Australian values of equity and a fair go.

A journalist covering this Convention has already highlighted a paradox of what people say they want and what Australians vote for. A large number of ex-politicians put themselves up for election to this Convention, including me. People have the option of not voting for those candidates. But the reality is that they were supported in large numbers. How many of the elected delegates here are former state or federal MPs currently serving or former members of local government? I counted at least 27 at a quick glance.

So how do we move forward? How do we reach agreement on a model which embraces the aspirations of Australians to have their say in selecting a head of state without creating a fundamental power shift in the Australian model of government? Perhaps we should look at a process of public consultation and nomination which might produce a name worthy of support by a two-thirds majority, or a 75 per cent majority, of a joint sitting.

The method of dismissal could be in accordance with the McGarvie model, and certainly this latter suggestion of dealing with the dismissal process is very attractive to many delegates. I note that Working Group C decided against this idea, but I would like to place it on the table again at this forum.

How might the nomination process work? Nominations could be made to a specially constituted, bipartisan parliamentary committee, with representatives drawn from the states, to sift through the nominations made by the public. Such a council has already been floated by Working Group C. Nominations could be made in the form of a petition, with a minimum number of signatures, say, 50 or 100, or it might be proper to take single nominations from individual members of the public. It would then be the task of the committee to examine these nominations to arrive at a short list for consideration by the Prime Minister and the Leader of the Opposition.

There would be no public hearings or official investigations of candidates, thus avoiding the US style ratification system, which I believe most delegates would find unsupportable. A single nomination would then be moved by the Prime Minister and seconded by the Leader of the Opposition at a joint sitting.

I urge delegates to consider this as an additional model for appointment and dismissal. It allows for an element of public participation; it allows for a selection of a head of state which will not fundamentally alter the powers of that office; and it provides for a non-political method of dismissal.

At the end of the day, all republicans present at this Convention may have to accept 60 per cent of something rather than 100 per cent of nothing. There is a range of views represented here, and we must earnestly seek the option which best fits our current system. The process of direct election of head of state does not. The two-thirds parliamentary appointment model, proposed by Working Group C, amended to include a process of public consultation, might be the way forward we have all been looking for.

Ms KIRK—Mr Chairman, delegates: this Constitutional Convention presents a unique and exciting challenge to those delegates who wish to see Australia move from a constitutional monarchy to a republic. There is an opportunity to develop a republican model

which will not only divest the British monarch of the executive power of the Commonwealth but serve this nation for the new century and beyond.

As a constitutional lawyer, I am honoured to be participating in what is undoubtedly the most important event in our constitutional history since Federation. In developing a republican constitution, we must ensure not only that the strengths of the present system are reproduced but also that we improve upon and enhance existing arrangements. I am confident that, at the end of this Convention, we will have developed a republican model which will be embraced by the Australian people at a referendum.

My remarks today will be limited to the method of dismissal of the head of state under a new republican constitution. I would first like to acknowledge a number of eminent constitutional lawyers who have assisted me enormously in the development of these ideas. The work of Professor George Winterton and the Hon. Richard McGarvie, and the eloquent addresses of Professor Greg Craven at this Convention have been most helpful to me. History will no doubt recognise the great contribution they have made to the debate.

The strength of our present system is that it provides for a stable and secure democracy. The Governor-General is vested with many significant powers under the Australian Constitution, including the power to appoint and dismiss a Prime Minister and to summon and dissolve parliament. In practice, these powers have been uncontroversial because their exercise is tightly constrained by constitutional convention. This requires that the powers are exercised only on the advice of the ministers of the elected government. The conventions are not rules of law and are not enforceable in the courts. The sanction for a breach of the convention that the Governor-General acts on advice is dismissal by the Queen on the advice of the Prime Minister.

If the powers of the head of state in a republic are to be substantially the same as under existing arrangements, then there must be an effective procedure to dismiss a head of state who acts without, or contrary to, advice.

While a great deal of time and energy at this Convention has been devoted to discussion of the various methods of appointment of the head of state, a lot less attention has been paid to the important question of how that head of state is to be removed. It is often assumed, for no apparent reason, that the method of removal of the head of state must mirror that of appointment. For example, the Keating model provided for appointment and removal of a head of state by a two-thirds majority of a joint sitting of parliament. This has been the preferred model of dismissal of a head of state of the Australian Republican Movement. However, most people have recognised that this is most unlikely to be effective to remove a head of state as no federal government for 50 years has had a two-thirds majority and it is political practice in Australia for oppositions to vote against governments. It is even less likely that a motion to remove a head of state would be supported in circumstances in which he or she is acting contrary to the government's interest.

There has been very little discussion by those who support a popular election of a head of state as to how that head of state would be removed. If the method of removal were to mirror that of appointment, then a referendum of the people would be required. Apart from the delay that this would involve, referendum, if it were to be similar to the process in section 128 it would first require the passage of legislation through both houses of parliament. Such legislation would be most unlikely to pass in the event that the government faced a hostile Senate which supported the actions of the head of state.

If the method of removal of the head of state is by either a special majority at a joint sitting of parliament or by the people, the head of state may be, effectively, undismissible in circumstances in which he or she refuses to act on government advice. The extensive powers exercised by the Governor-General now could, if transferred to a republican head of state who is effectively undismissible, lead to obstruction and frequent constitutional crisis. A head of state elected by the people could decide that he or she is bound to act contrary to advice in circumstances

where he or she perceives it to be against the interests of the people: for example, by refusing to assent to legislation.

It is for this reason that there must be a mechanism in a republican Constitution to ensure the prompt dismissal of a head of state who acts to obstruct or collude with a government to subvert the democratic process. In his most eloquent address yesterday in the chamber, Professor Craven outlined the three republican models that he believes should be seriously considered by delegates in their deliberations. These are the McGarvie model, the ARM's preferred model and the so-called hybrid model of appointment.

The republican model proposed by former Governor of Victoria Richard McGarvie has been outlined by him in the chamber here and has been discussed by many other delegates at this Convention. It is the method of dismissal of a head of state to which I will direct my comments in relation to this model. Under the McGarvie model, the Constitutional Council is bound to act on the Prime Minister's advice to appoint or dismiss a head of state. The sanction for failure to act within 14 days of receipt of the advice is automatic dismissal of the members of the council.

The advantage of the McGarvie model is that it takes the vital power of dismissal of a head of state out of the hands of a foreign monarch with little knowledge of Australian politics and gives it to a body comprised of Australians with recent experience in these matters. With respect, the disadvantage of the model is that it provides little more than a rubber stamp of the Prime Minister's decision to appoint—and, more significantly, to dismiss—a head of state. Although the Constitutional Council can provide advice and counsel to the Prime Minister, it must act on advice or face instant dismissal. This model gives exceptional power to a Prime Minister who seeks dismissal of a head of state for inappropriate, if not unconstitutional, reasons. As Professor George Winterton has observed, the model gives exceptional power to a Prime Minister who seeks dismissal of a head of state who warns of an intention to exercise reserve powers. This is not unlike existing arrangements if it is the case that the Queen would consider herself bound to act on the advice of the Prime Minister to dismiss. However, unlike the council, the monarch is not subject to dismissal should she exercise her recognised prerogative right to refuse to act on the advice of the Prime Minister to dismiss a Governor-General.

I will now turn to the Australian Republican Movement's model. The Australian Republican Movement has recognised the weaknesses in a method of removal of a head of state which requires a two-thirds majority of a joint sitting of federal parliament. Our preferred method of removal of a head of state is by simple majority of the House of Representatives. We believe that this model promotes prime ministerial government without jeopardising the position of a head of state who warns of an intention to exercise reserve powers. A head of state who acted contrary to advice would be advised of the Prime Minister's intention to recommend a motion to the House to remove him or her.

Under this model there would be need to provision to prevent a head of state from acting to dismiss a Prime Minister or a government who warned of an intention to dismiss the head of state. For example, there may be a provision to suspend the reserve powers of the head of state pending dismissal in the House of Representatives and/or a removal of the existing power of the Governor-General to prorogue parliament. Under this model, in circumstances where a head of state warns of an intention to exercise the reserve powers as occurred in 1975, dismissal of the president by the Prime Minister alone could not be effected to prevent the exercise of the reserve powers, as is the case under the existing arrangements and also the McGarvie model. The parliament would have the opportunity to hear the reasons for the dismissal of the head of state and the Australian people could make their judgment as to its appropriateness at the next election. *(Extension of time granted)*

The third option suggested by Professor Craven yesterday is the hybrid model. This provides for appointment by two-thirds majority of a joint sitting and removal by the Constitutional Council. There is no logical

reason why appointment and dismissal of a head of state need be by the same or similar body or method. In fact, there is an argument that the body that appoints should not remove a head of state.

Under the McGarvie model, it is conceivable that the Constitutional Council could appoint a head of state who refuses to act in accordance with government advice and who must therefore be removed by it. If this were to occur shortly after the head of state's appointment, the same men and woman would be involved in the decision to remove.

Delegates may be persuaded to consider limiting the role of the Constitutional Council to providing advice to the Prime Minister before a decision is made by the parliament to remove a head of state. If this model were adopted, the council would be limited to act only in times of constitutional crisis. This is a variation on what Professor Craven suggested yesterday. The council would not make the decision to dismiss; it would merely provide advice to the Prime Minister before a decision was made by the parliament—the House of Representatives—by simple majority to dismiss a president. This would promote prime ministerial government and the supremacy of parliament.

The knowledge and skills of the members of the Constitutional Council, being former governors-general, governors and justices, would be applied to provide counsel and guidance to a Prime Minister in delicate and difficult circumstances. Under this model, the council would not be involved in the decision as to who should be chosen as head of state. This should meet the criticisms of many delegates that the council would be an unrepresentative—even elitist—body. Its composition would not be of such significance if its role were limited to counsel and guidance in the decision by the parliament to dismiss a head of state. Delegates may even consider widening the role of the council to include a power to advise a head of state who was considering an exercise of the reserve powers. The Constitutional Council would be likely to be seen by the public as an impartial umpire due to its constitution and automatic selection.

May I conclude by saying that there is room for creativity in the design of a model which will replace the existing system with procedures that are uniquely Australian. I urge delegates to take up this challenge.

Mr GREEN—If what we have seen in the newspapers over the last few days can be believed, and if what we have heard being said in the chamber can also be believed, then the spiritual road to Damascus is extremely busy. There is traffic congestion. We have people moving up, people coming back, people moving on to Baghdad and people moving down to the Dead Sea. I think we all need to consider whether or not we are going to take this journey down the road to Damascus. If we do, once we start we should not look back.

During the election campaign in Tasmania, the question often put to me by republicans and others was which model did I favour. The choice put to me was the direct election of the president or a parliamentary election. Not to disregard the views of such people, I stated that I have always believed in the parliamentary process and in the appointment and dismissal of the president. This view is consistent with the position of the ARM. But, importantly, I stated that it would be interesting for the case for direct election to be fully explored at the Convention and that options should not be closed off.

The case for direct election needs to be judged on its merits, as with any other case, including the case for the status quo. The issue of direct election creates problems, and I need not go through them as they have already been dealt with by speakers. However, at present there is insufficient detail coming from the advocates of direct election to persuade me that that is the preferred model at this stage.

The Convention now I think is getting back on track and it is hoped that all the recommendations from the working groups can be proceeded with. As mentioned, of the three models I prefer, the option advanced by Working Group C is preferred. The McGarvie model certainly is attractive. I want to thank the Hon. Richard McGarvie for forwarding to me his proposal, along with accompanying

correspondence. I am of the opinion that the opportunity to advance Australia to a republic should not be lost because of some blind and uncompromising commitment to a preferred model.

As I said, the McGarvie model is attractive, but there are problems I see with a triumvirate assuming the role of Her Majesty in the appointment of the head of state. Unfortunately judges do not always get it right, and the hierarchy of courts I think demonstrates that. Indeed, governors-general and governors do not always get it right. The triumvirate is not necessarily a bad idea, but perhaps it could be more broadly based as regards skills and qualifications. The McGarvie model is certainly workable and should not be lost if at the end of the day an impasse is to be created as to which preferred model of republicanism in Australia is to advance.

Preferred models can be adopted with modification if such modifications are constitutionally sound, workable, have public endorsement and do not remove the role of the states or territories. I contend that, whatever republican model is adopted, public involvement is essential to keep faith with the people and to give the public some participatory role. Involvement of the states, I stress, is also essential. Working Group C involves the federal parliament and therefore involves the states and territories through their elected representatives. Over the years, the states have struggled to have a voice in consideration of treaties that the federal government proposes to enter into which affect the states. The states have struggled to be consulted about High Court appointments. Surely there should be a mechanism to involve the states in the important question of who is to be the head of state.

An advance on the Working Group C proposal by some consideration of public involvement and particularly involvement of the state and territory parliaments seems to me desirable. Indeed, such a method or process could also be considered in relation to expanding the model advanced by Richard McGarvie. The position of the states and territories needs to be considered. It is important that the states are carried by this Convention in determining a preferred model if the status quo is not to prevail. Recommendations for the working groups should go forward.

Ms MARY KELLY—As you know, I support and give preference to full codification and popular election as a package. But I want to pick up on a thread that runs through all of our debates. For me, the thread which connects the powers question to the election and appointment question is the Australian people's alienation from the political process. It is also a thread that, if teased out, drives us all in a certain direction on the appointment and dismissal question.

How did the idea of popular election take hold in the community? For a while I found it puzzling. Where did this longing come from? It is not as though people already had a direct say in the Governor-General now or even that they were overwhelmed with love for that position. Many people are barely aware of it. No, it is because we were offered two choices. Who should choose the head of state: two-thirds of parliament or all citizens? That was no contest out there. People did not trust their own elected representatives to choose for them. In fact, they actively opposed it on the grounds that those representatives would just pick someone like themselves, a politician.

People's alienation from their representatives has been noticeable for about a decade and has been increasing over that period. This alienation has increased their sense of aloneness and vulnerability. They feel without a champion or protector, and troubled economic times has fuelled and reinforced that feeling. No wonder they want to reinvent a champion and protector in the position of the head of state.

This is a state of affairs that worries me deeply. I want to make it clear that I do not want to capitalise on people's dislike for politicians; I want to reverse it. I see it as part of a broader social malaise which I call the slow death of active citizenship. I have spent most of my life trying to reverse that—for 10 years as a high school teacher getting students to engage in citizenship activities and civic duties, for 10 years as an elected union official getting teachers around the country to

engage in public policy formation both professionally and industrially, and in a different way now in my own job.

I have America in my peripheral vision where the 'government as enemy' mantra has led to violence in some cases. Part of why the popular election idea has taken hold in the public mind is also because the head of state is being considered in an artificially separated way from the rest of parliament—the two houses—and this has served to iconise the role and lead people to invest all their hopes and aspirations in it. It may be that if reforms to the two houses were also on the agenda, both this one and the public agenda, people's focus on popular election would be less intense. This Convention, however, chose not to broaden the agenda. In any case it is too late, the horse has bolted and people have it in their heads. If the option is taken away from them, they will experience it as theft and their cynicism and alienation will increase, and the slow death of active citizenship will be given another boost.

I am not a populist. I am deeply distrustful of populism. For example, it would not matter to me how many polls showed people overwhelmingly supported, say, capital punishment. Nothing would make me vote for it. I think popular election with codification is the way to go, not just because people want it but because it will help to reverse the slow death of active citizenship. People's desire for popular election can be seen not just as a barrier to the perfect model but as a gift to be used for good. Accompanied by full codification, popular election could be used to reconnect people to their governance structures. There would be a ripple effect into the two houses of parliament. I believe that it would assist people to feel again part of Australia's major decision making structures. If we followed it up at the next convention or like discussion with some overdue reforms to the two houses, we would have the whole picture about right.

When the motion for full codification, which for many is part and parcel of popular election, was so briskly and brutally knocked off on day 2, I was angered. It is the sort of factional blocking behaviour which people recognise and dislike about their politicians and would have sent out a very negative message. It caused delegates like me, whose support for popular election has always been conditional, to become loud advocates of it, to get it back in the picture. From a pro-republican point of view, it was also a very high-risk strategy. I agree with Peter Beattie's assessment and that of others that the minimalist republican model is defeatable in a referendum.

In terms of nomination, I support open nomination with some sort of short-listing or filtering process, the values and criteria for which need to be explicit and the decisions non-appealable. For those who point to the reluctance of former Governors-General who have performed well to subject themselves to or nominate for such a process, I point out that the potential for greatness is widespread in our community and not confined to those who are like those who have already displayed it.

I am sure we all struggle in our own way to make the world a better place. I conceive of that struggle in inheritance terms. That is, we take the work of our forebears and build on it and hand it on to our children. Our task then becomes not just to persist in the time we are given in our efforts but to be on the lookout for those moments and turning points that come our way and to use them and not waste them. I have come to the view that people's desire for popular election is one of those gift moments and one of those opportunities for a quantum leap in reform that may not be available again for decades; and I do not want to see it wasted. In the lead-up to the new century people will be more open-minded and adventurous than in the past and that the next few years is an open moment in Australia's history. It is entirely possible, as well as desirable, that popular election with full codification could succeed in a referendum, and certainly in a multiple choice plebiscite.

Out of respect for the dialogue still to be completed, I will be voting for all pro-republican options this afternoon, that is, A, B, C, D and F, but in the knowledge that if we end up

in a plebiscite debate all options return anyway.

Finally, I want to say that my pro-republican, pro-popular election and pro-codification views are not driven by worrying about who opens the Olympics. I do not care whether the flag changes and what the head of state is called. I have no objections to former politicians becoming heads of state; I just do not want anyone who becomes a head of state to have political powers to exercise. I do not really care about those symbols and trappings. What engages me is the real life of our citizens and reversing the slow death of active citizenship. The best way to do that is to combine popular election with full codification as represented in resolutions 7A and 7B from day two.

CHAIRMAN—Before I call on Dr David Flint, I remind delegates that we still have quite a long list of people to hear. Technically we should have been in the speakers from the floor section at this stage but, because we have had so many who have not spoken before, I thought it better to allow the 10-minute speeches. We are due to consider the report from the Resolutions Group at 12 o'clock. I will therefore allow 10-minute speeches until then. After Mr Clem Jones we will cut off speakers on the 10 minutes, and immediately after lunch when we resume we will go back to the speakers from the floor, which means that each speaker will have only five minutes instead of 10 minutes, which will allow more speakers to get on.

So to forewarn you, I give notice that after calling Dr David Flint I will call Mr Clem Jones, and we should then be able to receive the report from the Resolutions Group and subject to the time taken for that debate, for which we have allowed until 1 o'clock, we will adjourn for lunch. Immediately after lunch we will return and five minutes will be allowed for all subsequent speakers on the same group of issues we have been debating this morning.

Dr FLINT—Delegates, Mr Sutherland graciously gave me his place in the list, but he did ask me to draw your attention to page 141 of yesterday's *Hansard* in which he is reported as interjecting, 'What about Keating?' Mr Sutherland asked me to tell you that he did not interject. But he did not ask me to tell you what he thinks about Mr Keating or how often he thinks about Mr Keating.

I take as my test these words from the annals of Tacitus: re publicae forma laudari facilius quam evenire; that is, it is easier to praise a republican model than to make it work. The founders of this nation made a remarkable achievement, which is recorded in Quick and Garran:

> Never before have a group of self governing independent communities, without external pressure or foreign complications, deliberately chosen to come together as one people from a simple and intellectual conviction of the folly of disunion and the advantages of nationhood.

The great benefit of that constitution is that it gives us a head of state which is, above all, benign and we are here, I hope, to protect that benign head of state from becoming malignant.

Randolph Churchill once underwent an operation for a suspected cancer. Mostly they found that it was benign, about which Evelyn Waugh mischievously observed:

> Such are the wonders of British medicine that when they opened up dear Randolph, they found the only part of him that is not malignant.

Delegates, let us open the republican models and, perhaps with Tacitus, we may praise them but we should ask, do they work? Apart from the direct election model, we have two models which Mr Paddy McGuinness describes as the 'stuffed shirt' models. So we have the two stuffed shirt models.

The method of appointment in the Keating version has been well debated here but it lacks, as we know, the informality and speed of our present constitution, although I must say I doubt the proposition made yesterday that Her Majesty would act on the telephone call; certainly she would not after that Quebecois disc jockey telephoned her live on radio posing as the Canadian Prime Minister.

While the two-thirds vote may provide a stuffed shirt, there is no guarantee that it will provide a virtuous stuffed shirt. The new President of Pakistan, elected in the last few weeks, is not the sort of president that you or

I would wish. He will be obviously the Prime Minister's man. The new President did not obtain a two-thirds majority; he obtained a majority in the parliamentary college of 78 per cent, and he is no virtuous stuffed shirt.

The method of appointment proposed in the Keating model would send shivers down the backs of the American founding fathers. As Hamilton argued, there must be no connection between the President and the Congress. If the President is to be fearless in his treatment of Congress, he must not owe his election to them.

But the fundamental weakness of the Keating model is the same as the ARM pointed out in relation to direct election—it desperately needs codification. A two-thirds election is a two-thirds vote and a two-thirds majority is the mother of all mandates. As Bill Hayden says, the president is capable of turning out not only as a first-rate nuisance but worse. What the Keating model will result in is something akin to the French 5th republic, where there is a permanent tension between the Elysee Palace and the Hotel Matignon.

Why should we follow France in 200 years? She has had 16 constitutions, five republics, three monarchies, two empires and a number of revolutionary and dictatorial regimes. The sanction in Westminster is in the dismissal. As Hardin says about parliamentary Westminster systems, they can 'quickly, expeditiously and legitimately replace leaders who have been found inadequate for the occasion'. That is the virtue of Westminster. History tells us that any attempt to graft a republic onto Westminster invariably results in an inferior model.

Does the model proposed by the eloquent Mr McGarvie provide the solution? Let us look at dismissal. Will the judges on the Constitutional Council require that natural justice be given to the president and that the president must have notice that the grounds, the breaches of the Convention which have occurred, are set out in the notice of dismissal? Will the judges on the Constitutional Council ask for proof of the conventions? Have the conventions carried over into the republic? One problem which Mr Evan Whitton points out is that sometimes judges have a strange view of the world. He says that there is something in the common law water perhaps. Others say that perhaps former judges and governors may suffer from limelight deprivation and they may need to prolong the proceedings.

What is the problem? Is there a problem if these models produce delay and instability in the time that a dismissal is proposed and a dismissal is realised? In 1975 the situation was very different. In 1975 Australia was a closed economy. Things are different now. We are a global economy. The judges of what happens in Australia are Messrs Standard and Poor and Moody's, and they are tougher than Texan judges. The decision and the execution will follow very quickly if we are having an unstable period of government. It will be the economy and employment and the dollar which will suffer.

Juan Linz, in his review of East European attempts to establish legitimate democracies, says that crises in Westminster systems are crises of government. Crises in presidential systems are more likely than not to be crises of regimes. Does this mean that we will have a first republic and a second republic? Will we be like our neighbour, Fiji, which had a bicultural monarchy, moved to a racist republic and is in the process of moving back to a bicultural monarchy?

The worst problem, I fear, with Mr McGarvie's model is the danger of political capture. You have all heard of regulatory capture; this is political capture. The example is Sweden. In Sweden in 1974, it was decided to hand the king's reserve powers to the Speaker. The Speaker before that was a position seen to be above the political battle.

Immediately after 1974, the Convention about the election of the Speaker was torn up. It became a political prize. That is the danger—that, once it is seen that positions lead to positions of power, they will become political prizes, as we have seen in Pakistan. In Pakistan, not only has the President been a political prize but now also the Chief Justice is. The last Chief Justice was ousted a few weeks ago by the other judges because

he was seen to be in opposition to the Prime Minister.

The final model is the American model, the direct election model. If the Australian people, after an informed debate, come to the conclusion that they wish to directly elect their president, they should look seriously at the American model.

What is the solution? The solution, I suspect, is in another country—another country which on every economic indicator outperforms us, which sits at the top table in the economic and political councils of the world; a country which has a Bill of Rights; a country whose people and diplomats have no difficulty in explaining to other people whom their head of state is and how the head of state is chosen. That country, of course, is Canada. As Professor Edward McWhinney, the leading Canadian international legal expert, says, anybody who pushed a republic in Canada would be dismissed as an incompetent obsessed with trivia.

CHAIRMAN—I am afraid your time has expired, Dr Flint. As we have no time for an extension, I am afraid we have run out of time. We have 10 minutes to get on to what we determined yesterday would happen at 12 noon. I am sorry.

Dr CLEM JONES—First of all, I thank you, Mr Chairman, for your indulgence in allowing me to speak at this time. I intended to speak yesterday afternoon and to say something which I probably would not say today. But, unfortunately, I issued my speech to the press before I came in to make it, and you, Mr Chairman, have kindly allowed me to make that speech now.

First of all, I would like to refer to a paper submitted by the Hon. Mike Rann. He said:

> Most if not all of us hold strong views about the issues we are charged to discuss during the next two weeks. We would be foolish however to cling to either rigid dogma or to a fixed non-negotiable formula. To do so would be to fail the Australian people and, just as importantly, to fail the test of history. As delegates we must have open minds rather than pretend pompously to know all the answers.

On Tuesday we witnessed a situation which I found totally deplorable. We saw the very antithesis of the republican philosophy which surely guides us in our other deliberations—the philosophy espoused by Mr Rann when he said it would be foolish to cling to rigid dogmas or an affixed non-negotiable formula.

Perhaps we did not cling on Tuesday to a fixed non-negotiable dogma, but we certainly excluded one of the most vital considerations, one of the major concepts which needed to be discussed at this Convention, the most important aspect perhaps of our deliberations: fundamental to the concept of a republic is the right of people to participate in it. Where should that start? Surely at the very beginning in the determination of the nature of a republic which suits the needs and culture of our society.

On Tuesday the ARM was responsible for a situation whereby no constructive proposal for the election of a head of state by the people could be presented to either this Convention or the people of Australia. Hopefully that will be remedied, but it must be an intentional effort to remedy it and not just a postponement of the same thing.

Malcolm Turnbull may have the numbers to achieve this sort of thing in this chamber; he does not have them in the suburbs of our city in the broadacres of our nation. The people of this country will eventually tell him that. But the sad result is likely to be, as has been so well expressed by others already, that we will not have a republic, or at least a true republic, in this country perhaps for a generation to come.

Even worse, if perchance their model—or indeed any other possible model or now possible model—were accepted, there will never be a change to provide for the say of the people in the choice of their head of state. Once the power has become enshrined in the parliament, politicians will never let it go. The man who has personally been responsible for this, the man who seeks to espouse the cause, the man who seeks to be the father of it, Malcolm Turnbull, has become its potential destroyer. Sadly, had that man done as he promised to do—to take note of the wishes of the people and to meet them—he could have retained the title of 'Father of the Republic'. Unfortunately, if the path along which he

wishes us to tread is successful, I believe that he will become known as the Mother of destruction.

Mr TURNBULL—Are you proposing a sex change, Clem?

Dr CLEM JONES—I do not know, I would not have any knowledge of what happens to mothers of disaster. May I make one of two appeals. The first is to the monarchists, whose integrity of purpose one must admire. We tried to arrange to have the votes on the vital question earlier to enable them to participate in the discussions on the nature of the various other models for a republic. I again appeal to them to support this idea so that we can have input from those people who have vast experience in the government of this country, vast experience in the way this country has developed to play their part in developing these models that we have been talking about over the last few days.

I would like to make a second appeal. I am not quite sure how it can be achieved. Perhaps it should be initiated from the chair or perhaps from the Prime Minister. The plea I make is that we give some thought to the necessity perhaps of having a plebiscite following this Convention to decide which of the three models generally canvassed should go before the people so that we may let the people decide.

Let me now touch on the most hysterical red herring that Malcolm Turnbull has set swimming in the murky waters of his various presentations in opposition to having the people of Australia make a contribution to this exercise. This is his suggestion: that popular election of the president would mean greater powers for the Senate in relation to the granting of supply. May I submit that this is a total and absolute furphy. I think Professor O'Brien described it as nonsense, but he is more polite than I am.

I am not a lawyer, but I do not believe that it is beyond the capacity of those eminent in that area who are here today and perhaps elsewhere in this nation to provide in our Constitution that the head of state, among other things, should not dissolve the House of Representatives consequent upon the Senate refusing supply unless requested to do so by the House of Representatives or perhaps the Prime Minister. I do not believe that it is not possible to simply provide that in the codification that you have as necessary in the development of a republic.

I do not propose at this time to go through the proposals of the working groups except to refer quickly to the claims made that it is not possible to provide safeguards against conflict between the head of state and the Prime Minister—if the people elect the former that it is not possible to avoid political overtones of various kinds in such an election and so on. You will have noted that there has been a careful avoidance to present in this context of the Clem Jones Queensland Constitutional Republic Team codification of the proposed powers and functions of the president of the Commonwealth of Australia, widely circulated to delegates. We have made it clear that we are not dogmatic in this presentation.

After talking to people from all walks of life, we have come up with a proposal and I will read it. David Muir has already mentioned some of the proposals to you. I will quickly state the conditions which we provide for the election of a president—you will see that it covers the point that has been made so often in this chamber so far: that the candidates for president must not at the time of the issuing of writs for such an election be a member of a house of parliament of the Commonwealth of Australia nor a member of any house of parliament of any of the states or territories; that candidates for president must not at the time of issuing of writs for such an election be a member of a political party; and that the president during his or her term of office shall not be a member of a party.

This is the important one from this point of view: it will not be unlawful and cause the nomination of a candidate for the office of president to be declared invalid if during an election for such office he or she actively seeks support for or from a party or candidates contesting a concurrent election, and we provide for the election to be held at the same time as the House of Representatives election for the parliament of the Commonwealth of Australia.

It will be unlawful and cause a nomination of candidate for the Senate and House of Representatives to be declared unlawful if during an election for such office he or she actively seeks support for or from a candidate contesting the concurrent election for the office of president in the Commonwealth of Australia. I think that would conclusively deal with it if it were introduced—and it can be—into the electoral act or, where necessary, into the Constitution. We advise that there is no impediment to making that requirement of candidates for election.

I believe we are moving towards a plebiscite at this time. I think the events of the last three days have shown that we are going to have great difficulty in coming to any consensus. If the various factions should, if that is the case, move towards putting their best form of what they believe in, not the emasculated form which will come out of the working groups as they are now structured, I suggest the advancement of the idea of a plebiscite should be considered by this Convention. If we are not going—as I believe is the case—to achieve an acceptable consensus, then this would give the people of Australia the best opportunity of choosing the option which would then be presented to them in the best possible form.

I leave you with the thought that there are urgent issues of intent and integrity in the achievement of our goals still before this chamber. They urgently need to be addressed by this Convention. This means a change in direction and I urge you that we take it.

Brigadier GARLAND—Mr Chairman, I raise a point of order. During the discussions this morning there have been a number of extensions allowed to various speakers. Indeed, Delegate Mary Delahunty was not only given an extension but also got an extra minute after the extension expired in order to complete her speech. I believe that was discrimination when the vote was not even put to the floor for Dr Flint. I believe that should be remedied. I believe the remarks that he was unable to make in an extension period should be incorporated not just into the proceedings of the day but also into the *Hansard*.

CHAIRMAN—Thank you very much, Brigadier Garland. You should note that Dr Flint is here as a proxy, that he was allowed time as a person who had not spoken, although Sir David Smith, whose place he is taking, has already spoken on a number of occasions. For that reason, he was allowed on the agenda with 10 minutes whereas those speakers this afternoon are to be allowed only five. In the circumstances, and as we decided yesterday that at 12 o'clock we are going to consider the resolution from the resolutions committee, I believe it appropriate that we should do that.

Brigadier Garland has moved that the balance of Dr Flint's speech be incorporated in *Hansard*. I point out to you that that is not possible because I do not know whether Dr Flint was speaking from a written note. In any event, the basis of incorporation of material into *Hansard* is laid down in our rules of debate. I suspend the debate on the matter before the chair: that is, the working group reports.

In accordance with yesterday's decision, I now propose to receive the Resolutions Group proposal concerning Convention procedures and role of the Resolutions Group. This will be considered on the basis of the Attorney-General, Mr Daryl Williams, who will be presenting the report. He will be followed, if need be, by Mr Gareth Evans, within a total allocated time slot of 15 minutes. Subsequently, up to 1 o'clock, if need be, intervention from the floor will be allowed for three minutes per person. The debate will then be adjourned and the vote will be taken at 4 p.m. so that all delegates, having had this opportunity for a debate, will have an opportunity to consider the report between the time of the presentation now and the putting of the vote at 4 o'clock. If there are amendments or if there are other proposals, they will be capable of being put during the period up to 1 o'clock, but no questions themselves nor votes will be taken until 4 o'clock this afternoon. I call on Mr Daryl Williams to present the report on behalf of the Resolutions Group.

Mr WILLIAMS—The report I am presenting, an oral one, is effectively a unanimous report of the Resolutions Group. The Resolu-

tions Group has wide ranging representation on it. I therefore anticipate and hope that the time allowed for debate on this will prove unnecessary and that the recommendations will meet with the unanimous agreement of the Convention. Let me start with highlighting that there are three separate resolutions, A, B and C, recommended. You should have had a copy circulated to you on green paper. First, I draw attention to B(2). The role of the Resolutions Group is seen by that group in the terms of paragraph B(2):

> The primary responsibility of the Resolutions Group is to formulate for consideration by the Convention in its Final Plenary Sessions—

that is, on days nine and 10—

> a series of draft resolutions—

to be called 'final plenary resolutions'—

> which as systematically and comprehensively as practicable expose for debate and decision all those proposals which, in the judgement of the Resolutions Group, have attracted significant support amongst Convention delegates.

The resolutions in A and B address how that result might be achieved. Resolution B(3) states:

> In formulating Final Plenary Resolutions the Resolutions Group shall take into account:
>
> (a) debates that have already taken place;
>
> (b) all those resolutions which achieve, on a counted vote or in the judgement of the Chairman, at least 25% support in plenary session; and
>
> (c) any further amendments or proposed resolutions forwarded to the Resolutions Group by any delegate which, in the judgement of the Resolutions Group, assist it in exposing issues for Final Plenary Session debate in accordance with its obligation under Resolution (2).

That gives a fairly wide term of reference in that respect to the Resolutions Group. It will be able to have access to a wide range of material in preparing the final plenary resolutions for consideration by the Convention. But that will not be the end of it as far as the Convention is concerned because, as noted in (4), the final plenary resolutions will remain subject to additional amendments, which may even be moved from the floor during the final plenary session.

There has been some debate, and in foreshadowing this motion yesterday Gareth Evans referred expressly to the motions that have been dealt with in the first voting session being excluded if they did not achieve 50 per cent support. Resolution A(1) is designed to achieve a greater degree of flexibility there. In future plenary sessions it is recommended that on key issues all resolutions that achieve a level of support of at least 25 per cent of delegates present and voting, either on a counted vote or, in the absence of a count, in the judgment of the chairman, should be forwarded to the Resolutions Group with a view to their subject matter being further considered by the Convention.

They represent the distilled wisdom of the members of the Resolutions Group in relation to the process by which final plenary resolutions are to be developed for consideration in the final plenary session. The group has also considered what might happen at the final plenary sessions and in C, resolution 5, it is proposed to request the Chairman and Deputy Chairman, in consultation with the Resolutions Group, to bring forward a proposal for a two-stage process for the final plenary sessions, whereby in the event of no clear preference as between options emerging from the deliberations in stage 1, a further opportunity would be given in stage 2 for that preference to be expressed.

The situation that is contemplated there is that there could be a number of results in the final voting. It is contemplated that there will be models prepared of those models which achieve a modicum of support—the popular election model, the parliamentary election model, the McGarvie model and the status quo—and each of those will be considered separately. There will then be consideration, at least among the republican models, as to which is the preferred republican model.

The situation may be reached where there is no majority support for one model. It may also be the case that two models or three models achieve similar levels of support. The object of the Convention being to put a model to the government as a preferred model for a possible referendum, it would be appropriate, in the event that the first stage of voting does not achieve an identification of a preferred model, that there be a further stage of con-

sideration with a view to seeing whether that result can be achieved. On that basis, there would need to be some appropriate procedure developed, which the Resolutions Group requests the Chairman and Deputy Chairman to consider in consultation with it.

There are two other matters. In the course of Gareth's preliminary report yesterday, mention was made of the possibility of voting on resolutions coming from working groups being sequential. The Resolutions Group proposes to request the Chairman and Deputy Chairman, in consultation with the group, to bring forward a proposal to the Convention to amend the order of proceedings to require consideration of working group resolutions in plenary sessions on days 4, 6, 7 and 8 to proceed on a sequential basis with voting on each resolution following immediately after consideration for not more than 20 minutes of that resolution. This would require amendment of the agenda and the time for debate. In the case of day 4—namely, today—it would require the plenary debate and voting to be brought forward by one hour.

It is not suggested that that is a matter for debate by the Convention now; that is a matter for the Chairman and Deputy Chairman to consider and, if appropriate, bring a suggestion to the Convention. If there is to be action to bring forward by one hour the plenary debate and voting today, then it would be appropriate, the rapporteurs suggest, to bring forward the voting on the resolutions that are now being proposed—namely, A, B and C—by one hour.

I have dealt with A, B and C together in one report. It may be appropriate that they be separately debated if it is the wish of the Convention to debate them at any length.

CHAIRMAN—Thank you, Mr Williams. There has now been a proposal, firstly from Mr Williams's review, sequentially, of A, B and C. Do you have a question on the general part or on A, Mr Ruxton?

Mr RUXTON—I would like to ask you a question. What the Attorney-General has just put forward means that those resolutions on day 2 are now null and void; is that correct?

CHAIRMAN—No, what it means is that, as I indicated, in order to accommodate Mr Gifford's remark the other day it would be possible for the Resolutions Committee to come forward on the final day with those resolutions that have been passed. This Convention, when it considers the Resolutions Committee report, will begin with the resolutions that have been passed. Having considered the Resolutions Committee, we will look at the Resolutions Committee report as the basis for further consideration by this Convention of all those resolutions which have been put and passed. So the answer to your question is no. Until such stage as those resolutions are varied by the will of this Convention they remain resolutions, but only provisional resolutions. It has always been the basis that final resolutions will be put before the Convention on day nine.

Mr RUXTON—All I can say is that you have an Attorney-General and a former Attorney-General of different political persuasions coming up with a proposition—I have never heard of a 25 per cent majority going forward anywhere. This is real snake oil. It is snake oil by the snake charmers over there. A 25 per cent majority—and that is if it is carried. I am sorry, Sir, I find that as something of risk.

CHAIRMAN—Thank you. We will take that as an intervention to which either the Attorney-General or Mr Evans will respond in due course. Are there any further interventions, either as general comment on the whole or in particular on A, B and C?

Professor PATRICK O'BRIEN—If I heard correctly, did Daryl Williams say that the vote will be put forward to 3 o'clock this afternoon?

CHAIRMAN—I was going to come to that in a moment. We cannot put a vote until we have taken a vote. The time allocated for voting is 4 o'clock. I am afraid it is not possible for us to advance that vote because we have already decided, under our order of proceedings, that there will be no vote taken until 4 p.m. So the request with regard to day four is not capable of being considered because of the earlier decision.

Professor PATRICK O'BRIEN—I believe that we should stick to whatever timetable was announced in today's sheet simply because it is possible that delegates may have made arrangements on that basis. I do not think we should jump around with the times, because it just creates total uncertainty. We should stick to what was circulated this morning.

Mr GARETH EVANS—Whatever may be the merits of dealing with it earlier rather than later, just on the process: is it not possible for the Convention at any stage to move that so much of standing orders be suspended as would enable the Convention to do something different from that which is in its standing orders? It is really quite absurd to be locked in if there is a mood to do something that we all want to do.

CHAIRMAN—Regrettably, we agreed to an order of proceedings and I would uphold the point that Professor O'Brien made that we agreed that there would be no votes before 4 p.m. Therefore, while you can move it, there can be no vote taken on that suspension of standing orders relating to 4 p.m.

Mr WRAN—Mr Chairman, I rise on a point of explanation. Clause B(3)(c) seems to me to give rise to the possibility of ambiguity. It refers to further amendments forwarded to the Resolutions Group. It is important that we delegates understand, if amendments are moved to the resolutions that go forward, how those resolutions will be dealt with by the committee and in what form they will come to the final plenary session.

For instance—this is very hypothetical—if there were a resolution with the Resolutions Group that a college of 400 persons be formed and after today there were an amendment that that should be 500 persons, would that amendment come back to the final plenary session or would it be dealt with by the committee and perhaps be incorporated in the original resolution? I think we need to know exactly what happens to amendments that are moved or submitted between now and the final plenary session.

Mr GARETH EVANS—You cannot legislate for commonsense. The intention is that the Resolutions Group nonetheless apply commonsense. The intention of the whole exercise, as explained in (2), is to bring forward at the end of the day resolutions which will assist the Convention move forward to an effective determination of the issues.

Obviously what the Resolutions Group will take into account is any further material coming to it by way of draft amendments or draft resolutions which do seem to reflect significant currents of view that are running in the Convention, that have been the product of further discussion, consultation, negotiation, or whatever, in order to expose clearly the issues for Convention delegates at the end of the day. That is the intention of the exercise.

If, for example, on the one that you put—you have got a model emerging from the votes this afternoon proposing a college of 400—there is discussion over the weekend by the proponents of that particular thing and they have obviously got together and said, 'It is a better proposal to make it 500, and we are advised in those terms,' it would go forward as 500. If you have got an individual delegate thinking in his own wisdom, but without consultation with anybody else, that it would be better if it were 500, probably, in that example, the Resolutions Group would say, 'No, leave it in the form in which it was moved originally'- bearing in mind, and this is the final point, that it is always possible for any delegate to move from the floor or indeed, hopefully before we get to the final session, for any further amendment to enable a particular point of view to be exposed.

I add one more thing that I do not think Daryl mentioned in his further report. On the assumption that we will get to the final plenary session on Thursday, day 9, it is the intention of the Resolutions Group to have these final draft resolutions circulated to delegates the day before, on the Wednesday. Delegates will also be asked, if they have any amendments to the proposals coming forward to them from the Resolutions Group, to give them to the Resolutions Group on the Wednesday with a view to those further amendments being actually on the *Notice Paper* in their relevant places to enable again a clearer,

less messy debate on the Thursday. That is the way we do it at ALP national conferences. It seems to work quite well, actually. We hope that that will assist. The whole point of the exercise is to have as commonsensical a fashion exposure of the issues.

Mr HOWARD—Mr Chairman, could I seek your guidance, and that perhaps of the rest of the Convention, on the question of the way in which the final question is put on day 10. It seems to me that there are two alternatives: you can have either a question generically phrased or the question: 'Should Australia become a republic on the basis that the republic be in this particular form?'

My own view at this stage is that the way in which the final resolution should be handled is to, first of all, deal with the successive elimination of republican options; then that the one that receives the most support should then be pitted against the status quo in the final vote. That would seem to me to more sharply define the views of the Convention.

Obviously, delegates may have different views on that. But I just want an understanding that we are not selling the pass on any particular approach, and that we have an opportunity when we get to the final day to be perfectly clear as to the way in which that is going to be handled. I think it is very important to the conduct, and it is also very important to allowing people who may have a view in favour of the status quo to nonetheless express a view about the least worst alternatives—and I think that is very important in the spirit of a constructive approach.

CHAIRMAN—Thank you, Prime Minister. Can I respond by saying that it had been my thinking that, if we are to take the vote at the end of day 9 on the preferred model, whatever the form of the final question, given the undertakings that you have made on behalf of the government, it will, in fact, be measuring the status quo against the model that has emerged from this Convention—because, as you will all know, the Prime Minister has stated that he intends to consider the report from this Convention having in mind a subsequent referendum. That report, I would have thought, would therefore be predicated on whatever model this Convention might submit. So the final question—whatever its form, it will pick up the fact that it will be the model that emerges from this Convention.

Mr HOWARD—Let us assume that there is majority support—and this is just for the purposes of discussion, and I stress that so as not to offend anybody—for, say, the ARM proposal. I would have thought the final question should be: 'Do you favour Australia becoming a republic on the basis that the head of state shall be chosen by a vote of two-thirds of the Commonwealth parliament, et cetera? Yes or no.'

The previous question has been put on the basis: 'If Australia were to become a republic, do you favour McGarvie, do you favour a direct election, do you favour two-thirds?' I think we should vote on those first, and then the victor that comes from that should be pitted against the status quo. I think that is the most authentic way. At some stage, if that is to be the view of the Convention, I would like that to be affirmed so that there is no misunderstanding about it.

CHAIRMAN—Thank you, Prime Minister. I call on Dr Gallop.

Dr GALLOP—Mr Chairman, could I perhaps just ask the Prime Minister to clarify what he is saying. Just on the first hearing of his proposition, it occurred to me that, in respect of those first votes that you were talking about, all of those people at this Convention who are, in fact, opposed to a republic and believe in the status quo would influence the outcome from that process and then, of course, be able to vote for the status quo. Is that the correction interpretation of what you said?

Mr HOWARD—If you believe that everybody should approach this constructively, the answer is that, as a supporter of the status quo, I think some of the alternatives are worse than others. Therefore, I think it is appropriate and democratic and proper that people of that view should be able to express that view during the preliminary votes, yes.

CHAIRMAN—In order to accommodate the Prime Minister's view, can I point out that at the end of day 6 we are quite capable of reaching a point where we then submit for

day 7 the question that he has suggested. I first call on Mr Turnbull.

Mr TURNBULL—Mr Chairman, the most important question for this Convention to consider, surely, is whether it recommends to parliament that it put a particular republican model to the people in a referendum. I think the view of this gathering on whether Australia should be a republic or not is no doubt something worth having. We have to bear in mind that only half of the delegates have been elected—and, after all, we were elected to come to a convention and consider particular models and come up with a recommendation.

I think we need to perhaps refine what the Prime Minister is actually seeking here; I am not entirely clear. But it seems to me that the key resolution is a recommendation to government that a particular model be put to the people in a referendum. Then they, the Australian people, will decide, in accordance with their Constitution, whether it is changed or not.

Mr MUIR—I express the strong opinion that we should stick to the three questions that were, and have been, outlined for a long time; that is, the threshold question about whether there should be a change to a republic, the second question relating to the kind of republic and so on. The suggestion, as I understand it here this morning, is that there be a significant change to that order of business. Delegates have come on the express proviso of preparing for a convention in relation to those issues. I think it is very important that this Convention have the opportunity of taking a poll in relation to the question of whether we should change from a republic to a monarchy.

Ms HEWITT—I think it is by no means certain that, whatever this Convention decides on behalf of the people, it is appropriate that only one question go to the people. It may be that the right way to run this referendum is for us to flesh out the models and to put in the referendum a selection of models from which the people choose.

Ms MARY KELLY—I would like to refer the issue of the sequence of voting back to the Resolutions Committee because I do not see it in detail before me in C. In doing that, I would ask the resolutions committee to come up with as neutral a process as possible so that the sequence does not give particular advantage to any group over another. For example, I had in my mind the most fair way to do it would be to take the in-principle question first: 'Should Australia become a republic?' I might add that the question is on our agenda. Depending on the outcome of that—and say it was carried—we would have a proposition where the various models of a republic are considered as amendments to a stem. In that way, if you deal with the amendments in a particular way, at any point any voter gets to choose between two and ends up with the most preferred.

Anyway, there is a lot of thinking to be done about it. I am sure that thinking needs to be done and the Resolutions Committee should come up with the most neutral process that gives everyone a chance to express preference—because people do have orders of preference on these things. I would also like them to consider that the in-principal question stay the same. When it was attempted to be put earlier to the Convention, it was defeated on the grounds that people did not have time to consider the details and therefore could not vote on the motion of principle. By day 9, the details will be clear and the motion of principle should not be troublesome. I ask that the referral, however handled, might be considered. Thank you.

CHAIRMAN—Father Fleming, Kevin Andrews, Professor O'Brien and then Brigadier Garland.

Father JOHN FLEMING—I appreciate the Prime Minister's intervention and am broadly in support of it, but there are those of us who have been elected to this Convention who cannot vote for any particular model, and for very good reasons. However, I for one would find it easier to assist the Convention if a resolution were put to us along the lines that there be a referendum on a particular model. In that case, I am voting for a referendum on a particular model rather than voting for a model. I would have a great deal of difficulty explaining to people who voted for me that I had actually voted for a model. If that can be arranged, I would think that

following that would be the appropriate time to go to the final vote as to whether or not we want to move to a republic. First of all, we have to be able to decide and give those of us who are here—certainly among my friends here—the opportunity to seriously contribute to the outcome of the convention.

Mr ANDREWS—I urge support for the proposition put by the Prime Minister. Otherwise, as a matter of logic, it seems to me that we will end up buying a pig in a poke. How can one decide whether or not we should become a republic unless we know what the model is that is being put forward? I would find myself in, I suspect, the difficult position of saying that, unless I know which model is being proposed as an alternative to the current system, I should abstain from that vote simply because I do not know what I am voting on. The reality is that we have to approach it in a manner suggested by the Prime Minister or some slight variation of that; otherwise we are simply becoming absurd.

Professor PATRICK O'BRIEN—I would like to remind the Prime Minister, Citizen Howard, and all delegates at this Convention of Citizen Howard's comments in his opening address—that if there is not a clear consensus emerging from this Convention on a particular type of republic he would seriously consider—I do not know whether he said 'promise' or 'seriously consider'—a plebiscite. That becomes terribly important for some sort of procedure that does delineate support for particular models. We do not know what the definition of a consensus will be. Quite obviously, it may be the case that there is not a very substantial majority in favour of any one particular model. On my number counting that is going to be the case. This then opens the gate for what many of us believe should be done in any case, which is that an indicative plebiscite be held on the models. It is very important that this be seriously considered and that we remember that it has to be a consensus. We are not going to get that by any definition. So it does look like we will be moving to an indicative plebiscite to determine which proposition would then be put to a referendum.

Brigadier GARLAND—It would appear that splits are already emerging in the republican group. They are not able to come up with a model. I support whole-heartedly the proposition put by Father Fleming, and that is that if something is going to come out of this Constitutional Convention it ought to be that a referendum be held on this particular issue—spelling out the model which has the majority vote on the floor of this place. That gives the Prime Minister the opportunity to take it and put it to the people. If there is no consensus on what the republican model is going to be, we can go through the time and money wasting efforts of plebiscites and all the other bits and pieces. I support Father Fleming.

Mr HOWARD—In response to Mr O'Brien I have confirmed the language I used on Monday. It was very deliberate. I used two expressions: 'clear majority' and 'clear view'. I did not use that hallowed word 'consensus' because there is a debate about what that means. 'Clear view' and 'clear majority' are clear, intelligible English.

Mr LAVARCH—I endorse the remarks which Delegate Kelly made. We have heard an intervention from the Prime Minister which proposed a particular course of action. It may well be the course that should be followed. Delegate Fleming has proposed a slightly different form of wording which he finds to be significant in his view of his capacity to participate fully in the process. We have heard other contributions. It is something which should be considered closely by the Resolutions Committee. There has been an expression of views now. The Resolutions Committee should come back to us with some precise form of how this process is to work so that we can put that to a vote and resolve it.

The Most Reverend GEORGE PELL—I speak broadly in support of the last speaker. The proposal that the Prime Minister has put might be the best way to go forward. But we need time to consider that. It might be that the Resolutions Committee will bring forward to this gathering, to be put to the vote, a suggested procedure. Whether we vote in turn on the three questions that were put to us or

in the way the Prime Minister has suggested or according to some other procedure, it might be best for this assembly to decide that procedure. It would be difficult for the Resolutions Committee to bring forward a procedure that is seen by most to be neutral.

The Right Reverend JOHN HEPWORTH—Since the plebiscite has now been unleashed a little bit more than it was before, whilst it is obviously something available to us I believe we should pause very carefully. In one sense it will be seen as—and it is—a cop-out, because it is the Convention feeling comfortable at this stage and spending another week not trying to work towards an effective resolution. Much more importantly, before we begin to think comfortably about a plebiscite, let us make ourselves quite aware that that puts every system of government, including that which is currently in force, in a state of virtual suspension for perhaps a period of years, in which case Australia does become less governable—and will be seen internationally to be so—while all systems are up for debate rather than simply the question of a change. That is an enormous responsibility, and I think we should be conscious of the potential consequences.

Mr GIFFORD—First of all, detailed resolutions cannot be done just in a matter of moments; this was one of the big problems when we were looking at the eight earlier. I ask the Attorney here, on the other side: when you have adopted a particular one, can you circulate that so that we can consider resolutions progressively? That would help considerably.

CHAIRMAN—They will take that on board and respond in due course. I call Mr Waddy.

Mr GIFFORD—I had not finished.

CHAIRMAN—I am sorry; I thought you had. Please finish.

Mr GIFFORD—I would like to submit that it is important that we do not consider the question of whether or not there is to be a republic. We should determine, first of all, what sort we are talking about.

Mr WADDY—I rise to support the Prime Minister in this. It seems to me that the only possible way that Australia can become a republic, no matter who resolves what, is to change its Constitution, which will have that effect. Therefore a model is crucial—'model' being shorthand for the changes necessary in the Constitution.

I am conscious that there are people who are not delegates—let me take someone like Sir Zelman Cowen, who came out as a republican for the third or fourth time in America but said that if he did not get the sort of republic that he wanted he would prefer the status quo. It seems to me that the selection of the model is crucial to the final question as to whether other delegates wish at this point of time to effect a republic or not.

Therefore the logical thing is to select a model and see which one has the favour, if any, of the Convention, and when one has the favour of the Convention pit that against 'do we want to make this change or not?' We can only make one change. We cannot jump into an interim system of Hades and say that we are in a republic but we do not know how to get out or how to effect it. I will not say any more, but I am glad that these things have been raised before the House. The issue probably affects republicans more than it affects us, and a plebiscite is, of course, just another waste of money.

CHAIRMAN—Are there any other speakers from the floor before I call on the Attorney to respond?

Mr WILCOX—I shall be very brief and simply say that I support what the Prime Minister said and what Mr Waddy said. It seems to me to be clearer than anything else that has been said as a means of procedure, and I suggest that we support it. The Resolutions Committee should take careful note of it because I do not want them going off at too many tangents on their own without the Convention knowing what they are up to.

Mr TURNBULL—I agree it must go back to the Resolutions Committee, but I simply want to emphasise and clarify the point I made earlier. The critical question in terms of deciding between the particular models is: which model has the greatest support among delegates in the context of its being put in a referendum? Let us say Mr McGarvie's model

was the favoured one or direct election, for that matter, or ours or whatever; the question would be: if the McGarvie model were put to the people in a referendum, this Convention recommends its adoption by the Australian people. Otherwise you will have people who are committed to the defeat of the referendum voting in favour of the model they regard as being most likely to be able to be defeated by them.

Mr RUXTON—Never. Disgusting, just disgusting.

Brigadier GARLAND—That is not acceptable.

Mr GIFFORD—You ought to be ashamed of yourself, Malcolm.

Sir DAVID SMITH—You are out in the open at last, Mr Turnbull!

Mr HODGMAN—Weasel words.

CHAIRMAN—I think it might be a good idea if you kept the level of intervention down and let Mr Turnbull finish his remarks. Are there any other interventions from the floor? Having vented your emotions, can I ask the members on my left to please yield the floor to the Attorney, Daryl Williams.

Mr WILLIAMS—I think I can speak for all members of the Resolutions Group in saying that this has been a useful debate. The group will take on board what has been said in the formulation of the final plenary resolutions for consideration by the Convention and come back with a proposal.

Mr TIM FISCHER—Crystallised.

Mr WILLIAMS—Crystallised, as Mr Fischer says. The only point that really requires comment is Mr Gifford's question as to the availability of the final plenary resolutions before the debate. I thought this had been covered earlier. The plan is that the Resolutions Group prepare the resolutions for circulation as early as possible on day 8 with a view to amendments required to be lodged with the secretariat by the end of day 8 in order that on day 9, when the debate can begin, there will be a composite document which will include the amendments that have been proposed.

CHAIRMAN—I also put to you, Attorney, that your recommendation from the Resolutions Group to the Deputy Chairman and me needs to come by way of a resolution from the Resolutions Group to the Convention. As you might recall, there is a request for the time and order of voting to be changed and for the order of proceedings to be amended accordingly. For that decision to be taken, it would require a vote of the Convention and not a determination by us. So it will need a further resolution from the Resolutions Committee which we will put to the Convention later this afternoon. There being no further questions on that item we will resume—

Mr WILLIAMS—Before we go on, I think that recommendation has been circulated.

Mr GARETH EVANS—No, it has not.

CHAIRMAN—You can move it and it will be considered later today and voted on this afternoon.

Mr WILLIAMS—I have outlined the resolution.

CHAIRMAN—You can bring it back on.

Mr WILLIAMS—We can bring it back on and circulate copies in the interim.

Senator FAULKNER—I raise a point of order. I seek your guidance, Mr Chairman. I think this would be useful to all delegates to the Convention. I hear what has been indicated by the Attorney and appreciate the advice that he has given the Convention. Given that you have made rulings previously in relation to notice being given of amendments to resolutions that are before the Convention, I ask you what your intentions are, or what your secretariat's intentions are, to distribute the final views that are developed by the Resolutions Group and the capacity for delegates to propose amendments, if they so desire, to the final proposal that comes forward from the Resolutions Group. It would be useful for all delegates to the Convention to have a clear understanding of how that process will work, given that on a number of previous occasions before the Convention it has been a matter of some consternation to some delegates.

CHAIRMAN—It would be my proposal that the Resolutions Committee should be

requested to meet as soon as possible, that, at the very latest, they should circulate their proposed amended resolutions immediately after lunch, by 2.15 p.m., if not by 3 o'clock. We could then at 3.30 p.m. allow for a plenary session like this to examine once again those amendments and move on into the voting at 4 o'clock. You have several matters you have taken up which need to be identified by the Resolutions Group and brought back in an amended form to the Convention delegates.

Mr GARETH EVANS—I seek clarification. Are you referring there to the detailed working through of this stage 1 and stage 2 business for next week? If you are referring to that, it would be premature to bring this back at this stage. We really do need to have a lot of consultation about that if there are any amendments to the motions before us now. I think that is what Senator Faulkner was referring to. We are not really contemplating finally determining the process for the final plenary sessions until probably Monday, I would have thought.

CHAIRMAN—There are a number of consequential changes as a result of the dialogue we have just had in the Convention which require consideration by the Resolutions Committee. They include some adjustment, as I understand it, to your resolution, recommendation A. They also include inclusion of the recommendations as a resolution, and they need to be distributed to delegates. If there is a feeling that we need to have further consideration, that will be allowed after half past three, prior to the voting at 4 o'clock, so that everybody moving in at 4 o'clock is clear on the resolutions that have been received from the Resolutions Group. They can all then vote on them on an informed basis. Is there any other intervention from the floor on this matter before we proceed?

Sir DAVID SMITH—Is there any provision in our procedures for a personal explanation on the grounds that a delegate has been misrepresented?

CHAIRMAN—No, but I will take it.

Sir DAVID SMITH—I want to record my rejection and resentment of Mr Turnbull's last intervention. I cannot speak for all of my colleagues but I will speak for myself. I came to this Convention with goodwill. My position on the change of our Constitution is well known, as is Mr Turnbull's. I respect his right to put it and I expect him to respect my right to put my view. I resent the implication that we are trying to organise this Convention in order to produce a predetermined result. Mr Turnbull, of course, can recognise that situation because it is one that he practises extremely well. I came here prepared to state my case and I came to let others state their cases and to listen. I regard his last intervention as a gross insult. This is not a $50 million frolic to indulge Mr Turnbull's personal fantasies; it is to enable the people of Australia to consider a very important situation. He has insulted us and he owes us an apology.

Ms AXARLIS—We have all come here to achieve an outcome. If we do not have an outcome, it will be disastrous. Therefore we should all put our heads together; work on each others models; have a free, open mind and heart; and work for a model that will deliver a republic, if that is what you want, or the status quo in a way that will enable Australia to progress in this global economy.

With all due respect to Mr Hayden, I am not here to achieve a fiasco. I wish to have the sort of result that can go to the public of Australia—all Australians. I consider myself a true Australian, even though I was not born here. I would like to say to those people who continually interject that I am offended by some of the comments. This is not parliament; this is not the place to posture. The purpose of this is to get outcomes. I am sorry I am emotional; I am of Greek origin.

Proceedings suspended from 12.54 p.m. to 2.15 p.m.

CHAIRMAN—There are a few procedural items to go through first. This evening there will be a reception at Government House from 6 o'clock. Several delegates have asked me whether they would be able to get away from here in time to attend it. I would propose, therefore, that we do not allow our voting and other procedures to go on past 5.15, so the delegates might reasonably be

able to get ready to go out to Government House.

As to the working group that was set down, I think we will ensure that those who are participating in the working group have until, say, 8.30 tonight to make their reports, so they can adjourn their working group and return to finish their deliberations after being out at Yarralumla.

Several people have commented on the speakers' list. I say again that it has proved extraordinarily difficult to try to accommodate everybody's wishes. Barry Jones and I have tried to make sure that we get a spread of speakers so that all the views presented are not successively the same. It is not always easy to know just what some people's views are. We will accommodate as best we can the requests of those people whose names are down.

The list this afternoon is one which we might find difficult to accommodate. I would hope at 3.30 that we might be able to start our process of considering the Resolutions Group proposals. I am told there is an inordinately long list of amendments to be considered with respect to each of the working group proposals. While we have said the voting will begin at four, I would like to start the process not later than 3.30 so that we will have a bit of time to consider each of the amendments.

I would propose with respect to the amendments that those who are moving them be allowed, say, three minutes to talk on them, because it is going to be very difficult to understand what they are all about. I have arranged for each of the amendments to be distributed so that you will have a package of amendments with respect to working group A and a package of amendments with respect to working group B. You will be able to look at the amendments that are going to be presented.

So that we can best consider them—it is not easy, as you know—we propose that any motion that gets more than 25 per cent support be allowed to go off to the Resolutions Group for consideration as to whether or not it should come back. Accordingly, you will have multiple votes and you will not be wiping out what would normally be excluded if you pass a particular amendment, providing there is about 25 per cent support. It is an unusual voting procedure but I wanted to foreshadow that we will be looking at that later in the day.

There are a couple of other items I have to report on. The Reverend Tim Costello, who will be unavailable on Friday, 6 February, has asked Mr Ron Castan to be his proxy. I will table that document.

This afternoon we return to the sessions from the floor on the issue of the day. I invite the Hon. Matt Foley MLA to commence the debate.

Mr FOLEY—Ever since Governor Bligh's skirmish with the New South Wales rum corps there has been passionate debate over the arrangements for the appointment and dismissal of an Australian head of state or that head of state's representative. The debate over different models for appointment and dismissal of a head of state depends in turn on what we really want out of constitutional reform.

In my view, in this process of constitutional reform, we should strive for two fundamental goals: firstly, to achieve an Australian republic based on the authority of the Australian people rather than on the authority of a foreign monarch; secondly, to achieve a more authentic constitutional basis for the law of the land in Australia and, in particular, recognition through a constitutional preamble or otherwise of the great traditions of Aboriginal and Islander law. I acknowledge that we stand here on Ngunnawal land, and I pay tribute to the original owners of this land.

We need an Australian republic which replaces the old dogma of the divine right of kings and queens with the democratic authority which springs from the people. 'Dieu et mon droit'—God and my right—may be a slogan appropriate for the lion and the unicorn which adorn the Speaker's chair in this chamber. But that slogan is a quaint irrelevance for the people of suburban Brisbane whom I represent.

The real question on appointment of a head of state lies in whether the democratic legiti-

macy of a head of state can spring from the people's representatives in parliament, as in the Australian Republican Movement model, or from direct election by the people. Like most parliamentarians, I have traditionally been very sceptical of an elected head of state. It is, after all, already hard to make the executive truly accountable to the parliament. What will it be like if the head of state has the added legitimacy of direct election by the people? For this and other reasons, there is much commonsense in what Kim Beazley outlined to this Convention: a republican model providing for the election of an Australian president on the nomination of the Prime Minister and cabinet by a two-thirds majority of a joint sitting of both houses of parliament.

But this has to be weighed against the profound alienation that many people feel from the political process that was outlined very powerfully and eloquently by Mary Kelly prior to lunch. It has to be weighed against the lack of confidence that many people feel in parliament and, in particular, the lack of confidence that people feel that parliament will represent their will.

That alienation is something which we should try to heal. Constitutional reform is an opportunity to heal, to reach out. It does not come often, and we should not approach the process of constitutional reform in any way which would exacerbate this alienation. Also it must be said that unity in the republican cause, certainly at this Convention, will simply not be achieved without accommodating the deeply held views of those committed to direct election by the people.

Then, of course, there is also the small question of what the people themselves want. And it must be acknowledged that there is a growing momentum on the part of the Australian people for direct election. For this reason, I have come to the view that the republican model which should be taken to the Australian people in a referendum should include the opportunity of direct election by the people.

I encourage delegates to look carefully at the model proposed by Working Group B, chaired by Geoff Gallop, for it outlines a method which can give weight to those less populous states and to the territories. It goes without saying that any such model must involve codification of the powers of a head of state and a change in the powers of the Senate.

The model which I contemplate is similar to the Irish model and, in particular, to the great example set by President Mary Robinson. But I do say this to the students of Irish history: let us remember the great conflicts between Michael Collins and Eamon de Valera. The Irish model did not descend from heaven; it proceeded after many decades of great turmoil. We should learn from that experience to listen to each other.

CHAIRMAN—Your time has expired, I am afraid, Mr Foley. Can you please draw your remarks to a conclusion?

Mr FOLEY—Yes, thank you, Mr Chairman. There is much work to be done to improve the spirit and letter of our Constitution. I encourage delegates to proceed on the basis of genuine dialogue and to avoid collective monologue.

CHAIRMAN—I call the Hon. Michael Hodgman.

Mr HODGMAN—Sir James Killen exhorted me, 'Hodgman, do not be ambiguous,'—and I will not. What an extraordinary matter we are debating. In the five minutes that I have to speak I am going to have to be brief and make some points on the most important question of the lot—if you do decide that we are going to become a republic—the appointment, the dismissal and the term of office of the president.

I want to say two things about the debate so far. Not one single republican speaker has averted to the fact that under our Constitution we are a federation. I want to say to you that it is very difficult to change the Westminster system, a federation, to a republic. The second thing I want to say to you is this: none of you seem to have read the Australia Act of 1986, which was brought into this parliament by the Hon. Bob Hawke as Prime Minister, which had the support of all the states, which passed unanimously and which

has very serious implications for what you are about to try to do.

Without going into the question of whether the president is to be elected by the people, which would seem to be fundamentally democratic, or by the politicians in Canberra, ask people in the streets of Wagga, Bathurst and Launceston whether they would like the bloody politicians in Canberra to pick their president and listen to their answers—or whether you have the McGarvie model. The plain fact of the matter is that you have seemed to overlook one fundamental thing—the Constitution says 'unite in one indissoluble federal Commonwealth under the Crown'.

I have to say, looking at the republicans collectively, you are so split and so divided on this issue that there is no way known the people of Australia will accept your proposition of tearing up our Constitution. Let me put the blame where it should be. The most superior elitist group in this Convention has been the Australian Republican Movement. It ought to be renamed the 'Arrogant Republican Movement' because it has cast to one side the other republicans who have come here in good faith to put their case.

Let us look at the Australia Act. Very simply it says that it is an 'act to bring constitutional arrangements affecting the Commonwealth and the states into conformity with the status of the Commonwealth of Australia as a sovereign, independent and federal nation.' So those who say that we are not yet independent, that we are not yet mature, are insulting this parliament which met here in 1986 and declared that we were 'sovereign, independent and federal'.

Let us look at some of the provisions of the Australia Act. My friend Professor Winterton, who is out of the chamber, will tell you that there is a very big question as to whether the preamble and the first eight sections of our Constitution can be amended even by referendum. Is someone going to tell me that the Australia Act can be amended without the concurrence of every state parliament? Remember this act came into existence under the little used section 51(xxxviii) of the Constitution. The six states came and asked the parliament to pass it. I am going to put it to you that constitutionally all six states would have to ask the Commonwealth to repeal it.

You see, you have not thought about these things. I am going to be constructive. I see my friend Eddie McGuire over there and some very good, decent people on the republican side. What I am about to say to you is that the debate has nearly got off the track already. The former Governor-General is quite correct. What you did in the debate here on Tuesday was disgraceful because you turned your backs on those who would not conform with your point of view. I have told you that I will fight the republic right down the line. But it is a fact that if we become a republic—and please, God, it will not happen—I will be voting for the people of Australia to pick the president as they do in the United States, as they do in France. I would not let the politicians in Canberra pick anybody let alone the president of the Commonwealth of Australia.

Is the new president to have the powers of the Queen or the powers of the Governor-General? You have not dealt with this. Under the Australia Act, you have not dealt with the question of governors. Do they become vice-presidents? You have not dealt with the fact that, constitutionally, a state may well say under the Australia Act, 'We deal directly with the Queen.' If you look at the Australia Act, you will find under section 7 that if the Queen is in the state, she can overrule the governor. Would that be the position if there were an Australian president and the state retained a governor?

I have five minutes to speak on one of the most important issues. That is no criticism of you, Mr Chairman. You know me well enough.

CHAIRMAN—Thank you.

Mr HODGMAN—When I criticise you, you will know that I am criticising you. But these things have to be looked at. I will conclude; I probably will not have a chance to speak again until next week. I want to hear some of the younger people, including some of the brilliant young lawyers, that we have here. Some of the younger ones should come forward and say what they want, because they are the future of this country. You can talk

about all the ores and riches and all the mines, but the future is the young people, and they are the ones I want to listen to.

Mr KILGARIFF—Mr Chairman, fellow delegates, it is always going to be a hard act to follow when you follow Michael Hodgman. I wish to make it quite clear that I have come to this Convention with one overriding principle, that is, to achieve a republic in Australia. I stood under the banner of a Territory republican, viewing the Constitutional Convention as the means to move Australia towards a republic with minimal change to the Constitution. However, I remain open to reasoned argument on all alternative models, which is, after all, what this Convention should be about.

My objectives and views throughout the debate surrounding the republic, and indeed during the lead-up to the Convention, were to achieve a republic and to make compromise where necessary and essential. 'Compromise', delegates, was the key word of the conventions of the 1890s and it is a lesson that we here today should heed.

I came to this Convention with the clear view that I favour a republic with a president appointed by a two-thirds majority of a joint sitting of both houses. However, given that this is the people's Convention, we cannot ignore the polls, which indicate that a majority of Australians want a directly elected president. At this stage, I remain unconvinced that that model would serve Australia well, but I remain open to argument.

As Thomas Jefferson, one of the founding fathers of another republic, once said, 'The Catholic principle of republicanism is that every people may establish what form of government they please and change it as they please, the will of the nation being the only thing essential.' I am absolutely certain that the majority of Australians do want a directly elected president but, like myself, are open to debate and suggestions on alternatives. So at this stage of the debate I am of the view that Australia should move to a republic by or in the year 2001 and that our head of state should be appointed by a two-thirds majority of both houses in a joint sitting and dismissed by a simple majority in the House of Representatives on recommendation by the Prime Minister. Our head of state should be referred to as the president. Finally, the reserve powers and conventions of the president should not be codified beyond a simple amendment, and the president should act on the advice of the Prime Minister or executive council in the exercise of all but his or her reserve powers. This is essentially what has been labelled as the minimalist model. Most points in that model are contingent on each other.

I should also declare my position in the event that delegates do decide to support a directly elected president. In the event that this Convention takes that path, I will be supporting wider changes to the Constitution. For example, I cannot foresee a situation where a directly elected president could operate within the existing system of uncodified conventions and reserve powers. A directly elected president would so fundamentally change our system of government that we would really need to examine every aspect of our system. Fellow delegates, if we decide to pursue the direct election of the president, I will be urging full codification of the powers as well as examining the status and powers of the Senate, especially in connection with money bills and blocking supply.

When it comes to the event of a dismissal, in addition to what I said before, I also believe that there are merits in the McGarvie model. It is possible that we may even be able to combine a dismissal by the McGarvie model with a House of Representatives simple majority.

With both models, the ultimate check and balance on the actions of both the Prime Minister and the president—that is under the two models I have talked about today—is that it is exercised by the people at the ballot box. As indicated previously, in a system of an appointed president, the reserve powers and conventions of the president should not be codified beyond a simple amendment. The president acts on the advice of the Prime Minister or executive council in the exercise of all but his or her reserve powers. Under a direct election, the equation should and will change.

It is now a fact that a majority of Australians do endorse the move to a republic and are waiting on their republican delegates at this Convention to deliver a workable model. The challenge has been issued by many delegates over the past few days, and I would urge all who really want to walk out of here with a clear recommendation for a republic that some compromise needs to be achieved. The most important issue for those of us who were elected on a republican platform is that we achieve a republic. Ultimately I say this to all delegates at this Convention: at the end of the day let the people decide.

Ms BISHOP—Yesterday I asked delegates to try the McGarvie model on for size. Many are. I hope to address the misconceptions that still exist in relation to it. Further, Professor Craven introduced the option of a hybrid—appointment by two-thirds majority and dismissal by McGarvie. I wish to address features that I hope have relevance to both. There is inordinate attention on the symbolism of the Constitutional Council aspect of the McGarvie model. It seems a necessary feature to me as a safeguard, a check, a balance; one the reassuring aspects of our current system. The focus should be on the head of state under this model, an Australian nominated by the leader of the elected government, under McGarvie.

I do not accept as justifiable the fear that has been expressed about this form of nomination. People have said they want the direct say in the election of a head of state. They have a direct say in who represents them in the federal parliament. Our system of representative democracy does work. Governments do come and go at the will of the people. Under our system, we entrust our representatives to be part of the process of government, to debate and act upon legislation that affects our lives, to be part of the running of the country whether in government or in opposition. We have a free press, a press that reports comprehensively across the country on what our elected representatives are doing or not doing for us. The system is open. There is transparency, there is accountability. The people have their say, first, by electing candidates and by having those elected represent them in parliament.

I do not denigrate politicians—they are all Australian people elected by us. So, having elected them to the business of running the country, I believe we should have faith in a process whereby a nomination for head of state comes from the leader of the elected government accountable to the people. It happens now and, if your option is for a directly elected president, you must be admiring of a system where a policeman off the beat, as Mr Hayden described himself on television last night, could become, albeit with intervening years, the Governor-General, the effective head of state under our current system. There is no reason to assume that a Prime Minister or other elected representatives would do other than continue to nominate people who would carry out the role of head of state with dignity and with an appreciation of the duties and functions bestowed upon them. A Prime Minister with a finger on the pulse of public opinion, accountable to the people, will consider for nomination a person who will have the admiration and respect of the Australian people.

Perhaps people's concern about the symbolism of the McGarvie model rests with the existence of and composition of the Constitutional Council, whether it be part of the appointment or dismissal process or both. It has been said that the council is too narrow a range of people to be involved, that it could be seen as elitist and self-perpetuating and that it ignores states, women and ethnic groups. I think those perceptions very much overstate the role of the council and overlook who would actually be on that council and how often they would be called upon. It is not another tier of government. The council of three would be called upon presumably every five years when the Prime Minister nominates a head of state for the next term. The council is not directly elected by anyone. It is removed from cronyism, favours or politics because it is comprised of former Governors-General and state governors. They do not choose or select; they appoint on advice.

So it is a group of three former Governors-General or state governors called upon once

every five years to formally appoint a head of state. There are three. That is reassuring in itself. I think it churlish to suggest that they have nothing to add to the process. They have served us. They have demonstrated their ability to give dignity and status to their office. When anyone is poised to take over a role, take over a job, there is wisdom in listening to those who have been there before, and I for one have great admiration to people who have in the main given much of themselves to serve our people as head of state or as a state governor. I would value their advice, their counsel, their insight.

The constitutional formula devised by Mr McGarvie creates a pool of people from which the membership of the council derives—former governors-general and state governors are in first. Mr McGarvie's model makes provision for a woman to be assured a place. If we introduced the model tomorrow, the Prime Minister would nominate a head of state and the council would comprise Mr Bill Hayden, Sir Ninian Stephen and Mrs Leneen Forde, the former governor of Queensland—distinguished Australians for sure. The three comprise a diverse group—a woman from one of the smaller states and a former policeman. It is not a legal elite.

Consider the potential members of this council: it would end up comprising a diverse range of Australian people. One only has to reflect on the people who have held the office of governor in the states. Take South Australia—Roma Mitchell, Pastor Doug Nicholls, Mark Oliphant and currently Eric Neal—people from different backgrounds, states, experiences and qualifications; people who have given much already in serving our people. The governors I have witnessed at close hand are not elitist. They are people to be admired, dignified in office and respectful of Australia and its people.

Mr McGarvie added to his potential pool High Court and Federal Court judges. *(Extension of time granted)* I understand the criticism of having a High Court or Federal Court judge, albeit retired, available for the council—the separation of powers must not only exist, it must be seen to exist. That may need refinement. I have faith in our century-old system where the head of state is appointed by the process of representative democracy at work. I have faith in the process whereby the people elect the government. I have faith in the people who are conscripted to serving the Australian people as governors-general or state governors, which is why, if there must be change, the McGarvie model or a hybrid of it is compelling. I have faith in our people and in our system of representative democracy. Thank you.

The Reverend TIM COSTELLO—For those initiated into the code language of this Convention, I can only support A if it is a ceremonial head and, therefore, there is full codification. I had hoped that, with 10 days and $50 million, we might at least have had an attempt at that. We will wait and see. Otherwise I am supporting and open to being persuaded on the models B, C and F for the following reasons. In a republic, open nominations and direct election of the head of state should be the philosophical starting point. It may not be the final destination of a republican model but it is the foundational principle, as Bill Hayden and even other monarchists are now saying.

You see, a real republic is made up of citizens who are equals, who confess that self-government and direct ownership of their political system is their highest ideal. A true republic nourishes active citizenship and it does so by trying to find as many political entry points for civic expression, for participation in self-rule, as possible. In principle, therefore, open nominations and a simple direct say in the head of state offers those sorts of opportunities. However, that is direct democracy, the sort that functioned in ancient Greek city-states and even until recently in Appenzell in Switzerland. Everybody is involved and informed, which is not our reality. Our reality, with a large number of people, is, necessarily, complex. To accommodate that reality we have moved to representative democracy. However, for reasons I gave in a speech the other day, representative democracy is in trouble, at least in terms of record levels of public cynicism towards the representatives who are carrying that representative democracy.

Furthermore, I do not think that in our country the equality of wealth situation permits candidates to simply stand and be directly elected. If it were a purely ceremonial role it would not perhaps worry me so much but without codification it is going to have real powers, it seems. This worries me greatly.

Thomas Jefferson, the father of the US republic—the oldest surviving republic—did not just envisage equal citizens, he also argued that a republic could only be founded on truly political equality if there was economic equality. His vision was that the citizens of America would be self-sufficient farmers, independent and therefore able to fulfil their civic duties without economic necessity buying them off in a political sense. He also envisaged that the Constitution be changed every 30 years because it should serve the living and not the dead.

Direct elections, with the amount of advertising dollars that can literally buy an election, would make this probably a dangerous proposition here. In order to fulfil republican criteria of equality of participation, I strangely would argue for a filtering process, whether it is an electoral college or some way of filtering those nominations, in order that there be real equality and participation. I have mentioned the models that I am open to and I am favouring at the moment, and those models will receive much discussion.

In the couple of minutes remaining let me say that I think all of us want as our ideal a head of state in a republic who is not only one of us but also represents the best of us, in fair mindedness, in tolerance, in inclusion, particularly when that person goes overseas and speaks for us.

I am worried about direct election models even with a threshold of one per cent of the population being able to nominate in so far as they will give platforms to Pauline Hansons, shooters and a whole range of people who can get a one per cent threshold and run a national election campaign. For these reasons, I personally believe that trying to find an entry point of nominations from the public with some say, with parliament at some level ratifying that with a two-thirds majority so that representative democracy is sheeted home, is the way we must be turning our minds and trying to come up with a model.

Let me finish by saying that the strength of the McGarvie model—and I think all delegates owe a great indebtedness to him for this—is that his prescience of mind has pointed out that the dismissal possibilities are ones that we must think out. We do need a mechanism for a rogue head of state or an Alzheimer problem or a range of other problems. But let us not overstate it. There have not been many times that we have had to remove a head of state—maybe because of the threat of dismissal by a Prime Minister, as McGarvie argues, maybe not. But it can be addressed in B, C and F models with a simple dismissal on a majority.

Finally, those who say that there should be no populist say in this because it will set up a power conflict with the Prime Minister need to remember that this is in the system inherently, even with the status quo. Some would argue that is exactly what happened with Sir John Kerr. Some I know on the Liberal side would argue this may be happening with our present Governor-General. I do not agree with that.

DEPUTY CHAIRMAN—The next speaker is Misha Schubert.

Ms SCHUBERT—I must thank Michael Hodgman for his generational path clearing. I rise to speak not only as a member of a younger generation but also as someone with the youthful possibilities of what we might create in our future constitutional system. The Australian people will not be patronised. Time and again we have told the pollsters that we want a direct say in the selection of our head of state. Time and again those with something to lose from the current arrangement of power have made excuses.

There is a pernicious elitism in the position of anointment and appointment republicans. Their rhetoric urges Australians to reject the paternalism of a hereditary monarch in favour of self-empowered destiny, and yet their alternative resists any active role for a democratically engaged community.

The ARM says that people do not want a politician as their head of state. This is not strictly true. The people want someone outside the parliament to act as an alternative site of commentary and leadership. The analysis is sophisticated. The gentle tension between parliament and the head of state facilitates debate, forces explanation and enhances public scrutiny. This is a strong and positive step for our democracy rather than its undoing.

The ARM says that popular election will be expensive. Well, democracy ain't cheap. If the public determines that public funds should be spent on the exercise of their citizenship, then public will should prevail. Whose money is it anyway? The ARM says that eminent candidates will not stand for public office. If eminence wants an audience, it had better get itself a profile.

Let us end once and for all the furphy that ordinary Australians know and love their governors-general. Most Australians cannot tell you who they are. Whilst anonymity might be modest, it is a squandered opportunity for leadership and moral courage. I want a head of state who can articulate their views to a wide audience of Australians, not just to those who attend ribbon-cutting ceremonies. I want a head of state who can communicate with younger audiences in their preferred media of television and the Internet. I want a head of state who is capable of building a profile for the office so it can be valued by all.

This debate is essentially a test of our faith in the public to select their own figurehead. Richard McGarvie denounces unnecessary elections. I wonder how you can conceive of democracy without succumbing to that outrageous indulgence of public consultation. That is the trouble with democracy: it is cumbersome. But it is essential. Privilege begets itself. Let us be very clear about the self-titled McGarvie model: it is not a republican model; it is a lawyer's monarchy.

We are all creatures of environment and upbringing. Former judges and governors are no exception. Most have lived lives of comparative privilege and their value systems would enshrine more of the same. Similarly, parliamentary appointment has many defects. It is remote. The lack of public involvement in the selection of a figurehead is an active disincentive to ownership—second-hand democracy at the parliamentary op-shop.

It lacks transparency. Decision making behind closed doors is a recipe for scepticism. The anti-authoritarian ethic of Australians is well founded. We do need to question decisions made without reference to a public audience. That is the foundation principle behind the parliamentary question time—flawed though that process may be.

It lacks vision. Popular election provides a forum for Australians to debate the qualities of the office as well as the candidates. Parliamentary appointment, by stark contrast, curtails the civic conversation. Resolution F may not be the final model for a popular election, but it shows that a model of popular election is possible.

A nominations panel appointed by parliament opens nominations to the public. They work through applications to short-list a manageable number and then put them to popular vote. Strict limits on campaign expenditure, coupled with a measure of public subsidy, would ensure a fair and balanced campaign. Also worthy of consideration is the hybrid model promoted by Ron Castan QC. A combination of parliamentary and public selection, it represents a spirit of constructive compromise in the interests of agreement. Let the parliament nominate their candidate. Let others come from further afield. But let the people have the final word.

The ARM clamour for more detail on a direct election model. There has been significant, detailed work undertaken on both Clem Jones's and Ron Castan's proposals. Now we need to find agreement across the political spectrum to arrive at a model that the people will support at referendum. I say get the principle agreed first and the detail will follow.

Mr COLLINS—I am the Liberal and coalition leader in the New South Wales parliament. I have been a republican since 1967. The first time I went on record in support of a Republic was 30 years ago. I am more a republican and more committed today

than I have ever been. Like, I believe, a majority of you and a majority of the Australian people, I feel a sense of urgency. I feel that we must proceed to make this decision to take this final step in our constitutional evolution.

I have been unable to attend the last two days of this Convention. But, looking at this Convention from Sydney for the last two days, I ask where the spirit of goodwill has gone that was here on Monday. Where is the spirit of goodwill—that constructive attitude that we need so much to truly make a representative decision on behalf of the Australian people? We are not going to get through this Convention by bullying each other, by intimidating each other and by talking each other down and name-calling. We are going to make a constructive contribution to our constitutional evolution only if we agree to work together.

A century from now the Australian people will make a comparison; it is inevitable. They will make a comparison between what we have done in this Convention and what was done a century ago. A century ago, the Convention delegates had before them the whole agenda. They had nothing to guide them. They did not even have nationhood. We have all of that done for us. We are asked to make a very simple decision: do we or do we not move to have an Australian head of state? I emphatically support that. We are not asked to reinvent Australia. We are not asked to undertake a complete, national stocktake on every element of our Constitution. That is beyond the capacity of this Convention, try as we might, in the time available to us. We have limited time. If we wanted to explore the many issues that have been rightly raised by a number of delegates on all sides of this debate, we would need not simply this 10 days but another four or five conventions of this nature to undertake that sort of analysis.

Let me make a few quick points about the republic I support. First, I firmly support Australia becoming a republic as soon as possible and no later than the year 2001. When the Sydney Olympics occur in the year 2000, the Sydney Olympics will be opened by an Australian. I give that pledge. All of you know that there is a state election due next year. An Australian will open the Sydney Olympics regardless of the outcome of this Convention.

I support the retention of the title 'Commonwealth of Australia' when we become a republic, as I support the retention of our Coat of Arms. We do not need to throw out—and this is the concern of many monarchists—our traditions, our heritage and our history. Those things can be retained and built upon. I support, at a state level, the retention of the position of Governor, and the role of Governor will be to the states what the role of Governor-General has been and the role of president will be to the Commonwealth. I believe that Governors should work from Government House. I do not believe that the current Governor of New South Wales is the last Governor of New South Wales.

Turning to the question of the presidency, I support the proposition that appointment should be by the government of the day and that it should be ratified by a two-thirds majority of both houses of parliament. Here we are having this debate about democratic election. For the newspapers that conduct the opinion polls I say: ask questions in greater detail. What do the Australian people say when they talk about popular election of the president? I think what they are saying is that they do not want to see that job politicised. I agree with the many speakers who have said that the one guaranteed result of democratic election will be that, sure as anything, you will get a politician each and every time.

Our parliaments—this federal parliament, and the state parliaments—have worked hard and largely succeeded in keeping politics out of the role of Governor-General and Governor. *(Extension of time granted)* That is something of which we as a nation can be proud. I do not think that we should exclude anyone from consideration as head of state under the model that we are discussing. There has been a lot of discussion here about politics. Politics is the lifeblood that courses through this nation. It is a fact of life. We are all involved in politics in one way or another.

I want to indicate my support for the proposition that the government of the day

should nominate the president but that both houses of parliament must vote by two-thirds to support that nomination. That is very hard to achieve in a parliament. It means that, if an individual political party is putting up someone who is regarded as too partisan and unacceptable, you are never going to get a two-thirds majority in any parliament. It is a very hard thing to achieve. Look at our constitutional history. It happens very rarely.

To come back to where all of us began and where all of us must end, the catchcry that we have heard so often is that, if it's not broken, don't fix it. What is broken? It is not the Australian Constitution, whatever its shortcomings, nor the strength and commonsense of the Australian people. What is broken is the spell of the monarchy. Having a head of state, benign and respected as she is, who is the monarch of another country on the other side of the world, is both a farce and an anachronism. That is the fundamental question that this Convention must address and resolve. We can only resolve it in a spirit of goodwill and consensus.

Ms RAYNER—I speak today as the second part of the real republican ticket and I endorse the language of my colleague, Tim Costello. Our new arrangements must acknowledge the diversity and relative powerlessness of the Australian people. We have made it very clear that we support a republican model in which the people would choose their head of state. We accept that the powers of that head of state must not be left to any personal discretion and we also accept that there would be circumstances when the extent of those powers would suddenly seem uncertain, but we are determined that this model be discussed at this Convention.

We are also determined to make it clear that the so-called compromise—the McGarvie model, which is, in effect, for no change—is, with all due respect to Mr McGarvie, not acceptable in a newly emergent republic. We have made it clear we could not support a model which simply required the parliament to appoint the president because it would not involve the people as they wish and ought to be involved. Any process of nomination by a parliament, which is these days dominated by the executive and by the major political parties who are not accountable, is deeply political.

Popular support for an elected Australian head of state is founded on a—valid or not—distrust of politicians. This is understandable. Those who have been watching this Convention have been watching an awful lot of politicking going on. They have been seeing powerful men representing major institutional interests doing deals, playing with the procedures and exploiting the relative inexperience of some of us who are undecided or who are non-professional wheelers and dealers. The attempt to cut off debate on the second day of this Convention was not only a public relations disaster but also a classic example of a lack of what Alistair Mant calls 'intelligent leadership'.

This Convention is a parliament, though, in the real sense. It is a place where people come to talk out, until they are ready to decide on, the important issues of the day. It is a place for democratic discussion. To have treated it as a faction meeting of the ALP or as a boardroom lunch at the Melbourne Club was profoundly foolish. The people who are already alienated from politicians will not vote for a change that is foisted on them, or voluntarily add to their sense of isolation or exclusion from politics.

Delegates interjecting—

Ms RAYNER—I would be grateful if there was no further intervention in my speech, please. The important thing is that the people will not take a meaningless vote. They will not vote for a president or a head of state of any kind if they believe that person to be somehow politically partisan. That is one of the major arguments against an elected head of state; that a popular election will attract such people and will exclude the sorts of persons who do not want to be tainted with politics.

But one of the things we have not discussed is the Castan model. I am surprised that, given all the time we have spent on the McGarvie model, we have not thought of the simple proposal of the eminent constitutional lawyer, Ron Castan QC, to solve this dilemma. We should discuss it. Castan suggests that

the Constitution should provide for a two-stage process for selection of the head of state. First he proposed that parliament should nominate its candidate chosen by a two-thirds majority of both houses. Then, he says, there should be an election. One candidate would be the candidate chosen by the Australian parliament—and there might be others; any other Australian who is nominated by, say, one per cent of the voters on the electoral roll at the most recent federal election. In practice, he believes, the parliamentary candidate would either be the only one or would certainly be the one who would win any election, because that candidate would have bipartisan support and would not be opposed.

Any overtly political candidate chosen by the parliament would be defeated. The Australian people would retain their reserve power—the power to reject the parliament's candidate. Sure, it is true that if you leave the one per cent option open—the nominees from the floor, so to speak; of the people—then ordinary people could nominate themselves under this model. Perhaps they would be members of the Shooters Party or members of other groups that might be unpopular from time to time, but that is what democracy is about.

It may be argued that the nomination process would be so costly that only the wealthy and well connected could put themselves forward. In that case I suggest the Bob Ellis suggestion: since the choice of a president is a matter of state, we should pay for it and make it a crime to spend any more. *(Extension of time granted)*

The Bob Ellis suggestion seems remarkably pragmatic and sensible. It may be hard to enforce, as the US experience shows, but it is a compromise that ought to be discussed. You do have a number of models about direct election and the closest to the Castan model is Working Group F, the one which says that two-thirds of the joint sitting of federal parliament should elect a head of state appointment body—a presidential council—that is gender balanced, composed of people who have the respect of the Australian people and which reflects Australians in all their diversity. That body would accept nominations and, from those, would select a number of appropriate candidates whose names would be put to the election and would also have a dismissal power.

It strikes me that this is a compromise that should be seriously discussed because it has elements of the ARM model, the McGarvie model and the Elect the President model. We must consider these issues seriously because the key to the secure operation of our democratic system lies in the people's feeling that they are selecting or endorsing, with a vote that matters, their president. The key matter is this: the head of state must not be a political person. The head of state must have bipartisan support. She must have the endorsement of the Australian people, either by being elected unopposed or by a massive majority. She must be the sort of person who can embody our hopes and fears and respect our diversity.

Can we move on and continue to discuss the codification of reserve powers in the situations that might give rise to a need to use them in a constructive and intelligent way? The thing I am most afraid of with this Convention is that we act unimaginatively and that we therefore do not develop and combine ideas in public debate to ensure the best outcome. We will not do this if we become engaged in adversarial and, if I may say so, boyish politics. A compromise that satisfies institutional networks will not be bought by the public. A compromise bullied out of a slim majority of delegates will not have the moral or political spirit to bring a republic into existence—and that is what we are here for.

Mr McGARVIE—This already highly successful Convention has propelled the republic debate from wallowing in the world of theory, where it was for the first five years, into the world of reality. For five years, the elected republican president models, particularly in the last few years, were hardly criticised. I might be regarded as an exception to that. But they were put to the people without the people having the opportunity to become aware of their defects. The important thing, as I mentioned in my speech on Monday, is to resolve this republic debate so that we do not

move into the destabilising situation that unfortunately has overtaken Canada. We will not resolve the debate unless a model is put to Australians in a referendum in which they can choose between the present system and a system that is at least as good as a republic.

On Australia Day I wrote in the Sydney *Daily Telegraph* that now that the debate was starting to get out to the people, public opinion would force the sponsors of the elected republican president models to engage in a great deal of patching and reconstruction in order to overcome their obvious inherent defects. We saw patch one on the first day of the Convention when Mr Turnbull indicated that the most gross and obvious danger in the parliamentary model would be replaced by dismissal by a majority of the lower house.

I pointed out later that day that that only covered half the problem; it did not cover the ability of the head of state—the president in that model—to dissolve, prorogue or adjourn parliament. I pointed that out on 1 May; Professor Winterton had pointed that out in early November. On Wednesday came the second patch: that there would be a provision that between the notice and the vote the head of state could not dismiss the Prime Minister or dissolve parliament. How many have ever seen constitutions made on the run in that way before?

I do not need to remind those who have been members of the House in which we stand that any new provision which is inserted will be used for political advantage by whichever party can use it. I do not need to go into any detail to point out the way in which that could be used by a Prime Minister who wanted to take certain action on a particular position. This idea that we are smarter than earlier generations, that we can dispense with the sensible procedures that have been worked by trial and error over the years by putting in new rules like this, will do nothing but turn Australian politics into a grand game of snakes and ladders with many more snakes than ladders.

Under that system what is there to cover the situation so cogently pointed out by the South Australian Constitutional Advisory Council—incidentally, the only public inquiry in Australia which made recommendations and naturally made a recommendation almost identical to the model that I advance—of what happens if you have a head of state who suffers mental or intellectual deterioration? Whereas it can all be done quietly now, there would be a sitting of parliament, and the cruelty to the family of that is pointed out by that council. Another patch would be necessary there, but it is still a very leaky ship and we can expect many more patches before we are through.

Mandate: let us here differentiate between the theory and what will happen. The theory is that two-thirds of the members of a joint sitting will sit up, scratch their heads and say, 'Is this person worthy to become president?' What will happen, of course, is that there will be a meeting and a deal between the Prime Minister and the Leader of the Opposition, and political deals are always far more complex than appears. *(Extension of time granted)* Because it will have to draw the support of a two-thirds majority it will have to go to the party rooms. Once it goes to the party rooms it is out in the media that night—I will come back to that in a moment.

The mandate is not going to be a mandate coming from people making up their minds in a sitting; it is going to be combed through in the party rooms. That South Australian report points out how South Australia, as was mentioned earlier, got far more diverse Governors through a Premier being able to decide alone than if the person was the one who emerged through the vetoes of the opposition and all members of the parliament.

The mandate that will come from it is not a two-thirds mandate; it is virtually a 100 per cent mandate. If the government is bound to comply with it, so is the opposition. That is an enormous mandate. It is very easy for us to think that there aren't these balances, but there are. One of the things I learnt most rapidly was that balances apply in that situation.

I would like to close on this point: it is very easy to assume that we will get people like Zelman Cowen and Ninian Stephen unless we think about it. Inquiries will be an inherent part of this system. In this media powerful

community it is totally unreal to think that there will not be parliamentary inquiries into the suitability of the nominee as there are for judges of the Supreme Court of the United States. There is an irresistible impulse in many people to get themselves on television. The best way of getting on television is to make an allegation of outrageous conduct against a person of high reputation.

I wish to say something which, mainly because of my age, I am qualified to put forward. When you become a governor-general or governor, typically you are about 65. By the time you get to 65, you are vain enough to think you have a reputation. You are rather jealous of it. Knowing what would occur, knowing what would come from opponents of the Prime Minister or from publicity seekers, who would put themselves in for that? If it does not come through a parliamentary inquiry, it will come through media saturation.

Let me say very clearly that I would not dream of allowing my name to go forward. I realise that some would think that would be a manifold advantage over any other system. I would not dream of that. I have seven grandchildren. I would not allow my name to go forward. Read *Federation Under Strain* to find out the realities. Ask someone who served in this parliament. Read *Primary Colours* to see the way it is going, and pause.

When this is all brought out under the scrutiny of a referendum campaign, which is all-revealing, what hope is there of a model like that resolving the issue, allowing those who are republicans at heart to vote for a republic? Thank you for your toleration, Mr Deputy Chairman and delegates.

Ms PANOPOULOS—Republicans have been trying for over 100 years to have an Australian republic. After a century, they are still not sure what sort of republic they want and how it will work. They are still divided amongst themselves. There are almost as many republican models as there are republican delegates to this convention. The stumbling block for republicans is that they have not identified any flaw in our present system. If they do not know what the problem is, how can they hope to provide any answers of substance? Yet a diversity of opinion, free speech, independence of thought and a larrikin disregard of power and authority is as Australian as *Waltzing Matilda*. The elitist corporatist approach to decision making, such a hallmark of the former Labor government, is choking this Convention.

ARM's reluctance to consider other republican points of view is a slap in the face to those republican voters who do not support them. Now is not the time for ARM to mimic the Labor Party's bullyboy tactics. Now is the time for humility and an end to hypocrisy.

One of ARM's arguments against the direct election of a president is that only political parties and large corporations will field successful political candidates. They say that such a method of selecting a president will effectively deny candidacy to our writers and poets. They may be fond of writers and poets, but obviously creative Australians of this calibre were not deemed good enough to be ARM candidates at this convention.

The ARM are obviously speaking from experience. We all saw their well-funded campaign to elect delegates to this Convention. We all saw the Labor Party machine locked into the ARM campaign. ARM's campaigns against a direct election are hypocritical and arrogant. Arrogant because they believe they own the republican debate. Just like the Labor Party in government, they assume they are always right and all other non-conservatives are wrong. They advocate compromise for everyone else.

There is never any real compromise from ARM. Their policy is one of brinkmanship. Mr Turnbull and ARM believe that all other republicans will eventually come to the fold. They seem to be blinded by their own glitz. Other republicans passionate about what they believe in are not about to sell out. They will not be seduced by your media profile, nor by your connections with big business and the Labor Party. They are the true republican believers. They are the grassroots of the republican movement. They are the real republicans. Listen to them—their experience in community affairs might help your feet touch the ground.

Mr Turnbull's disgraceful lies earlier today about ACM's position at this Convention is typical. We do not support the Keating-Turnbull republican model, and that is no secret. He should not make the quantum leap of logic and accuse us of wanting to derail this Convention. We have always said that the question of whether we change our system of government from a constitutional monarchy to a republic is an issue for the Australian people. They will decide, and, if the polls are any indication, the ARM model is not the people's choice.

Much has been said to highlight the dangers, deficiencies and uncertainties of both direct election and parliamentary election of a president. The McGarvie model, however, has received insufficient scrutiny. It is interesting that not one elected delegate to this Convention was elected on the McGarvie model. The main proponents of this model are the self-styled community leaders in this chamber. I appreciate Mr McGarvie's concerns about other republican models and honestly respect his attempt to retain the safeguards, flexibility and sophistication of our present system. He, however, has not succeeded.

His model does exactly what all other republican models do: the McGarvie model removes the very essence of our Constitution. This step of destroying the theoretical structure of the Constitution automatically distorts the very constitution that Mr McGarvie is trying to preserve. His apparently conservative republican model does not diminish the effect of removing the crown in the first instance.

If the McGarvie model is to be adopted, we will get a rigid structure and lose one of the greatest strengths of our constitution—we will lose its flexibility. We will also lose the non-controversial manner in which our head of state, the Governor-General, is appointed. The McGarvie model has also failed to present a flaw in our present system that will be fixed by adopting his model.

We know how the present system works. We do not know how Mr McGarvie's model will work. His model removes a Queen who has no power except to appoint a Governor-General on the recommendation of the Prime Minister. It replaces the Queen with a committee of three people, comprising former governors-general and former High Court judges. It is a fantasy to claim that these three committee members will have the same position as the Queen. They will have real power and greater moral authority.

Let me give you one example. Imagine this: we have an unpopular Prime Minister, or even a Prime Minister who at best commands no emotion either way. On the one hand, you have three distinguished Australians unlikely to be tainted with the political partisanship of the Prime Minister. *(Extension of time granted)*

One of these three committee members may be a high profile former judge who throughout his life was involved in legal, political and community debate. He may be held in high regard for his progressive judgments. In fact, all three committee members may be of this calibre.

One day they receive the Prime Minister's nomination for the head of state. This committee does not agree with the Prime Minister. They try to convince him that his choice is not an appropriate appointment for a young republic. Alternatively, they may believe the appointment is too political.

The Prime Minister ignores their advice. After all, he was told that, by removing the Queen and replacing her with a committee, none of the strengths in our Constitution will be weakened. The Prime Minister believed that the committee would perform the same function as the Crown. The McGarvie committee is not the Crown. They are not restrained by centuries of parliamentary and constitutional development. This committee will distort the separation of powers currently contained in our constitution. The Queen cannot resign in protest. The McGarvie committee can. It can be lobbied by outside interest groups.

The Prime Minister can alternatively appoint a new cooperative committee that will comply with his wishes. The damage, however, to the Prime Minister's authority will be significant, and the effect on the separation of powers doctrine will be far-reaching.

Those three committee members who resigned will probably have greater respect and moral clout in the community than the Prime Minister. The behaviour of these committee members is not guided by conventions because the conventions we presently have apply to a constitutional monarchy, not to government by committee.

The McGarvie model has tried to outminimalise the minimalists. I ask: if you believe that a republic is so essential for Australia, why are you trying to play down its significance? Contrary to what has been said in this chamber, the McGarvie proposal will not retain our present system intact. It is perhaps unwittingly deceptive in disguising the magnitude of the change to our current constitutional arrangements.

Mr MOLLER—Mr Deputy Chairman, I raise a point of order. I do not wish to impede the passage of debate, but some of us stepped aside or did not put our names forward to speak this afternoon on the understanding that speakers would get five minutes. We now have about half an hour to get through 13 speakers. The past few speakers have spoken for 10 minutes each. In the interests of debate, can we please not grant extensions. Can speakers do as the Hon. Michael Hodgman did. If he can do it, the rest of you can. Just get through it all in five minutes so that we can get on to considering the resolutions this afternoon.

DEPUTY CHAIRMAN—First of all, I should explain that the arrangement is that as from 3.30 p.m. or thereabouts we will be considering the report of the Resolutions Group. It may be that you will have to talk with unparalleled celerity to get through. As you appreciate, we are already fighting for time. Your point is well noted. If people do not vote for it, they have to indicate very clearly that they do not grant an extension.

Mrs KERRY JONES—I begin by acknowledging the standing ovation given last night to my ACM colleague and friend Mr Neville Bonner. The emotion and passion of his speech has evoked an enormous amount of support from the Australian public. We thank you for that support. We thank Mr Bonner for inspiring us all to continue our very great cause.

No republican model that we have seen put up over the past two days of debate on dismissal and appointment measures up to the safeguards in our current constitutional arrangements. We have seen model after model; obviously, we will be voting on them very shortly. The Deputy Prime Minister, Mr Tim Fischer, eloquently described these models as mini, middy and maxi. Professor Blainey, in his speech yesterday, pointed out that the recent debate on the republic has concentrated more on trying to tear our current system apart than constructively building a real alternative republican model that can be tested at a real referendum, a referendum being the only poll that will count.

Mr Beazley, and Mr Peter Collins, whom we have just heard from, argue that a sporting event is reason enough to tear up our working Constitution. They think that hosting the Olympic Games is cause to move to a radically new system of government. I do not think the Australian people will agree.

Yesterday my ACM colleague Tom Bradley used the example of a sporting event to demonstrate the importance of an independent referee, the umpire who is above politics and who has the job of acting quickly and decisively in a crisis when the correct ruling is of utmost importance. The example Tom used, of course, was the issue of whether Mark Waugh was out or in. What would have been the chance of a decision without the impartial referee above any cricket politicking, or indeed international politics? The cricket umpire, as does our Governor-General, had the full power to make a quick decision from interpreting the rules. If the decision had depended on the popular vote of the crowd observing the match or a decision from a cricket board chaired by perhaps Mr McGarvie or even a council of eminent selectors, both South Africa and Australia could well be still standing on the Sydney cricket ground today.

There are many problems in the appointment and dismissal proposals, as evidenced by the plethora of different republican models on the table. We can learn from the experiences

overseas—and we have not talked about the lessons to be learnt from overseas experiences nearly enough.

As I stated in my opening speech to this chamber, the Crown is integral to the Westminster system. Any attempt to graft a republic onto Westminster would produce a competition for power between the president and Prime Minister, as is seen in France; or it would produce a competition for power between the president, the Prime Minister and the Supreme Court, as in Pakistan; or it would strip the president of any powers, as in Ireland. Who dismisses whom? And where there is no dismissal mechanism, such as in Yugoslavia and Germany, world history has taught us that disintegration can end in disastrous civil or even world war.

In Brazil, from 1928 to 1993, only one president completed his term of office; the others either died in office, committed suicide or simply disappeared. Recently, the Italian government has been hindered by continual arguments between presidents and the Prime Minister over who has the most power over such basic administration issues as sacking their equivalent of our ABC. In India, in 1975, Prime Minister Indira Ghandi, assisted by a feeble president, threw hundreds of political prisoners into jail. I could go on and on but I will finish to allow the debate to move into the voting resolutions.

We have heard much debate regarding what is now termed the 'McGarvie mini republican model' as being the most efficient in terms of dismissing an unruly president. In particular, Greg Craven keeps popping up expounding its virtues. Mr Tim Fischer in his speech, pointed out that a council of statesmen being lobbied by politicians and their staffers may have more difficulty with dismissing a president than with any of the other proposed models.

I point out to Mr McGarvie's supporters that delegates who stood to the people of their state for election to this Convention on the McGarvie model, such as Mr Mike Evans in Queensland, only attracted a few votes. I am here because I put myself for election to the people. The people gave me a mandate to measure each of the republican models against the safeguards of our current constitutional arrangements. None of the models measure up to that benchmark; none of them even come close.

Councillor LEESER—Over the last few days, wandering in and out of Kings Hall, delegates will have noticed that the founders of our nation are depicted around the walls of this historic building. In the words of Ecclesiasticus, 'Let us now praise famous men. Their bodies are buried in peace but their names liveth for evermore.' Sadly, our founders' names are not household names; but, whilst their names may not be known, their legacy deserves to live on.

The great strength of our system is that it allows for a speedy appointment and dismissal of a Governor-General by the Queen on the advice of a Prime Minister—a system no other model is able to improve. I am going to deal today with the McGarvie model, the Craven compromise and popular election because I feel other models have been well dealt with already, although no model that I have seen meets the important litmus test of being an improvement on our current system.

The McGarvie model, with its council of eminent persons, presents its own problems. The McGarvie model creates some sort of 'uberpresidency' whereby you have people who could no longer be on the High Court because of a constitutional amendment in 1977, which deems that they are too old to have the capacity to act as judges, but to whom this particular model would grant the capacity to act in a fundamentally important position.

The McGarvie model prompts the question that Juvenal asks us all: quis custodiet ipsos custodies—who will guard the guardians? Who will be prepared to serve on this particular council in the first place? Very few Australians would be prepared to be merely a cipher to a Prime Minister who wanted to get rid of a president. These people would not have the experience of a constitutional monarch who knows how he or she must act. As ex-lawyers they would want to make sure that they did not sack a president without some legal cause. They would want reason, argument, proof of misconduct. Furthermore, what sort of person would want to put them in the

same sort of position as Sir John Kerr who, during his lifetime, received a beating for creating a dismissal, albeit of a different sort? The council would, as Kerr said to Whitlam, have to live with this.

Finally, there is no popular legitimacy for the McGarvie model. Kerry Jones just mentioned Mike Evans, who stood in Queensland as an independent republican on the McGarvie proposal. He got precisely 0.4 per cent—that is less than one per cent—of the total vote in Queensland. The main proponents of the McGarvie model are appointed delegates. Unlike some, I do not accept the McGarvie model, however much I respect the man whose name it bears.

I wish now to turn to the Craven compromise, as I have termed it. This is the worst solution because Professor Craven has compromised republican models out of existence. He has said that the head of state should be appointed by a two-thirds joint sitting of parliament and removed by the McGarvie council of elders. It is the worst solution, because if you dismiss a president by the council you then have a long period of time where you would have no head of state while a series of backroom deals needed to be done with the opposition parties and independents who probably would be unwilling to negotiate—particularly if the previous head of state were dismissed due to perceived partisan advantage.

I also reject the Craven contention that we must back a republic now because if it fails at a referendum it will not go away until we have one. Any analysis of failed referenda shows that Professor Craven's logic is fundamentally flawed. The only defeated referendum to have been put a second time and carried was the territorial voters referendum, which was originally part of a composite proposal in the first place.

I do not wish to rubbish the popular election model because so many republicans have done this anyhow. I instead wish to make a plea to all those who voted for and are here to represent popular election. I believe that those who wanted a head of state elected by the people did not vote for it because they wanted to kick out the Queen but because they wanted to have a direct say in choosing their head of state.

Many people voted for the ARM because the ARM said that, whilst they preferred a two-thirds model, they said in their full page advertisements which I wish to table:

However we recognise that many Australians would prefer to see the Head of State directly elected by the people. Australian Republican Movement delegates will go to the Constitutional Convention with an open mind—

I repeat, an open mind—

aiming to reach an agreement with other delegates on these issues.

But on Friday 30 January, two days before the Convention started, Malcolm Turnbull in the *Sydney Morning Herald* was reported to have believed that election by a two-thirds majority was the only way to go and that popular election was a non-starter. Vive l'esprit ouvert—long live the open mind!

I say to the advocates of popular election: stick with your principles. Remember the people who elected you. They elected you because they wanted to vote for the president. If that model does not succeed, stick with the status quo. Save the Australian taxpayer some money. No more business class air fares, no more travel allowance, no more devastated forests to keep this Convention in paper. Remember the maxim of Shakespeare: above all to thine own self be true. *(Extension of time granted)*

In conclusion, if it is true to say that a camel is a horse designed by a committee, then surely a republic designed from this Convention is the ultimate Trojan camel. My fellow Australians, beware of republicans bearing gifts.

DEPUTY CHAIRMAN—Before I call Mr Doug Sutherland, there are two proxies for tomorrow. There is one from Edward O'Farrell nominating Professor David Flint for tomorrow and another from Marilyn Rodgers nominating Malcolm McKerras for tomorrow.

Mr SUTHERLAND—I would like to thank the people of New South Wales, my co-candidates who were successfully elected, and those who chose to stand with me and other

members of my team who were not elected for the support that they gave to me.

I would like to reiterate the comment that Dr David Flint kindly made this morning at my request. I refer to page 141 of the proof *Hansard* of yesterday, where I am quoted as saying:

What about Keating?

I did not interject therefore I did not make that remark. The person who did has sought to have the *Hansard* proof altered.

I would have preferred to have come to this Convention talking about the president versus a constitutional monarch. I find the use of the term 'head of state' as a bit of a sleight of hand and I support the leader of Australians for a Constitutional Monarchy, Lloyd Waddy QC, who said in his brilliant opening address on the first day, 'Let us have an act of parliament where we designate the Governor-General as being the head of state,' because there is no such term in our Constitution, which is nearly 100 years old. That would clear up the matter and, at the same time, satisfy those who campaigned for having an Australian as head of state. We could also designate in that act of parliament that only an Australian citizen would be capable of holding that title. Both of those measures could be introduced without any change to the Constitution.

I wish to confine my remarks today, not to justifying the constitutional monarchy over the republic because I am hoping to have the opportunity of a major 15-minute speech early next week, but to what is the subject matter we are dealing with. I refer you to Working Group E, the proposition being the present arrangements for appointments and dismissals and the defects of suggested alternatives. May I reiterate what are self-evident, which are the advantages of the current system of a constitutional monarchy: the confidentiality in both appointment and replacement; the certainty in both appointment and replacement—and I use the word 'replacement' advisedly rather than dismissal; the lack of tenure, which ensures the Governor-General does not enjoy a political power base in competition with the Prime Minister; and, most importantly from the political parties' point of view, the Prime Minister would remain the pre-eminent political figure in the nation as head of government. That is certainly the Labor ethos. I can speak with some authority, having been a member of that party for over 40 years. I suspect it is also the ethos of the Liberal and National parties.

I would like to turn to just a few of the models that are being debated and to those that have been predominantly debated over the past 3½ days. These are: the two-thirds majority in the Commonwealth parliament, the popular vote and the Hon. Richard McGarvie's model.

The disadvantages of appointment and the fixed term of appointment in juxtaposition with the Prime Minister, who could axe tenure, would mean that there would be a tug-of-war or a competition between those two important positions. I have already referred to the pre-eminence of the position of Prime Minister. An elected president with a two-thirds majority of the Commonwealth parliament or by popular vote would see himself or herself as having a mandate and a political life of their own.

The McGarvie model has been adequately covered by Dame Leonie Kramer this morning, but I would repeat that the process of appointing the McGarvie model through a committee of elders or wise persons would not be as confidential or would run the risk of not being as confidential.

Turning to the other disadvantages on appointment, should the system of voting in the Senate change—and I was pleased to see that Professor Blainey picked this up—to what it was before 1949, you could have a broad sweep in both houses. This would probably suit Mr Keating because I suspect he referred to the Senate as being 'unrepresentative swill', not out of disrespect for the Senate but because the system of proportional representation did not reflect the same voting change as did a broad sweep, with the mood of the electorate changing in the House of Representatives. If that happened you could have a winner take all situation where one political party would have the numbers, either on its own or in conjunction with a few Independents, to make the appointment.

You run the inherent risk with a popular vote—I know this may not sound terribly democratic, and certainly is not absolutely so—that many people would be constrained from offering themselves for election. Former governors-general have already made statements publicly to that effect. With an elected president, too, I think there is almost no way that you can preclude anyone at all from standing, nor prevent the political parties, which are legitimate organisations in our society, from endorsing and supporting candidates. But you run the inherent risk that votes could be bought, not necessarily by the political parties but by a system of patronage. I will not seek an amendment, out of courtesy to Brigadier Alf Garland, but I refer you to the dismissal items 1 to 6 that are listed in the paper.

Brigadier GARLAND—Those who do not take account of the mistakes of history are cursed to repeat them. The discussion of the arrangements for the appointment and dismissal of heads of state is a topic close to the Garland family. We have been involved in this sort of an issue as a family for a considerable length of time. In 967, together with a number of other magnates of France, William of Garland used his influence and military skills to put Hugh Capet, the first of the Carpetian kings of France, on the throne. The demise of the previous monarchies came with this move, much to the delight of the people of the kingdom of France. By 1108, Anseau of Garland had become the seneschal of France. He kept the king's peace for Philip I, Louis VI and Louis VII until he died in battle in 1118 defending the king's mandate as the king of France. He had a daughter, Agnes of Garland, about whom I will speak a bit later.

In the latter half of the 12th century, one of the family, Guy of Garland, moved to England and he and his brothers and children paid fines and took up fiefs in Kent, Sussex, Devon, Lincolnshire and Salop. During this time the English part of the family made their way in England and one of them served Richard the Lionheart as his fleet commander during his crusade to the Holy Land and subsequently became his seneschal in Anjou. Another branch of the family, who were descendants of Agnes Garland, also went to England from France, worked hard and prospered. Indeed, the grandson of Agnes married the king's sister, Eleanor of England. Henry III made him the steward of England and, with his close ties to the Crown, one might have thought that he was a monarchist.

Dr O'SHANE—I raise a point of order. The issue is: if there is to be a head of state, what should be the arrangements for appointment and dismissal? It is quite clear that we are being given a lesson in ancient history here. I want to know what relevance this has to the issue of, if there is to be a head of state for modern Australia, what should the arrangements be for appointment and dismissal. If the speaker is not prepared to address the issue, Mr Chairman, I invite you to invite him to resume his seat.

DEPUTY CHAIRMAN—In response to the point of order, it is medieval history, not ancient history. But I would invite the speaker to relate his remarks to the actual topic.

Brigadier GARLAND—If the delegate would sit down, she might learn something.

DEPUTY CHAIRMAN—We would all learn something if you would relate it to the subject.

Brigadier GARLAND—It is relating to appointment and dismissal of heads, and I am coming to it. One would have thought that this man, with his close relations to the Crown, might have been a monarchist, but in 1264 this grandson of Agnes Garland, a man called Simon de Montford, the fifth Earl of Leicester, with the encouragement of the English people, and particularly the people of London, took on the Crown in the battle of Lewes and defeated the king. He took over the administration of the country. He dismissed the king. Simon was the people's man. He curbed the excesses of the Crown and then found out that it was not simple to rule when the basis of kingly power was denied to him. In the end, after 15 months experiment, Henry III gathered together new forces, including the people who had become disenchanted with the administration of Simon, fought Simon at the battle of Evesham on 4 August, defeated him and his sons and took his place again as

the king of England. All of the de Montfords died on the field of battle. So death on the field of battle is one way of getting rid of a head of state.

During the period from 1264 to August 1265, Simon and his supporters removed the king and took over the administration of the country; he had then been removed by the will of the people and the Crown, acting together in battle at Evesham. The people came back to the monarchy because it provided more stability than the de Montfort model. Of course, this was not the last involvement of the Garland family in the appointment and removal of heads of state.

A number of centuries later Augustin Garland, a graduate of Emmanuel College of Cambridge and a member of Lincoln's Inn—he became a lawyer—when his father died, inherited property, and he was elected to parliament as the member for Queensborough. While he was a member of parliament, on 20 December 1648, he signed the protest against the acceptance of the king's accession and was appointed to be one of the judges at the king's trial. He acted as the chairman of the committee selected to consider the method of trial of King Charles I. He attended 12 of the 16 meetings of the court. He was present when the sentence was given and Charles's death warrant was signed. He sat then in the Long Parliament until it was pushed aside.

At the end, in May 1659, when the king was recalled, he came back into the parliament and acclaimed the king's accession. But he was tried for regicide. Fortunately, the death penalty was not put into execution, but his property was confiscated and he was kept in the Tower. A warrant was issued on 31 March 1664 for his 'conveyance'—an euphemism for transportation to Tangiers for opposition to the Crown.

CHAIRMAN—Is there a motion for extension of time?

DELEGATES—No.

Brigadier GARLAND—I then seek leave, Mr Chairman, to have the rest of my comments and supporting papers included in the proceedings of this Convention.

CHAIRMAN—I am afraid the supporting papers cannot be inserted. But, subject to *Hansard* being able to accommodate the rest of your speech, I so rule.

Brigadier GARLAND—I do not require it to be incorporated in *Hansard*,just to be made a part of the proceedings.

CHAIRMAN—Yes. It will be tabled as part of the Convention proceedings. The time available for further deliberations, unfortunately, on that subject has now ended, and I am concerned that we try to proceed on this series of votes as soon as we can. We have now a series of matters to pursue.

A visitors book which is designed to have the signatures of all delegates and proxies to this Convention so that we can incorporate them in the proceedings and have them available for posterity has been opened in the old Speaker's suite. It is in the entrance to the Speaker's suite. Sometime between now and tomorrow week I would appreciate it if all delegates would sign that so that we can have the names so recorded.

The reports of Working Groups A to F will be tabled and will become part of the proceedings of the Convention. I will now deal with the resolutions of the Resolutions Group. The revised text of those resolutions has been distributed to all delegates in a document headed Revised Following Convention Debate—Resolutions Group proposals concerning Convention procedures and role of the Resolutions Group. It would be my intention to put these resolution in the following order: resolution 1, resolution 2, resolution 3 and then resolution 4.

What I intend to do is to allow a very brief period before each section is put so that, if anybody has any questions, Daryl Williams, Gareth Evans or I can respond to them. Then we will put each one of those points. We will start on our voting this afternoon on the Resolutions Group proposals which were presented to the Convention by Daryl Williams, on behalf of the Resolutions Group, at 12 noon or thereabouts today. We will go through each of these as they are presented to us.

We will begin our deliberation and then voting on Resolutions Group proposal headed 1. It states:

> 1 In relation to the remaining plenary sessions scheduled on key issues (on Days 6, 7 and 8):
>
> (A) That in future plenary sessions on key issues all resolutions which achieve a level of support of at least 25% of delegates voting . . . should be forwarded to the Resolutions Group . . .

That does not mean that the Resolutions Group will necessarily include them in their final report. It will mean, however, that in the Resolutions Group report there will be a note of that proposal; and there will also be a further opportunity, if delegates so wish, for whatever that proposal might be, to be moved and seconded as amendment when we are dealing with the Resolutions Group proposal, which will come, as you will recall I explained earlier today, as an amendment to the resolutions that have already been passed provisionally in this house. Is there any comment on the floor of the House with respect to Resolutions Group 1(A)?

Mr GUNTER—I have a question regarding the introductory wording to resolution 1 on the revised sheet where it specifies days 6, 7 and 8 for this 25 per cent rule, whereas on the sheet presented to us before lunch days 4, 6, 7 and 8 were included. Does this mean that it is proposed that the 25 per cent rule not apply to the votes occurring later this afternoon?

CHAIRMAN—That amendment was done at my request, essentially. I was looking at the other parts of the resolution. No, it does not. It was really intended so that the changes to the voting time, which it was suggested be at 3 o'clock, would not apply today. It is my omission. I think we should reinsert, with respect to resolution 1, days 4, 6, 7 and 8. Thank you for drawing it to my attention. The first of those is back to where it was. It should be 4, 6, 7 and 8. I am sorry, I took it out because I could not see how we would get the vote going by 3 o'clock today.

Mr RUXTON—I would like to move an amendment to 1(A).

CHAIRMAN—Have you got it in writing and is there a seconder?

Mr RUXTON—No, I have not got it in writing.

CHAIRMAN—Would you please put it in writing so it can be received. You can move it, but it then needs to be received by me in writing. Let me explain to everybody that I cannot accept any amendments which are not in writing or we are going to find it impossible to record the deliberations of this Convention. Mr Ruxton, please move your amendment and then put it in writing.

Mr RUXTON—I move:

> That '25 per cent' be deleted and replaced with '51 per cent'.

CHAIRMAN—Is there a seconder?

Brigadier GARLAND—I second that motion.

CHAIRMAN—I am not going to allow speakers on each of these because we will never get through everything, but what I am going to do is to allow a few minutes for further comment on this resolution.

Councillor TULLY—I think we are trying to get to some position of goodwill within this Convention so that legitimate proposals can go forward and be considered. If we are going to suddenly change it to 51 per cent we could end up with the same situation which caused problems earlier in the week. I think the 25 per cent is eminently reasonable. Anyone in this chamber who believes that all proposals should continue to be considered should go for the 25 per cent option and reject that amendment.

CHAIRMAN—I intend to put the question without going through the ordinary repartee, or we are going to run out of time. There is an amendment to 1(A) that will make the second line read—

Mr RUXTON—I withdraw the amendment.

CHAIRMAN—The amendment has been withdrawn by Mr Ruxton. Therefore, unless there are any further comments, I put the Resolutions Group proposal 1(A).

Motion carried.

CHAIRMAN—I now submit Resolutions Group proposal 2(A). I think we had better deal with these in sectors otherwise we are

going to be in trouble. We will deal with that paragraph which begins:

The primary responsibility of the Resolutions Group . . .

Is there any comment on that proposal? If there is no comment on that proposal I put the motion.

Motion carried.

CHAIRMAN—The next is Resolutions Group 2(B), which commences 'In formulating Final Plenary Resolutions the Resolutions Group shall take into account'. It then lists the three subsidiary points (a), (b) and (c). There being no comment on 2(B)(a), (b) and (c), I put the question that 2(B), the proposal of the Resolutions Group, be approved.

Motion carried.

CHAIRMAN—We then turn to (C), which commences 'Final Plenary Resolutions".

Motion carried.

CHAIRMAN—We then move to proposal 3. You will notice that this has not been changed. There is a comment in bold underneath which states:

To be reviewed by the Resolutions Group and returned to the Convention.

Since we have returned, I have received an amendment to that submitted by Archbishop George Pell and seconded by Graham Edwards which I will refer to the Resolutions Group. We are not going to consider proposal 3 at this stage because it will be a matter for reference back to us in due course at some time tomorrow, around 12 noon. I also refer the amendment received from Archbishop Pell to the Resolutions Group. It will be considered by us at the time of the Resolutions Group report back tomorrow.

Councillor TULLY—I foreshadow a further amendment that could go forward for consideration. I will put it in writing. It is fairly simple. I move:

After 'deliberations', delete 'in Stage I'; after 'given', delete 'in Stage II'.

That is pre-empting what might constitute a stage or process. The sense of that proposal would remain, but it would leave open what may constitute stages or other processes which may come out of the proposal.

CHAIRMAN—I propose that, if you have a seconder, you put that in writing and submit it to the Resolutions Group. They will then take it into account. I see that it has been seconded by Professor O'Brien. Submit that to the Resolutions Group. If there are any further amendments, put them in writing. If the names of the mover and seconder are submitted to the secretariat, they will be referred to the Resolutions Group. They will consider it and return those comments to us tomorrow. You will be advised of the time when they will be considered.

I now put Resolutions Group proposal 4. The significance of this is that at the plenary sessions on days 6, 7 and 8 voting will not be at the end of the day, as to date has been the practice. It will mean that, henceforth on days 6, 7 and 8, when there are working resolutions in plenary sessions, they will proceed on a sequential basis, with voting on each resolution following immediately after consideration for not more than 20 minutes of that resolution. You should note that our present order of proceedings provides a different mechanism from that and that this will change that mechanism. I submit to you Resolutions Group proposal 4 and call on any consideration from the floor. Does anybody wish to comment?

Mr GUNTER—Again, my question is whether it was intended to include day 4 since we have Working Group resolutions further this afternoon. Do we wish to remain with proceedings of earlier this week, for other Working Group matters later in the afternoon today?

CHAIRMAN—The reason I have deleted day 4 from that is that it is impossible time wise for us to allocate the time that would otherwise be needed. I am trying to do it in an abbreviated form in the procedures that we are now pursuing.

Mr TIM FISCHER—Undeniably, this is currently the greatest political show on earth and it is a privilege to participate. The dynamic of this Convention is attracting a good deal of public interest, as it should—it is a very important subject—and this Convention has its own dynamic, but I have a problem with No. 4, the issue of days 6, 7 and 8. That

is a very abrupt change for a lot of people, not only for parliamentarians and ministers who are delegates but also for other delegates who have made previous arrangements. I contend that we had agreed previously to 4 p.m. onward for voting for days 6, 7 and 8. I accept that for days 9 and 10 it is going to be a case of all hands on deck, especially in the afternoons of those two days. Presumably there will be a fair bit of debate early on in the morning, but in the afternoons on days 9 and 10 the plenary votes will cut in and the final rollcall vote will take place, as currently envisaged, on the afternoon of day 10.

I ask whether, notwithstanding the sequential dealing with matters, the actual taking of the vote at the end of each period could be deferred until 4 p.m. That means that on days 6, 7 and 8 the debate is completed but people remember where they stood on the matter and the actual votes be put at 4 p.m. The only way I can express that is to vote against this resolution as it before this convention. I seek your advice in this regard.

Mr GARETH EVANS—A point of order, Mr Chairman: perhaps it is not very clearly expressed in the resolution but the intention is less extreme than has been characterised by the Chairman and understood by Mr Fischer.

CHAIRMAN—I am sorry your drafting is so inadequate, Mr Evans!

Mr GARETH EVANS—You insisted on having the thing brought forward here. We were doing it just for you so that you could bring forward an agenda change. For example, can I refer to how this would operate on day 6, Monday. If you look at the program for Monday, you will see that session 1 runs from 9 o'clock to 1 o'clock with speakers selected from the list by the Chairman dealing with the key issue of the day. That continues in the afternoon until 3 o'clock. But then from 3 o'clock until 4 o'clock you get speakers selected from the floor. From 4 to 4.45 p.m. we have voting on provisional resolutions. The intention was simply to collapse together the last two of those things so that that part of the proceedings which had five-minute speakers from the floor would merge with the voting. So it would involve an extra hour or so depending on the number of the working group resolutions—allocating 20 minutes for each.

Mr TIM FISCHER—Why didn't you say that?

Mr GARETH EVANS—That is what we intended to say and that is what I thought would be communicated. I am sorry we failed to do that. Under those circumstances the problems that arise for the executive members of government, which we are all very conscious of, and other delegates who may have made other arrangements, are intended to be reduced. It does add an extra hour to the time that you would be here, give or take a few minutes. The hope was that the Chairman would bring forward a change to the agenda and clearly spell that out by tomorrow so that everybody could make appropriate arrangements for next week.

Dr O'SHANE—Further to what Mr Evans, the Resolutions Group rapporteur, has just stated, delegates will remember that the other day a number of us asked for time to consider each resolution as it was put before us so that we had the opportunity to debate it before we voted on it. We agreed the other day to follow the agenda as set out for us, but we did ask for and vote through an agenda change on the issue of proxies, for example. We did not vote it through, but the Chairman agreed to the proposition that was put. So we have already changed some of the procedural matters here. This was a specific desire of the majority of delegates, as I read the situation here, on Monday and Tuesday. So I am just reminding you about that.

Whilst I am sure that all of us have sympathies for the politicians who are present at this convention—we know that they have their jobs to do—we have made the point already to them, and I would like to make this point again, that they are here as equals with us in this convention. This is not the parliament. This is a quite separate exercise that is taking place here. They do not have any more rights than any other delegate here to be granted any sorts of concessions. When you consider the objection by Mr Fischer you should keep that in mind. I want to remind you too that earlier in the course of this Convention you were concerned that you did not have the oppor-

tunity to consider each of the resolutions carefully, discuss them and then vote on them.

Senator FAULKNER—I respectfully suggest, Mr Chairman, picking up the point that the Deputy Prime Minister made to the Convention, that it would be necessary, if resolution 4 is carried in this form, for you to direct the secretariat to ensure that the notice papers reflect when these plenary sessions are actually going to take place.

I do appreciate that, with the amount of business before the chair, on occasion, including today, you have indicated clearly to delegates that there was a possibility of the plenary session here this afternoon coming forward to 3.30. If the voting is to take place either in the way you understood it or the way that Mr Evans understood it, or perhaps even in the way any of the rest of us have understood it, we should all be clear, and I believe the Notice Paper should reflect that. I think that is essential at the commencement of each day of proceedings of the Convention.

I think it would be very useful for all delegates if a revised Notice Paper for the Convention for the remaining days could be produced as soon as possible if the Convention finds favour with resolution 4, so it does give certainty to delegates in relation to these processes and procedures.

Mr BRADLEY—I want to make a suggestion about this motion, which really entails an amendment, which I have just written out for your benefit, Mr Chairman. It seemed to me that the discussion we had this morning on this topic was more the result of the way we have conducted the debate about the earlier resolutions. We were all, in effect, forced to debate all of the working group resolutions at once in 10-minute speeches over a long period and then sit down and vote on them without specific debate on specific resolutions. It was quite unsatisfactory.

The resolution to that problem does not necessarily lie in the voting arrangements but more in the debating arrangements. We should be debating each of the working group reports with speakers for and against them so that people can clearly see the arguments for and against each of the working group reports and not have to engage in abbreviated debates to cover six different proposals within one 5- or 10-minute speech.

My amendment, which I am going to propose, is that we debate each of the working group resolutions on a sequential basis but that we still vote in accordance with the order of proceedings—that is, at 4 o'clock or whenever on that day. We would have a sequential debate of each of the working group resolutions in the course of the day and the debate on each of them would follow. We would understand the arguments for and against each much more clearly before the time came for debate. I move the amendment I have foreshadowed.

Mr SUTHERLAND—I second the motion.

Mr WILLIAMS—I just point out that I think what is being proposed is that there would not be listed speakers in the morning; there would be a session that would go all day effectively with speakers from the floor and motions passed as they go through.

Mr GARETH EVANS—Under the terms of the amendment.

Mr WILLIAMS—Yes. If the amendment has the effect, as I understand it to be described. It would mean that you would not have the formal speeches in the morning; you would only have the floor debate for the whole day.

CHAIRMAN—I am afraid I am confused now. I am not too sure how that will work.

Mr GARETH EVANS—I speak against the amendment. I understand very well the spirit in which the amendment is moved, and it is a very attractive option for many delegates. The problem is there are some delegates—and the executive members of government are conspicuous among them—who simply cannot be here for the entire day to deal with and listen sequentially to what the issues are but, nonetheless, should be here to hear at least the key substantive points of the debate aired to enable a proper understanding by everyone of what the issues are when we come to vote on them at the end of the day.

The trouble all of us found on day two, and may well find again this afternoon when we just have a rapid-fire succession of motions

and amendments to deal with, is that people have not got sufficient time to grasp fully the context in which each particular thing is coming forward. People have indicated to us on the Resolutions Group that they want just a little bit more time to get the sense of what is going on and to have a proper understanding rather than just—bang, bang, bang—votes being put.

We would be able to do that if we had a combination of what was originally described on the program as speakers selected from the floor—namely, these quick five-minute contributions—merged with the session on voting itself. That would have the effect of having a slightly extended voting period going over about two hours rather than the one hour that has been originally scheduled. It was not very well expressed, and we do apologise for that, but it is designed to be a compromise between the realistic demands on the time of a number of delegates and the needs of the delegates in this chamber to understand what the hell is going on when we come to the voting procedure.

That is what is intended to be wrapped up in the motion; the amendment would go off in a different direction—a perfectly sensible proposition that would be very helpful to the delegates, but it does not meet the needs of a number of our more time-troubled delegates. We have got to be sensitive to those other competing demands.

CHAIRMAN—The amendment moved by Mr Bradley is to delete 'consideration' and insert 'debate'; delete 'with'; delete 'each' and insert 'all'; delete 'resolutions'; insert 'resolutions'; and delete all words from 'following' to 'key resolutions' and insert 'follow the order of proceedings'. Are there any other speakers on the proposal advanced by Mr Bradley? If not, we are ready to vote on Mr Bradley's proposal.

Amendment lost.

CHAIRMAN—I therefore submit Resolutions Group proposal 4, having in mind the explanation given by Mr Evans, Mr Williams and various others.

Mr LEO McLEAY—On a point of order, I think everyone is as clear as mud on this. It would probably help us if you would be willing to give us an undertaking that, if proposal 4 is carried, you will ensure that a revised *Notice Paper* is issued each day to give us the indications about precisely when the plenary session will be on. In that way ministers and others can arrange their affairs and others can be here to vote when it is necessary.

CHAIRMAN—I think it makes eminent common sense, as always, Mr McLeay, and I will be delighted to take note of your recommendation. If there are no other interventions, I will put recommendation 4, as promoted by the federal Attorney-General.

Motion carried.

CHAIRMAN—We now move to consideration of the working group proposals. If you start with your *Notice Paper*, you have appended to it the basic Working Group A resolutions we are dealing with. We will start by having each of the amendments dealt with in order. Have in mind that we have determined that any resolution that receives substantial support from this convention will be referred to the Resolutions Group.

I should explain what that will mean. In what I regard as an extraordinary process, but I guess it will work, even if you carry an amendment we are not going to delete what was there in favour of the words that would be inserted. The proposition will go for consideration to the Resolutions Group. They will measure that proposal against the proposal that is there and against any other subsequent proposals and will return to us at the stage where we are considering the further report of the Resolutions Group. They will have multiple resolutions before them but on its return to us we will have their report. If any of you, having moved a resolution as an amendment which is defeated, wish then to propose it, you will have an opportunity to do so.

In order to give us an idea of the support of the Convention, even though they are proposals which may be fairly well supported, it will be desirable, as far as possible, to have a tally. Therefore, I will be calling on the four tellers to count each of the four blocks. We will have two people to count the votes and

we will be able to give you the numbers of the votes. So that we will be able to understand each amendment, I intend, when I call the name of the first amendment, to allow that person three minutes to speak on that amendment.

Mr LAVARCH—On a point of clarification, Mr Chairman: given that the 25 per cent rule applies to resolutions generally from the working groups, will a similar 25 per cent rule relate to the passage of amendments to go forward to the Resolutions Group?

CHAIRMAN—That was my understanding, yes.

Mr TURNBULL—Given that the threshold for going through to the Resolutions Committee is only 25 per cent, in the interests of saving time I suggest that when we consider a set of amendments—a whole series of them—unless the proponents of the amendments wish to deal with each amendment one by one—and I am looking at the first one where you can see there is a whole series of amendments—we vote on them en bloc, as it were.

CHAIRMAN—Yes. I intended to do that. We will vote on them en bloc and they will then be referred to the Resolutions Group. But I am concerned that the Resolutions Group has some indication whether that package of amendments is well supported or minimally supported.

Dr TEAGUE—Mr Chairman, my question relates to the three minutes that you intend to allocate to the movers of amendments. I see, for example, that the Working Group C, which deals essentially with a parliamentary method of appointment for the head of state, has seven blocks of amendments. As Steve Vizard and I are movers and seconders of the substantial Working Group resolution, I ask that at least one of us be able to indicate to the Convention, even if it is for only one minute, those amendments that we oppose and those that we may be interested in or even able to support.

CHAIRMAN—The difficulty I have with that is that we have spent a day talking about it but we are not finally determining them. We are trying to get through now a large package of amendments. I suppose we can allow a little of this response but I am concerned that we get through them by 5.15. However, we are not making a final determination today and delegates need to remember that. We are getting a preliminary indication as to whether they want that particular group of amendments to go to the Resolutions Group or not, so I do not think it is necessary, Dr Teague. Any further intervention?

Mr RUXTON—Mr Chairman, I am asking something of you and the Convention on working paper A. I was too late to put an amendment in at midday. Every other organisation is listed in that paper bar the one-eyed magpies association. I just wonder whether you would allow me to add at the bottom of that page the Returned and Services League of Australia. The veteran community is not mentioned at all.

CHAIRMAN—I am sure that there is no difficulty with that. Major General James has seconded the motion. Unless there is any dissent, we will take the RSL as a body to be added to the groups that are already listed. I move towards the consideration of Working Group A's first group of amendments to be moved by Mr Eric Bullmore.

Ms RAYNER—I have a suggested protocol for simplifying the procedures today. It seems that we have changed the sieves, so to speak, which were cutting out the number of resolutions going to the Resolutions Group. The filter is so coarse that virtually everything gets through. It seems to me proper and in the interests of efficiency, given the limited time, to propose a motion that all the recommendations and each of the amendments be referred to the Resolutions Group for their consideration subject to the usual provision that 25 per cent of the delegates here today agree to them. That is the only way that we will ever get through the business. I move:

> That all the recommendations and each of the amendments be referred to the Resolutions Group for their consideration, subject to the provision that 25 per cent of the delegates here today agree to them.

Councillor TULLY—I second the motion.

CHAIRMAN—They will presumably all go through subject to 25 per cent supporting the

resolution. I would like to have it in writing so that it can go into the minutes of the proceedings. I would like you to put it in writing. Does everybody understand the proposal that Moira Rayner has put forward? That is, they all go forward, subject to 25 per cent of this Convention agreeing to their all going forward. I think that is only going to complicate the task of the Resolutions Group.

Mr RAMSAY—I would like to ask a question of the Resolutions Group. I understood that the purpose of these provisional motions being passed by the Convention was to act as a guide to the Resolutions Group in the filter process. If we wish to abandon that guide and trust the guided democracy of the Resolutions Group to operate unassisted by the Convention, so be it. But it is a pretty odd way to go forward.

Councillor TULLY—As a seconder, could I say that I do not think you need to be Einstein or a mathematician to conclude that just about every one of these proposals and amendments will get at least 25 per cent support. So if there is going to be an indication, it might be a 25, 26 or 28 per cent indication. We can cut through a lot of this simply by making this proposal go forward so that everything stays alive. We do not agree with a lot of these amendments and proposals. I believe that, in the interests of efficiency, if you are trying to get a guide, it is not much of a guide to the committee if something goes through on 28 per cent of the vote. Let us simplify the procedure and get it on the table. Otherwise we will be here for another two or three hours.

Mr GARETH EVANS—On behalf of the Resolutions Group, I oppose the motion moved by one of its members, Moira Rayner, for exactly the reasons advanced by Jim Ramsay. The whole point of the exercise is not only to operate as a clearing house—it is a very broad filter as a clearing house; you are surely right about that—but also as a preliminary testing and guidance giving vehicle to the Resolutions Group.

The Resolutions Group already has an almost impossibly difficult task of marrying into comprehensive and understandable packages all the different proposals. It would help us enormously to get guidance from the floor of the Convention, rough though it may be, as to where the broad body of support is for particular propositions.

CHAIRMAN—We have a procedural motion from Moira Rayner which suggests that they all go to the Resolutions Group. We have had some debate on it.

Motion lost.

WORKING GROUP A

Popular election with open nominations

Professor PATRICK O'BRIEN—I move:

That the resolution of Working Group A be referred to the Resolutions Group.

On behalf of Working Group A, I accept the foreshadowed amendments.

Ms RAYNER—I second the motion.

CHAIRMAN—To that resolution, Mr Bullmore has a package of amendments. Do I understand that you accept those amendments?

Professor PATRICK O'BRIEN—Yes.

CHAIRMAN—I am not too sure how that works out. We have too many amendments to consider. I know that in the normal course you would. Professor O'Brien, you are accepting that that package goes on behalf of Working Group A. Is that as I understand it? You are accepting that Mr Bullmore's proposals be included in your motion for Working Group A?

Professor PATRICK O'BRIEN—Yes.

CHAIRMAN—The amendments have been adopted by the mover and the seconder, so they become part of Working Group A's report. To Working Group A's report, I then have a second group of amendments which are moved by Mr Hayden. I invite Mr Hayden to speak to his amendments. It would facilitate things if each of the amendments are moved; otherwise you are not going to have any idea of what degree of support they have. I go back and ask Mr Bullmore to formally move it and will allow him a few minutes to speak on them. We will get an idea of the support there is for them. That is the whole concept; otherwise the Resolutions Group is not going to have any idea of which package they really need to give major concern to. I

am sorry, Mr Hayden, but this is a better way to proceed. Mr Bullmore, speak briefly to your amendments and then we will submit them.

Mr BULLMORE—The amendments are as follows:

1. The motions on the second page of Working Group A's proposal should be renumbered so that:

(a) becomes (d), (b) becomes (e), (c) becomes (f) and (d) becomes (g).

The following motions will be numbered accordingly:

(f) There shall be no less than one and no more than five candidates nominated by the Presidential Nominating Council.

(g) A petition of one per cent of qualified Commonwealth electors nominating a single candidate may cause a candidate to be added to the ballot in spite of the Presidential Nominating Council subject only to a veto being voted for by two-thirds of the Council.

(h) The Head of State shall be directly elected by the Australian people.

(i) The Head of State may be impeached for breaches of the Constitution or for criminal offences that may be tried on indictment by the following procedure:

(1) The houses of parliament may vote to indict the Head of State at a joint sitting convened by the President of the Senate and the Speaker of the House of Representatives.

(2) The High Court will try the indictment according to law.

(3) If the case is approved by the High Court then the Head of State shall lose their commission and shall be ineligible for any further term of office.

CHAIRMAN—I want to try to accelerate consideration. I did not propose to allow anybody except the mover of the motion to speak to them.

Mr HODGMAN—I will be very brief.

CHAIRMAN—Are you seconding the amendment?

Mr HODGMAN—No, I am raising a matter of the drafting—

CHAIRMAN—I would like the amendment to be seconded first. May I have a seconder please?

Ms DEVINE—I second the amendment.

Mr HODGMAN—I will be very quick. We have a former and present Attorney on this group. I say to Mr Bullmore that in final paragraph (3) he says 'if the case is approved by the High Court'. When people are indicted, they are either acquitted or convicted. It is a matter of drafting, but it is important.

CHAIRMAN—Thank you, Mr Hodgman. We are not going to argue them again now; we have spent the day talking about them.

Mr HODGMAN—I am not arguing; I am simply saying—

CHAIRMAN—Is everyone ready to vote on the amendment moved by Mr Bullmore? I wish to ensure that you understand that you have multiple votes. There are a number of amendments that are going to be sent to the Resolutions Group. I am trying to get a bit of an indication of what support there is for those moved by Mr Bullmore. The amendment is lost, but I think we should take a count because of the nature of the reference.

Councillor TULLY—Would it not be carried if 25 per cent were voting in favour of it?

CHAIRMAN—It would not be carried but the vote would be recorded. You cannot carry something with a 25 per cent majority in the school I went to.

Councillor TULLY—You can if you're in the Queensland National Party.

CHAIRMAN—And I come from the National Party, somebody said.

Mr TURNBULL—On a point of order, are we voting for it to go forward or are we voting to approve it? There is a very big difference?

CHAIRMAN—There is a difference. Technically, we are voting on it. It will go forward if there are 25 per cent in favour of it. We are voting in favour of it. It does not mean that if you get 26 per cent it will go forward; but we need to vote in favour of the motion because that is the question that has been put to me.

Mr LEO McLEAY—My understanding is that you declared the motion lost. However, you do not need to have a vote for it to go forward because there is a provision in the

rules that we decided on that says 'If, in the opinion of the Chair, 25 per cent were in favour of it . . . ' So you could say that it was lost but it will go forward, and then we might all move on a bit.

CHAIRMAN—We decided earlier that, in order to give the Resolutions Group some assistance, they will need to know the vote. You do not believe you need it?

Mr GARETH EVANS—We have eyes to see. We can see evenly.

CHAIRMAN—The members of the Resolutions Group believe they can see the extent of the support. If they are happy, then I am happy to do it. That motion goes forward but is lost on the numbers.

Amendment lost, but referred to the Resolutions Group.

Mr HAYDEN—I move:

Delete all words after "That this Convention resolve that the arrangements applying to the election of the Head of State should be:"

and insert:

"That any Australian citizen of voting age and enrolled as a voter for a federal division is eligible to nominate as a candidate for election as President of The Republic of Australia.

The President will be elected by a national poll at which all voters enrolled for federal divisions will be eligible to vote.

The termination of a President's tenure for misconduct may occur on a resolution moved by the Prime Minister or his deputy at a joint sitting of the House of Parliament and supported by 50 per cent of the vote plus one more vote.

The President could not hold office for more than three consecutive parliamentary terms.

I propose to delete the last sentence providing for a term of office and I propose to include the following new paragraph after the first paragraph:

A candidate for election as President will have to lodge a petition signed by at least one per cent of voters enrolled on federal divisional rolls for the Commonwealth of Australia at the time of submitting the nomination for election.

However, I should mention that, immediately following the meeting of the Resolutions Group yesterday, I ran into trouble. I not only lost my seconder but also could not find any seconders, although I had been able to find a lot in the morning. So I signal that, if it is opportune, I will be seeking to inject this into processes a little later. It is not dead but the prognosis is not good.

CHAIRMAN—Is the motion seconded?

Mr STONE—I second the motion.

Mr HAYDEN—I propose this amendment for these reasons. It offers a direct election by all eligible voters in the Commonwealth of their president in the event of this country becoming a republic. It would allow any Australian citizen of voting age and enrolled as a voter to nominate for election as president at a national poll. It proposes that all eligible voters can vote at that poll. It allows a termination of the president's tenure for misconduct on a resolution moved by the Prime Minister or his deputy at a joint sitting of the houses of parliament and supported by 50 per cent of the vote plus one more vote. It also allows, if not the elimination, the enormous reduction of vexatious, crank-type nominations which occur, for instance, at Senate elections by requiring a petition of at least one per cent of the voters enrolled in the Commonwealth of Australia.

The important point for me in this is that, if there were misconduct—which largely would be political misconduct—by the president, then the Prime Minister, at a joint sitting of the houses of parliament, could move a resolution and if it were supported by 50 per cent of the vote plus one more vote the president could be dismissed from office.

I have repeatedly stated, not just at this conference but over the past several years, that the two areas where I have concerns are reserve powers and their misuse and the need for limited codification rather than comprehensive codification. I believe they were adequately addressed for me in working party resolution 4 earlier this week on the matter of reserve powers.

The second area where I have concerns is the need to have decisive and quickly effected action available to the government to ensure that if a person who is president misbehaves in some way—and there is no doubt that direct election provides the opportunity for populists to get out of hand—then the Prime

Minister, on behalf of the government, can act decisively and quickly to get rid of that person.

My areas of concern about weaknesses that might arise from change are adequately answered by the working party 4 resolution from Professor Winterton of earlier this week and what I am proposing here.

CHAIRMAN—You have heard the proposals. The question we will put will be whether or not you agree. If there are more than 25 per cent in my view and noted by the Resolutions Group we will then refer it.

Brigadier GARLAND—I have a question to clarify something in everybody's minds. The proposal is a joint sitting of parliament, supported by 50 per cent of the vote plus one more vote. Does that mean that 50 per cent of those people who are in the chamber when the vote is taken or 50 per cent of the whole parliament?

Mr HAYDEN—Leo McLeay often counted 50 per cent of those who were not there when he was Speaker of the House, so I suppose if it worked then—

Mr Leo McLeay—It's 50 per cent of the people there.

Mr HAYDEN—At least he got away with it in the Labor Party in Sussex Street.

Mr Leo McLeay—You lost each time!

Mr HAYDEN—I believe it should be 50 per cent plus one of those who are members of House of Representatives and the Senate, and they should be there.

CHAIRMAN—Can I put the proposition? What we will do is to vote on this question—that is, Mr Hayden's amendment—and if there are 25 per cent or more it goes to the Resolutions Group.

Mr HAYDEN—The words 'The President could not hold office for more than three consecutive parliamentary terms' should be deleted. There should be the insertion of another provision:

A candidate for election as President will have to lodge a petition signed by at least one per cent of voters enrolled on federal divisional rolls for the Commonwealth of Australia at the time of submitting the nomination for election.

CHAIRMAN—We will ensure that, if the motion is supported, the words as Mr Hayden has just identified are added to it.

Amendment lost, but referred to the Resolutions Group.

Mr JOHNSTON—I move the following amendment to the Working Group A resolution on popular election with open nominations:

After "(a) Any individual would be able to nominate themselves for the position of President to the Presidential Nominating Council"

Add:

"providing at least 5 referrers."

Sir DAVID SMITH—I second the motion.

Mr JOHNSTON—Considering Mr Hayden's amendment, I do not see any point in going ahead with the first part of my amendment because I think Mr Hayden's amendment addresses that.

Another concern is with the separation of powers. We are putting High Court judges or Supreme Court judges on this presidential council and I think that does undermine the separation of powers. I have spoken about that before.

My other point is about the size of the body. We have seen how difficult it is to get consensus from 152 people and I do not think you would find it any easier in a body of 100. My final amendment relates to the fact that if the people have signed a petition, if there are sufficient people to have that petition considered and if we want to have popular involvement then the council really should not have the power to veto somebody's consideration of someone whom the people have decided they want considered. That is why I am moving those amendments.

CHAIRMAN—Where the text says 'deletion', it means that the portion that Mr Johnston wishes to be deleted has been taken out. That is what the deletion means. Otherwise, Working Group A's report is modified, subject to the first part apparently being satisfied by Mr Hayden's reference.

Amendment lost.

Ms MARY KELLY—I move:

That any selection/appointment processes for a new Head of State should ensure that women and men are equally involved to the greatest extent possible; and should ensure that women's chances of occupying the position are substantively equal to those of men.

I move this amendment for the same reason as I moved the resolution on day one that dealt with equal participation in our own processes, a resolution which I think has been generously embraced and implemented by the delegates here. This amendment covers not just processes but outcomes and asks that, whatever it is that comes out of this series of deliberations, care be taken to accommodate women's needs.

Certainly that means taking into account things like women's underrepresentation in political parties and their inferior financial power. This might mean, for example, ensuring any bodies or councils are balanced, that being a candidate is affordable, that where nominations are short-listed attention is paid to the balance there, that if it is considered necessary the gender of the person occupying the office be alternated, and so on.

The phrase 'substantively equal' has a meaning. It is based on the well-known notion in Australia that treating all people the same does not result in treating them equally and that we need to take into account past and current disadvantage if we want equal outcomes. I commend the amendment to delegates.

Ms THOMPSON—I second the amendment.

Mr HAYDEN—Should it happen that there is direct election, the proposition that there be alternating gender representation of the presidency seems somewhat impractical to me. I think that the resolution ought to be redrafted to reflect that.

CHAIRMAN—We take note of the submission that you have made, Mr Hayden.

Amendment carried.

Ms RAYNER—I move:

After paragraph (b) insert:

"(ba) Any voter may stand for election to the Presidential Nominating Council

(bb) The Presidential Nominating Council will have the sole function of appointing a President from the persons who are nominated by the public, by whatever means is determined by the Council."

After subparagraph (c)(i) insert:

(ii) The Presidential Nominating Council will consist of 20 persons elected by the people and a Chairperson being the retiring Head of State.

(iii) Three persons will be elected from each State and one person from the Northern Territory and the ACT

The Reverend TIM COSTELLO—I second the amendment.

Ms RAYNER—The purpose of this amendment is to facilitate the operation of the proposed Presidential Nominating Council. I would ask this meeting to support it being referred to the Resolutions Group.

Amendment carried.

CHAIRMAN—I think Working Group A's report then goes off anyway, as I understand these new rules. This is the funniest way I have put resolutions. I think as we go, having moved those amendments, I had better take a vote. I put Working Group A's proposition, with its several amendments—1, 2, 3 and 4—being referred to the Resolutions Group, subject to an intervention.

Dr COCCHIARO—I have given the clerk this amendment. I move:

Working Group A, subparagraph (c)(ii), immediately after "Aboriginal and Torres Strait Islander Commission", add: "Multicultural and Ethnic Community Council in each state".

The reason for that is that there is an umbrella group of ethnic groups that represents hundreds of organisations.

CHAIRMAN—Could I suggest that you put that in writing, get a seconder, send it to the Resolutions Group—

Dr COCCHIARO—I have already done that.

CHAIRMAN—If it goes through we can refer it to the Resolutions Group. We are voting on Working Group A's report with its several amendments for the Resolutions Group. I put the question that Working Group A's resolution, as amended, be referred to the Resolutions Group.

Motion carried.

CHAIRMAN—Working Group A's report will be submitted to the Resolutions Group and Dr Cocchiaro's proposal will be sent to the Resolutions Group with it.

WORKING GROUP B

Popular election from a small group of nominees chosen by Parliament

Dr GALLOP—I move:

That the resolution of Working Group B be referred to the Resolutions Group.

Mr WRAN—I second that motion.

Dr GALLOP—I would like to make a quick comment on Working Group B's report. Essentially, Working Group B determined that should we have a direct election of our future head of state a particular mechanism should be set up for nominating three candidates for that election. That mechanism would be based upon representatives from the Commonwealth and each of the state and territory parliaments of Australia. So the essential concept is to use our parliamentary system, not only at the national level but also at the state and territory levels, to provide a nominating panel. Since the report was forwarded to the Convention, some delegates have come to me with some suggested—

CHAIRMAN—I did not intend to allow you to speak to the motion.

Dr GALLOP—I just wanted to comment on the amendments.

CHAIRMAN—Hurry, please.

Dr GALLOP—I will. I just wanted to say that the amendments are in the spirit of the original motion. Should you believe that the parliaments should be used to form the basis of a nominating panel, it seems to me that it is worthy to have those forwarded as well to the Resolutions Committee.

CHAIRMAN—The first amendments are to be moved by Mr Andrew Gunter.

Mr GUNTER—I move:

That the following words be inserted following the resolution as moved:

"OR II

* each of—

(i) the Parliament of the Commonwealth;

(ii) the parliaments of each of the States that have adopted a republican constitutional form; and

(iii) the assemblies of each of the Territories represented in the Parliament of the Commonwealth—

severally, by a two-thirds majority of the whole number of a joint or unicameral sitting, select an Australian citizen as candidate to be put to national election of the head of state by the people;

* the election of the head of state by the people from amongst the (up to) nine candidates selected above be conducted by optional preferential voting;

* that the Parliaments and assemblies be given power to make laws in relation to nomination processes for the selection of Australian citizens to be candidates for the office of head of state.

* removal of the head of state be able to occur only by a vote of an absolute majority of either the Senate or the House of Representatives following a resolution to remove the head of state for stated misbehaviour passed by the other house by an absolute majority.

Professor PATRICK O'BRIEN—I second the motion.

Mr GUNTER—The purpose of this amendment was to deal with something that was raised in group B, which I was unable to attend. It creates an option that is somewhere between group B's and group F's resolutions and it matches the character of popular election being similar to the House of Representatives, and great weight given to New South Wales and Victoria. The nomination process, on the other hand, under this amendment would allow each of the states and represented Territories to put forward a candidate. That would create a maximum of nine candidates and would allow proper option for those from the smaller states to be involved.

CHAIRMAN—As a point of explanation, you have two alternatives. What do we do? Do we put both up separately? What would you propose?

Mr GUNTER—It is proposed to put them up in addition. So, effectively, there would be a resolution 1 and resolution 2 from group B.

CHAIRMAN—So you want them put as two separate resolutions or put as one resolu-

tion and go through as alternatives for the resolution?

Mr GUNTER—That is in part up to Dr Gallop.

CHAIRMAN—Right. We will put it forward as one resolution and the Resolutions Group will then consider it.

Amendments carried.

CHAIRMAN—The next amendment is moved by Ms Kelly. That one has already been adopted, so that will be taken into account by the Resolutions Group. The question is that Working Group B's resolution, as amended, be carried and referred to the Resolutions Group.

Motion carried.

WORKING GROUP C

Parliamentary appointment by a special majority

Dr TEAGUE—As the chairman of that working group, I move:

That the resolution of Working Group C be referred to the Resolutions Group.

Mr VIZARD—I second the motion.

Dr TEAGUE—I summarise this as the parliamentary model of support by two-thirds majority for appointment on the motion by the Prime Minister and dismissal by a simple majority in the House of Representatives alone. There are other clauses that are clearly set out on that one page outlining resolution C.

There are seven amendments that are about to be put. Those seven amendments all add to or subtract from resolution C moved by the working group. I will be interested to see whether any have 25 per cent support and can be considered by the Resolutions Group. It is very much my preference that Working Group C's resolution be unamended. I flag only that a number of us are interested in the states proposal of Delegate Beanland. We are interested in the very simple proposal that Delegate Stott-Despoja has flagged. The other amendments we will only have to be considering, I think, if the Resolutions Committee brings them back. We would like to see a clean support by this Convention of resolution C.

Mr BEANLAND—I move the following amendment:

Clause 1—**Delete** all words from "on the nomination of the Prime Minister"

Insert "by a federal electoral college comprising representatives of the parliaments of the Commonwealth and of the states"

Clause 2—**Delete**.

Clause 3—**Delete**.

Clause 6—After "representatives" **add** "and of the Senate at a joint sitting"

I suggest this be handled in two parts. Clauses 1, 2 and 3 are to do the model which I proposed yesterday. Clause 6 deals with a separate matter. It deals with the factor of the dismissal of the president. Very briefly, I outlined this in some detail yesterday. It is a model which I call the federation model. It takes into account the federal system that we have in this nation. I am somewhat surprised to see that from those people who drew up these proposals initially there was no federation model included. Some overseas countries, particularly Germany, have a federation model. I think we need to take into account the vast distances of this country, the history of this land of ours, the fact that there are differences of opinion and differences of feeling, and people from the states need to have some say in who is going forward as president.

Also, this will do away the elitist proposals. I notice that in many of these models that are proposed there are all sorts of committees and types of committees which have to sieve through the candidates that are put up and that have to decide who goes forward. It is the same in the popular election method; it is the same in a number of others. This proposal will allow all the candidates to go forward to this federation model and then the delegates from the states and the Commonwealth parliament could sit down, go through them and then make their decisions accordingly. I think it speaks for itself. I have moved it here simply because there is nowhere else in this program or in these proposals that we have here that I can move this amendment. As I say, I suggest that you handle it in two parts. Clauses 1, 2 and 3 are separate from 6.

CHAIRMAN—Thank you, Mr Beanland. As you will note from Working Group C report, Mr Beanland has moved a deletion of clauses 2 and 3. So where 'deletion' in your amended script states that, what it means is that 2 and 3 of the working group report have been deleted. Is there a seconder for Mr Beanland's amendment?

Councillor MALONEY—I second the amendment.

CHAIRMAN—I will put Mr Beanland's amendment in two parts—appointment and dismissal. I will try to give some idea as to whether the amendments have been won or lost as well as whether they will be referred.

Amendment lost.

CHAIRMAN—The amendment is lost and is not referred as there is not 25 per cent support.

Mr ELLIOTT—I move:

That:

(i) paragraph 1 be amended by deleting ". . . by a joint sitting of the Commonwealth Parliament" and substituting "by the Senate and by the House of Representatives";

(ii) paragraph 2 be amended by deleting "a special majority, being a two-thirds majority of the members present at the joint sitting" and substituting "a special majority in each case, being a two-thirds majority of the members of that house present".

(iii) paragraph 3 be amended to insert after "Prime Minister" the words "and his representative in the Senate".

Mr GUNTER—I second the amendment.

Mr ELLIOTT—What we were trying to achieve in the resolution that originally came from Working Group C was to ensure that the person who took the role of head of state was not going to be party partisan political and, by using the special majority, that was what we were hoping to achieve.

My concern is that there will be times when, if we go into a joint sitting, the very large majority of the government in the lower house will mean that they will have a two-thirds majority in their own right. It will be an extremely rare event, but we had that event in South Australia after the state election before last. That is not the case any more, but we did have that event. It will happen. If this Constitution is going to be around for another few hundred years, if we are fair dinkum about ensuring that we do not have a person who is party political, then the special majority of a joint sitting is not enough.

The only argument that has been put forward for the joint sitting was its symbolism. That is the only argument for it. If we have to choose between practical effect and symbolism, then sensibly we have to go for the practical effect. There will be no significant delay in the process. The numbers will be wrapped up before it ever goes into the parliament. It is a matter of one sitting following the other, and it will happen in a morning.

Amendment lost.

Mr HABER—I move amendment No. 3:

That:

(i) between paragraph 6 and the heading "**Clarifying Comments**", the following be inserted:

"**Consequential Requirements**

6A. That a provision requiring the Senate to be elected by the single transferable vote (quota-preferential) form of proportional representation be inserted in the Constitution."

(ii) following paragraph 7, the following be inserted:

"7A. Proportional Representation should be entrenched for Senate elections on the grounds that other electoral systems would periodically produce lopsided (greater than two-thirds) Senate majorities for one party or group, as occurred on several occasions between 1901 and 1949, thus allowing a partisan appointment to be made more easily."

Mr GUNTER—I second the amendment.

Mr HABER—In speaking to this amendment, I wish to point out, as I highlighted in my speech yesterday, that we have now counted six occasions where the two-thirds test on bipartisan support would not have worked unless you entrench the current system of proportional representation applying to the upper house in the Constitution. For this working group resolution to have any validity, I suggest we move for incorporation of proportional representation into the Senate election count to ensure a bipartisan two-thirds majority.

CHAIRMAN—Thank you, Mr Haber.

Mr TURNBULL—Is it possible to speak against an amendment?

CHAIRMAN—I do not want people to say too much; we are not going to get through them all in the time available. We only have 10 minutes to do the rest of them. I do not think we are going to get them done. We will vote on Mr Haber's amendment.

Amendment lost.

CHAIRMAN—Mr Johnston, may we move to your amendment, please.

Mr JOHNSTON—I move:

Delete 1, 8 and 9 in Resolutions of Working Group C.

Sir DAVID SMITH—I second the amendment.

Mr JOHNSTON—Considering the amendment lost by Mr Beanland earlier it would be best and quicker to withdraw the deletion of point 2. Other than that I am still very unconvinced about having the president elected by parliament. My other deletions relate to, first, the fact that if we want popular involvement I do not know why the committee would vote against the possibility of the Prime Minister receiving petitions from the people. It seems very anti-republican and very anti-citizen involvement. The final point is, as I have said before, that I am against political correctness. There are plenty of good men and good women who could stand for president if they wanted to but I do not think it should be enforced in law.

Amendment lost.

CHAIRMAN—Ms Mary Kelly's amendment will be referred because it has already been accepted. Ms Moira Rayner, do you wish to move your amendment?

Ms RAYNER—I move:

Insert after 3:

3A. The person endorsed by the Joint Sitting shall be the parliament's candidate at an election which will be held to determine who shall be the head of state.

3B. Any other person nominated by 1 per cent of qualified voters may be a candidate at such election.

3C. Voting at the election will be on a "first past the post" basis.

3D. After endorsement by the joint sitting, a national plebiscite will be held at which the voters will be asked to give their endorsement of the Parliament's candidate on a yes/no basis.

Dr O'SHANE—I second the amendment.

Ms RAYNER—The purpose of this amendment is to ensure that our model, the Castan model, is referred to the Resolutions Group for consideration. This is straight out of Ron Castan's advice—the compromise model.

Amendment lost, but referred to the Resolutions Group.

CHAIRMAN—I am told that Senator Stott Despoja's amendment is not to be proceeded with.

Senator STOTT DESPOJA—Mr Chair, I am withdrawing the first amendment—the one to paragraph 3—on the grounds that it is a bit self-evident and therefore superfluous. But I do wish to move the amendment standing in my name to paragraph 6. I move:

Paragraph 6: add "and of the Senate"

Mr ELLIOTT—I second the amendment.

Senator STOTT DESPOJA—This is a very simple addition to the Working Group's resolution. As I said this morning in my speech to the chamber, I believe, as I said this morning, that the Senate should have a role in the dismissal process. Had we seen the success of Mr Haber's motion, which entrenched proportional representation in the Senate, or indeed if we had proportional representation in the House, I would consider the dismissal process that has been proposed a fairer system. But at this stage I believe that the House of Representatives chamber is not representative. It is an echo chamber for the Prime Minister's will and if the Prime Minister wished to enforce his will in that chamber on the dismissal of a head of state it would not adequately reflect the voting intentions of the Australian people. It should go to the Senate as well.

Amendment lost, but referred to the Resolutions Group.

The Most Reverend GEORGE PELL—Mr Chairman, I have an amendment to Working Group C resolution, which is seconded by Graham Edwards. It did go to you and you

had thought it applied to the resolutions from the Resolutions Group but, in fact, it applies to this set of resolutions. Could I perhaps read it?

CHAIRMAN—Yes. I think I handed it in to the secretariat and we are not too sure where it is at the moment. Yes, please read it.

The Most Reverend GEORGE PELL—I move:

At end of resolution, add:

"10. That the Parliament should make provision for wide consultation with the community concerning possible appointees for the Office of Head of State. This shall include consultation with State and Territory Parliaments who will in turn be encouraged to consult with their own communities. The Australian people should be encouraged to make nominations for the Office of Head of State and all nominations should be made public."

Mr Chairman, could I speak to that?

CHAIRMAN—Do you have a seconder?

Mr EDWARDS—I second the amendment.

CHAIRMAN—Yes, please speak to it.

The Most Reverend GEORGE PELL—I am one of a number of people here aligned to no particular group who want the Convention to agree on a model to be voted on by the Australian people. We do not want the opportunity to be lost.

We recognise the need for compromise to try to get some sort of motion that can go forward realistically. The amendment leaves the recommendations of group C substantially untouched, but it develops them and clarifies them and allows for further clarification and development.

I was impressed by the arguments put forward this morning that this Commonwealth is a federation of states. This amendment would allow for consultation with members of the state and territory parliaments which could be formalised in a greater or lesser fashion. The nomination would remain with the Prime Minister and, de facto, with the Leader of the Opposition, given the need for a two-thirds majority. I commend it to this meeting of delegates.

Dr TEAGUE—Very briefly, I indicated earlier that I was opposed to any of the amendments but, in fact, this was not known to me at that point. I do support it. I would welcome a further ability to discuss it and I ask the delegates to support it.

Mr EDWARDS—Mr Chairman, I would like to speak briefly.

CHAIRMAN—Unfortunately we do not have time for seconders to speak. You can read the motion if you like; that is about all I can allow you to do. We are running out of time; I apologise but there is no alternative.

Amendment carried.

CHAIRMAN—We now have Working Group C's report with Mary Kelly's amendment, Moira Rayner's amendment and Archbishop Pell's amendment for consideration for reference to the Resolutions Committee. The question is that Working Group C's resolution, as amended, be carried and referred to the Resolutions Group.

Motion carried.

WORKING GROUP D

Appointment by the Prime Minister or a special council on nomination by the Prime Minister

Ms BISHOP—I move:

That the resolution of Working Group D be referred to the Resolutions Group.

Professor CRAVEN—I second the motion.

CHAIRMAN—Ms Bishop, do you want to speak to it?

Ms BISHOP—No, I just want to say that it is the McGarvie model.

Senator NEWMAN—I have an amendment.

CHAIRMAN—I have three amendments to be considered and then I will hear yours. Can I have it in writing. Firstly, Professor Craven, do you have an amendment?

Professor CRAVEN—I move:

At end of resolution, add:

"4. That as an alternative, appointment of the head of state be by a two-thirds majority of a joint sitting of Parliament, with dismissal by a Constitutional Council acting with the advice of the Prime Minister as outlined above."

Ms BISHOP—I second the amendment.

Professor CRAVEN—The amendment is straightforward. It is to allow the convention

to consider the so-called hybrid McGarvie model. Delegates will recall that the McGarvie model is appointment and dismissal by a constitutional council. The so-called hybrid is dismissal by the council but appointment by two-thirds of a joint sitting of parliament. It has been mentioned in debate and has received some support in debate. The amendment merely allows it to be considered. It does not substitute it for the McGarvie model; it allows it to be considered alongside as a variant.

CHAIRMAN—The amendment is carried.

Mr BRUMBY—Can we have a recount on the last vote?

CHAIRMAN—It is referred.

Mr BRUMBY—But you called it lost. I don't think it was.

CHAIRMAN—Mr Brumby has requested that we have a recount of Professor Craven's amendment. I am sorry, but in order to satisfy that request could you vote again.

Amendment carried.

Mr JOHNSTON—I move:

Delete paragraph 3.

Sir DAVID SMITH—I second the motion.

Mr JOHNSTON—If points 1 and 2 stand as they are, then point 3 does seem somewhat superfluous, seeing that the council will act on the Prime Minister's advice at any rate. Also, I do not think it is necessarily advisable to state openly that people will then just be removed and rearranged if they do not agree in the first place. I think it would be much simpler, more straightforward and more acceptable to just say that the council will act on the Prime Minister's advice—end of story.

Amendment lost.

Senator NEWMAN—I move:

At end of clause 1, after the words "in order of retirement", add:

"but that at least one member shall be a woman".

Senator HILL—I second the motion.

Senator NEWMAN—An essential element in my view of Mr McGarvie's proposal was that at least one woman out of the three members of the Constitutional Council should be an appropriately qualified woman.

Mr TIM FISCHER—How can a woman be a man?

Senator NEWMAN—I can hear some interjections here, but that will have to be settled in debate. I believe it is perfectly possible. It has been quite clear from the delegates—male and female—at this Convention that it is the wish of a wide range of people that women have a more active role in the constitutional process than has been the case in the past. This is one step in the right direction. I commend the amendment.

Amendment carried.

CHAIRMAN—The question is that Working Group D's resolution, as amended, be carried and referred to the Resolutions Group.

Motion carried.

WORKING GROUP E

The present arrangements for appointments and dismissal and the defects of suggested alternatives.

Mrs KERRY JONES—I move:

That the resolution of Working Group E be referred to the Resolutions Group.

Mr RAMSAY—I second the motion.

Mrs KERRY JONES—There are no amendments. There were two typing errors, and we have rectified those.

CHAIRMAN—Thank you. There is one amendment—that is Mrs Kelly's—which is taken as running through each of them. The question is that Working Group E's proposal, with Mrs Kelly's amendment taken into account, go to the Resolutions Group.

Motion carried.

WORKING GROUP F

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

Mrs GALLUS—I move:

That the resolution of Working Group F be referred to the Resolutions Group.

Professor WINTERTON—I second the motion.

Mr JOHNSTON—I move:

Delete paragraphs 2 and 3.

Again, we come to the issue of gender balance, but this time we have definitely made it political by putting it in the middle of the federal parliament to decide. One government's gender balance could be an opposition's imbalance and so on and so forth. I think you would make it so political it would become impossible to function, make a workable committee and come to a decision. That is why I would oppose that part of the resolution.

Sir DAVID SMITH—I second the amendment.

Amendment lost.

CHAIRMAN—The amendment moved by Mary Kelly applies to Working Group F's report and will carry through. The question is that Working Group F's resolution, taking Mrs Kelly's amendment into account, be referred to the Resolutions Group.

Motion lost, but referred to the Resolutions Group.

CHAIRMAN—We have finished today's business, with all those reports referred.

Ms HOLMES a COURT—Mr Chairman, I raise a point of order. I was once a schoolteacher before I became a lackey of the republican movement. In these situations I think about how we would behave in the classroom. I suggest that, if we locked the doors now and had a test, we would all fail. We would not even get a 25 per cent pass rate on what has just gone on. Tomorrow, or the next time we have amendments to these working party documents, could we have the amendments before lunch so we have an opportunity to examine them, and can we have someone with a little more experience in presentation examine the format so that it is more intelligible to us?

CHAIRMAN—Thank you very much. I think what Janet Holmes a Court says is right. I must say that it makes it extraordinarily difficult when amendments are received even from the floor. It makes it quite impossible to put them up in any way for people to consider them. We take note of the admonition from Janet Holmes a Court.

Ms HEWITT—I register my disappointment again at the process that has just taken place. I did not vote, and I did not vote because I am comparing two pieces of scrappy paper on issues that I consider to be of vital importance. We spent hours this morning windbagging our way through the morning, but when it comes to important issues where we are being asked to vote we are not taking time and giving due consideration to these important issues. I would like to express my disappointment with the process.

CHAIRMAN—I would stress again that this is an entirely different process to the final vote. What we are trying to do is to make sure that there is a preliminary reference to the Resolutions Group, and there is an entirely different voting procedure and there will be quite different documentation at the time these votes are finally taken. At the same time, I take on board the admonitions of both Janet Holmes a Court and Ms Hewitt.

The Right Reverend JOHN HEPWORTH—In view of the fact that we have run over time on this, and in view of impending other engagements, could I ask that the working groups that were scheduled for 5 o'clock be rescheduled for 9.05 in the morning immediately after prayers.

CHAIRMAN—Were we to do that, we would be in an even worse position for tomorrow's resolutions than we are in for today's. The working group papers have been circulated to all delegates. If it is possible for them to assemble in the places that have been allocated for meeting on their return from the Government House function, they could then determine when they are going to meet and whether they want to meet tonight or early in the morning. But I believe it essential that we have the reports from the working groups at the latest by 9 o'clock in the morning. It will be quite impossible for us to consider them tomorrow in any rational way unless that is so. You would also know that the Resolutions Group has been charged with other responsibilities for tomorrow, and I hope that the Resolutions Group advice to you will be considered earlier.

Ms RODGERS—To help us also clarify things, could the pages be numbered? It would help.

CHAIRMAN—We will ask that the pages be numbered.

Dr O'SHANE—I just ask for some clarification on how we proceed from now in respect of the working groups.

CHAIRMAN—What I have suggested is that you should meet on your return from Government House at your designated working group meeting place, that you then determine when you are going to meet and that you try to have, if you can, a preliminary report by 9 a.m. tomorrow. In other words, tonight you meet and determine when you are going to meet in the morning—at 8 o'clock or whenever—and, if by 9 o'clock tomorrow morning you have not reached a conclusion and you can report that to us, I suspect that for the working groups we may be able to get the reports by about lunchtime tomorrow simply because there are other Resolutions Group proposals that we will consider in the morning. But at this stage I think it better if you meet on your return from Government House, determine when you are going to meet and then, if you can, advise us by 9 o'clock tomorrow morning how you see your progress and at what time you will be able to give a report. We can then report the position to everybody.

Convention adjourned at 5.29 p.m.