

Chapter 4

Arguments against a plebiscite on an Australian republic

4.1 This chapter considers the arguments against a plebiscite on an Australian republic and provides an overview of the key issues of contention.

4.2 Many submitters opposed to a plebiscite held that plebiscites have no set rules and are not governed by any legal process. Sir David Smith, for example, argued that the proposed plebiscite is 'constitutionally illegitimate'.¹ Mr Phillip Benwell, National Chairman of the Australian Monarchist League held that, unlike procedures for a referendum, 'there are no real conventions for a plebiscite'.² The view amongst many opponents of the bill was that plebiscites amount for this reason to an 'expensive opinion poll' with official sanction.

4.3 Other concerns raised were that the question was already put at a referendum in 1999 and defeated in all states and nationally.³ Such submitters held the view that the 1999 referendum outcome reflects contemporary thinking and a lack of demonstrated popular demand to change the Constitution in this manner.⁴ FamilyVoice Australia and Mr Tim Knapp argued that opinion polls have, in fact, demonstrated a decline in support for a republic over the past decade.⁵

4.4 A number of submitters against a plebiscite, including Sir David Smith and Mr Thomas Flynn, held that asking Australians whether they wanted a republic or not without a proposed model was tantamount to asking for a 'blank cheque' without providing the electorate with any say in what kind of republic would eventuate.⁶

A 'vote of no confidence' in the current constitutional model

4.5 A number of submitters highlighted the stability of the current constitutional system as an argument against a plebiscite and republic and raised concerns that a plebiscite would amount to a 'vote of no confidence' in the current constitutional model. Mr Tim Knapp, as one case in point stated:

There is no crisis of confidence in the current constitutional arrangement. There have been no failures in the 108-year old system of checks and

1 Sir D Smith, *Committee Hansard*, 29.4.09, p. 2.

2 Mr P Benwell, Australian Monarchist League, *Committee Hansard*, 29.4.09, p. 19.

3 See for example, Mr D Auchterlonie, *Submission 3*, p. 1; Mr H Eveleigh, *Submission 6*, p. 1.

4 See for example, Mrs A Mepham, *Submission 243*, p. 1.

5 FamilyVoice Australia, *Submission 111*, p. 4; Mr T Knapp, *Submission 76*, p. 1.

6 Sir D Smith, *Committee Hansard*, 29.4.09, p. 5; Mr T Flynn, *Submission 229*, p. 1.

balances by which Australia is governed and in which the monarchy plays such a crucial, though admittedly overlooked part.⁷

4.6 Mr Brant Rippon articulated a similar viewpoint:

We have a constitutional system where a hereditary and impartial monarch chooses a non-political, impartial Australian as Governor-General and Head of State on the advice of the Prime Minister. I believe this system is the most effective and safe way that Australia is and should continue to be governed, and has led to over a century of peace and prosperity – No political assassinations, No civil unrest, No tyranny or dictatorship. This is undoubtedly the way Australia has finished at the top of a list of the 'world's best democracies' compiled by the United Nations – report released on 18th December 2008.⁸

4.7 In relation to concerns that a plebiscite would undermine confidence in the Constitution, Mr Philip Benwell, National Chairman of the Australian Monarchist League stated:

If the simple question asked – a question which would have no fine print whatsoever – were to attain a 50 per cent plus one majority but a resultant referendum were defeated, the Constitution would remain as is but with a perceived vote of no confidence, which could well detract from its continuing effectiveness and create an unresolvable instability in our federal structure and even in our system of governance.⁹

4.8 Mr Graeme Legge articulated a similar concern:

A plebiscite would invite citizens to cast a vote of no confidence in one of the world's most successful constitutions'.¹⁰

4.9 Professor David Flint, National Convenor of Australians for Constitutional Monarchy, held the view that a plebiscite would create 'constitutional instability':

Not only unwise; it is irresponsible, because it invites a vote of no confidence in the existing system. It creates periods of constitutional instability where we do not know where we are and then leads to nothing.¹¹

4.10 A number of other submitters including Mr Bob Wright argued that a plebiscite would not only undermine the Constitution but also bypass a referendum as the only legal means of altering it.¹²

7 Mr T Knapp, *Submission 76*, p. 1.

8 Mr B Rippon, *Submission 4*, p. 1.

9 Mr P Benwell, Australian Monarchist League, *Committee Hansard*, 29.4.09, p. 20.

10 Mr G Legge, *Submission 31*, p. 1.

11 Professor D Flint, Australians for Constitutional Monarchy, *Committee Hansard*, 29.4.09, p.81.

12 Mr B Wright, *Submission 65*, p. 2. See also, Rev. Father Bozikis, *Submission 102*, p. 1.

A 'glorified opinion poll'

4.11 A number of submitters against a plebiscite for a republic held the view that a plebiscite is a 'glorified' and 'expensive' opinion poll.¹³ Dr David Phillips, National President of FamilyVoice Australia, stated in this regard:

The plebiscite would be essentially a glorified opinion poll but a very expensive one. One can conduct a very reliable opinion poll for a few thousand dollars. Why waste \$10 million on what is essentially a large opinion poll?¹⁴

4.12 Mr Brant Rippon argued that a key problem in relation to a plebiscite is that it will pass if it receives a single majority of 50 per cent plus one whereas:

A referendum is a more complex vote requiring both the majority of votes nation-wide plus the majority of votes in the majority of states. This is undoubtedly a fairer way in which to put the question to the people, and would mean that all plans for a republic would have to be laid-out on the table for the Australian public to see.¹⁵

4.13 Reverend Robert Willson argued that a plebiscite is not legally binding and cannot in itself 'decide anything'.¹⁶

4.14 Mr David Latimer (who was neither against nor for the bill) raised concerns about a 'safety culture':

My view is that constitutional change deserves a safety culture, yet it is undertaken in a political culture. Much attention is given in republican circles to the plebiscite process. Although a plebiscite has democratic legitimacy, being a political process it doesn't within itself deliver the sort of public assurance that will eventually carry a referendum.¹⁷

4.15 Mr D Auchterlonie argued that the appropriate way to change the Constitution was by way of section 128:

A Plebiscite is advisory only; the proper way to change the constitution is by Section 128 where the question is put in detail so people can see exactly what they are voting for.¹⁸

4.16 Mr Joe Tscherry also raised concerns that the 'proper process of constitutional change is set out in Section 128 of the Constitution' regarding the referendum process

13 Mr S Hayman, *Submission 75*, p.1. See also, Mr G Legge, *Submission 31*, p. 1; Mr R Overheu, *Submission 188*, p. 1.

14 Dr D Phillips, FamilyVoice Australia, *Committee Hansard*, 29.4.09, pp 64–65.

15 Mr B Rippon, *Submission 4*, p. 2.

16 Reverend R Willson, *Submission 36*, p. 1.

17 Mr D Latimer, *Submission 214*, p. 7.

18 Mr D Auchterlonie, *Submission 3*, p. 1; Mr B Rippon, *Submission 4*, p. 2.

which requires the electorate to be 'properly informed of what is proposed'.¹⁹ This view was shared by Mr Stuart Hayman who held that a referendum, as opposed to a plebiscite, would mean that 'all plans for a republic would have to be laid-out on the table for the Australian public to see'.²⁰

Potential consequences of a plebiscite

4.17 The Australian Monarchist League also highlighted the differences in process between a plebiscite and referendum and of the potential consequences if the plebiscite question were supported:

The Australian Constitution is the article which unites the six States into the federation of the Commonwealth of Australia. It is for this reason that it can only be amended by a vote of the people counted dually as a nation-wide vote and a vote in each of the states, whereas plebiscites have only hitherto been counted on a nation-wide basis. A plebiscite question therefore gives undue weight to voters in the cities of the major States and disregards our federal constitutional arrangements.

If a plebiscite question were to attain a simple majority but a resultant referendum defeated, due either to an internal lack of understanding of the consequences of the proposed change to the Constitution, or because a majority of State votes may be in the negative – the Constitution would remain 'as is', but with a perceived vote of no confidence which could well detract from its continuing effectiveness. Not only would the position of the Monarch and the Governor-General be made untenable, the integrity of the federation could be called into question and the Government itself could well find it difficult to continue.²¹

4.18 Sir David Smith held a similar view of the consequences of a plebiscite:

In the unlikely event that enough people voted for it, we would have rejected our present constitution while putting nothing in its place. We would continue to be governed by a rejected constitution while the republicans continue to argue and dither over the alternative they wish to give us. If the next republican model, when eventually it emerges, were also to be rejected by the Australian people, as well it might be, damage to our system of government and to our national psyche and self-respect would be devastated. The Australian people should not be asked to reject their constitution until an alternative is also on offer.²²

4.19 Professor John Power questioned the outcome if the plebiscite gained a majority but not a majority of states:

19 Mr J Tscherry, *Submission 34*, p. 1.

20 Mr S Hayman, *Submission 75*, p. 1.

21 Australian Monarchist League Inc, *Submission 18*, p. 1.

22 Sir D Smith, *Committee Hansard*, 29.4.09, p. 2.

Just what would be the consequences of a positive vote for a plebiscite? In particular, what would be the view of the government, if the plebiscite gained the support of the majority but did not carry a majority of States? It is hard to see how this key question could be satisfactorily answered at this stage – but without such an answer the smaller States would...be likely to come out on the negative side. And even if the plebiscite were to be carried, what then would happen?²³

4.20 This concern was shared by Mr Thomas Flynn, Executive Director of Australians for a Constitutional Monarchy:

A very large number of citizens from Tasmania could vote no in a plebiscite and still have a referendum forced upon them.²⁴

4.21 Mr John Armfield argued that unlike a plebiscite, the referendum provision contained in section 128 of the Constitution is an 'important constitutional safeguard' and achieves this by requiring that an amendment is specific; detailed in advance; and can be 'critically compared to the existing provisions that it is intended to replace'.²⁵ Mr Philip Benwell, National Chairman of the Australian Monarchist League, raised concerns that a plebiscite, by comparison, cannot convey the potential implications of constitutional change:

The holding of a plebiscite has never been used as a preliminary to a federal referendum for very good reasons. Amending the Constitution is a very serious act and should in no way be taken lightly. A simple general question in the form of a plebiscite could never in any way convey the potential implications of a proposed constitutional change, which is why the Constitution sets out in section 128 a process of amendment by designed referendum. A plebiscite, on the other hand, is terribly vague, with no set rules.²⁶

'Ambiguity' of the question

4.22 A number of submitters held the view that the plebiscite question posed in the bill is vague. Dr David Phillips, National President of FamilyVoice Australia articulated this position:

What does the question mean? The question can mean a variety of things. What does a republic mean? The word comes from *res publica*, the welfare of the public, which is the same meaning as the word 'Commonwealth', or common welfare. So it can be argued that the Commonwealth of Australia is already a republic, a crowned republic. So one, as a supporter of a crowned republic, could vote for the plebiscite and the plebiscite, even if it gained a yes vote, could be interpreted as support for the present system. So

23 Professor J Power, *Submission 119*, p. 1.

24 Mr T Flynn, Australians for a Constitutional Monarchy, *Committee Hansard*, 29.4.09, p. 73.

25 Mr J Armfield, *Submission 213*, p. 2.

26 Mr P Benwell, Australian Monarchist League, *Committee Hansard*, 29.4.09, p. 19.

the question is sufficiently ambiguous that, we believe, it cannot be unambiguously interpreted, whatever the outcome.²⁷

4.23 Similarly, Mr Thomas Flynn, Executive Director of Australians for a Constitutional Monarchy stated:

The question is 'Do you support Australia becoming a republic?' Well, we all know vaguely what that means. The word 'republic', like a lot of precise constitutional terms, is thrown about a lot. It is worth noting that Cardinal Moran, who was Catholic Archbishop of Sydney at the time of federation, described the Australian constitutional system as the most perfect form of republican government. Michael Kirby, the distinguished former judge of the High Court, has gone so far several times as to describe Australia as a crowned republic. What, then, is this kind of republic that is envisaged by the question of the plebiscite?²⁸

What republic model?

4.24 Many submitters opposed to the bill questioned the validity of the proposed plebiscite question including Mr A Fitzgerald who stated that it was 'simplistic because it does not state what kind of republic is being proposed'.²⁹ Mr Eric Lockett also raised such concerns and stated that most people's support for, or opposition to any republican proposal was 'inextricably linked to the nature of the model proposed'. He continued:

The main difficulty with the proposed plebiscite is that, to a thinking person, myself included, the question, "Do you support Australia becoming a republic" is not answerable with a simple "yes" or "no". The obvious response is, "What sort of a republic and when?"³⁰

4.25 FamilyVoice Australia argued the same point and held that the overwhelming advantage of a referendum is that the:

...exact wording of the proposed change to the Constitution must be included in the referendum bill. Consequently, the public can consider and debate the proposed change before voting, and take the likely consequences fully into account.³¹

4.26 Others voiced concerns regarding questions the plebiscite would raise in relation to a proposed republican model. Mr P Gibson argued for example:

For voters to be expected to answer YES or NO TO the proposed plebiscite question "Do you support Australia becoming a republic?", they need to

27 Dr D Phillips, FamilyVoice Australia, *Committee Hansard*, 29.4.09, p. 64.

28 Mr T Flynn, Australians for a Constitutional Monarchy, *Committee Hansard*, 29.4.09, p. 73.

29 Mr A Fitzgerald, *Submission 101*, p. 1.

30 Mr E Lockett, *Submission 113*, p. 1.

31 FamilyVoice Australia, *Submission 111*, p. 2.

know what sort of republic. If asked "Do you support being given a replacement car", a normal and logical answer would be: 'Well, what sort of car?'...

The same applies to a replacement constitution. "I need to know firstly – 'What sort of constitution?' Who knows, it might be a South American or African model or even a US one that the adjoining Canadians voted 83% not to want...³²

4.27 This position was put succinctly by Mr Philip Wood:

This plebiscite invites the people to reject the existing constitution without knowing what is to be put in its place.³³

4.28 Mr Robert Close argued along similar lines:

The question does not address fundamental issues of what will happen to the Governor-General, will the union jack be removed from the flag or what powers will the new President have and how does this effect the Prime Minister's powers.³⁴

4.29 Mr Rodger Hills argued that the proposed plebiscite question does not lead people to understand if their response to it will be used to:

- Gain a public mandate to move forward on a Republic.
- See whether support has increased or decreased since the last referendum and polls.
- Break the stalemate between Republicans and Monarchists.
- Prove to the government that the republic issue is a priority in the minds of the public.
- Determine which electorates are for or against, so political campaigning can be better targeted.³⁵

4.30 Dr Nigel Greenwood also raised the point that voters will be asked their verdict on Australia becoming a republic when 'neither the form of the republic nor the path to becoming it are specified':

The simple description "republic" of course encompasses a swag of very different political structures, including an executive president, or a so-called "non-executive" president elected by Parliament, or directly by the people, or chosen by a non-electoral process (all three having very different

32 Mr P Gibson, *Submission 8*, p. 6.

33 Mr P Wood, *Submission 38*, p. 1.

34 Mr R Close, *Submission 10*, p. 1.

35 Mr R Hills, *Submission 50*, p. 2.

implications for the relationship with the Prime Minister)...Each will create a very different Australia from the others.³⁶

4.31 Dr David Phillips, National President of FamilyVoice Australia argued that it was the responsibility of supporters of a republic to put forward a model for consideration:

Those who wish to advocate a republic really ought to accept the responsibility for working out what model they want and then convincing parliament to advance that model because we cannot do anything serious until we have a specific model to consider.³⁷

4.32 This view was also shared by the Australian Monarchist League:

We believe that the proper process would be for the Australian Republican Movement to put forward proposals for a specific model together with proof that there is overwhelming support amongst the people for constitutional change. Until this is done, we submit that it is not the responsibility of the Parliament to do the job of republican organisations.³⁸

Estimated costs and timing

4.33 A number of submitters against a plebiscite argued that the estimated cost of over \$10 million was 'unwise expenditure' particularly 'at a time of financial stress'.³⁹ FamilyVoice Australia articulated this view:

Since a plebiscite has no legal force and is not binding on the Commonwealth Government, it is effectively a large and very expensive public opinion poll. Modern opinion polling techniques are frequently used by political parties and governments and can determine public opinion on well defined questions with an accuracy of a few percent. Furthermore, this can be achieved at a cost of thousands, not millions, of dollars.

In the current context of the global financial crisis, holding an expensive plebiscite instead of conducting an opinion poll at modest cost represents an unwarranted waste of taxpayers' money.⁴⁰

4.34 Mr David Marina held that the money used and time spent (on the part of public servants and parliamentarians) would be 'totally disproportionate to any useful

36 Dr N Greenwood, *Submission 203*, p. 3.

37 Dr D Phillips, FamilyVoice Australia, *Committee Hansard*, 29.4.09, p. 67.

38 Australian Monarchist League, *Submission 18*, Attachment A, p. 1.

39 Mr D Auchterlonie, *Submission 3*, p. 1. See also Australian Flag Society, *Submission 39*, p. 1; Ms J Di Blasi, *Submission 43*, p. 1; Ms F Smith, *Submission 61*, p. 1; Mr D Suckling, *Submission 109*, p. 1; Mr N Jackson, *Submission 123*, p. 4.

40 FamilyVoice Australia, *Submission 111*, p. 1.

result of the plebiscite vote' unless the republic model was fully presented and understood prior to the plebiscite.⁴¹

4.35 Mr Brant Rippon noted that there were costs additional to the cost of the plebiscite:

There is the following national referendum, and following the result of this, numerous state plebiscites and referenda to officially convert to a republic. Total actual cost up until 2005 on proposals for constitutional change come around the \$129.8 million mark. *Predicted* costs for such things as national and state plebiscites and referenda, election information, labour and material costs to carry out the votes, Presidential elections, changes to the flag, money, military, police and other government uniforms and institutions conservatively estimate to be approximately \$2.2 billion.⁴²

Concerns regarding information dissemination and awareness raising

4.36 Mr Klass Woldring took the view that the single proposal presented under item 5 of the bill, 'Do you support Australia becoming a republic?' does not provide much:

...opportunity to gather additional relevant information. Also, it does not provide opportunities for learning, education and that the generation of media attention so that a much wider discussion can take place, as it should.⁴³

4.37 Mr Rodger Hills held the view that the proposed plebiscite question 'contains no promise of public participation, no indication that the public will be consulted in any way'.⁴⁴ This view was supported by Mr Kevin Smith who held that:

Prior to any plebiscite question there must be an extended period of open public debate on the issues of ALL constitutional and crown covenants and traditions that will be effected, compromised or eliminated or in any way restricted by the change of Australia to a republic.⁴⁵

4.38 Mr Brant Rippon held the view that the estimated \$10.5 million it would cost to hold a plebiscite should be directed into educational materials and the 'implementation of political studies as a compulsory subject taught in Australian secondary schools'.⁴⁶

41 Mr D Marina, *Submission 14*, p. 1.

42 Mr B Rippon, *Submission 4*, p. 2.

43 Mr K Woldring, *Submission 1*, p. 2.

44 Mr R Hills, *Submission 50*, p. 1.

45 Mr K Smith, *Submission 120*, p. 1.

46 Mr B Rippon, *Submission 4*, p. 2.