



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE

Reference: Inquiry into an Australian Republic

TUESDAY, 29 JUNE 2004

BRISBANE

CONDITIONS OF DISTRIBUTION

This is an uncorrected proof of evidence taken before the committee. It is made available under the condition that it is recognised as such.

BY AUTHORITY OF THE SENATE

[PROOF COPY]

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:
<http://parlinfoweb.aph.gov.au>

SENATE
LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE

Members: Senator Bolkus (*Chair*), Senator Payne (*Deputy Chair*), Senators Buckland, Greig, Kirk, and Scullion

Substitute members: Senator Stott Despoja to replace Senator Greig for the committee's inquiry into the establishment of an Australian republic with an Australian head of state

Participating members: Senators Abetz, Barnett, Bartlett, Brandis, Brown, Carr, Chapman, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Harradine, Harris, Humphries, Knowles, Lees, Lightfoot, Ludwig, Mackay, Mason, McGauran, Murphy, Nettle, Sherry, Stephens, Tchen, Tierney and Watson

Senators in attendance: Senators Bolkus, Buckland, Kirk, Payne and Stott Despoja

Terms of reference for the inquiry:

To inquire into and report on:

- (a) the most appropriate process for moving towards the establishment of an Australian republic with an Australian Head of State; and
- (b) alternative models for an Australian republic, with specific reference to:
 - (i) the functions and powers of the Head of State;
 - (ii) the method of selection and removal of the Head of State; and
 - (iii) the relationship of the Head of State with the executive, the parliament and the judiciary.

WITNESSES

GARRAD, Mr Ross Edwin, (Private capacity) 30
JAMES, Major General William Brian ‘Digger’, (Private capacity)..... 1
JONES, Dr Clem, Director, Real Republic Ltd..... 45
KENDALL, Mr Rodney C., (Private capacity) 18
NGUYEN, Mr Andrew, (Private capacity) 24
PYKE, Mr John Richard, (Private capacity)..... 10
SOLOMON, Dr David Harris, (Private capacity)..... 38

Committee met at 9.00 a.m.**JAMES, Major General William Brian ‘Digger’, (Private capacity)**

CHAIR—This is the sixth hearing for the Senate Legal and Constitutional References Committee inquiry into an Australian republic. The inquiry was referred to the committee by the Senate on 26 June 2003 and is being conducted in accordance with the terms of reference determined by the Senate. The committee has received over 700 submissions for this inquiry. The terms of reference for the committee are to consider the most appropriate process and alternative models for an Australian republic. Witnesses are reminded of the notes they have received relating to parliamentary privilege and the protection of official witnesses. Further copies are available from the secretariat. Witnesses are also reminded that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. The committee prefers all evidence to be given in public, but under the Senate’s resolutions witnesses do have the right to request to being heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. I welcome our first witness, Major General ‘Digger’ James. You have not made a written submission, so I invite you to make a short opening statement, after which we can ask you some questions.

Major Gen. James—Thank you for inviting me to speak today. I note in the papers provided that, on 26 June 2003, the Senate referred the question of an inquiry into an Australian republic to the Senate Legal and Constitutional References Committee, and hence it was established as you outlined. I have not prepared a submission as such but appear before you simply to make some points in regard to the topic of the inquiry. There are many learned persons who have in recent times given views on the topic of Australia’s Constitution. Some have presented views to this committee; others have written at great length on the subject over the years. I am not trained in the discipline of constitutional law, so I will very happily rely on the opinions of such great experts in the area as Sir Harry Gibbs, the former Chief Justice of the High Court of Australia, Professor David Flint and others who wish to continue with the system that we presently operate under with our Constitution. Further to this, I have not read any telling arguments that show that, if Australia became a republic, we would gain any improvements in our way of life, security, health, wealth or happiness.

People seek to come to this land of ours for a better way of life, for they wish to live in security and peace and leave behind oppression and poverty usually caused by harsh regimes. The process in Australia with our current Constitution offers them the sanctuary that they wish for. Why change? Is there a better place for them to go? Clearly, no, in their minds, for they wish to come here now and enjoy our present freedoms and way of life—a way of life that has been frequently fought over in recent different wars. Our own Defence Force today is doing just that—defending our way of life. May I remind you that our servicemen in war have fought as volunteers for our way of life at a very high cost—101,000 Australians have given their lives in battle to protect our peoples, our families and our way of life.

I was an appointed member of the Constitutional Convention in 1998 representing the group Australians for Constitutional Monarchy but today I appear as a private citizen, although still a member of the ACM. I am a retired Army officer with over 30 years service, initially as an infantry officer in the Korean War and later, after medical training as an Army medical officer, in the Vietnam War and the aftermath of the Biafran War in Nigeria in 1971. Since retirement from

the Army in 1985, I have been working in industry and have also given much time to the concerns of servicemen and ex-servicemen, notably as RSL national president. I am now 74 years of age and wish to speak as an older Australian with what I believe is a lifetime of experiences in at least some of our nation's affairs.

I will speak to six points. Firstly, why the inquiry? Australians decided just five years ago by referendum that they wanted to remain a constitutional monarchy. The people did not want Australia to become a republic. A referendum is the process detailed in section 128 of the Constitution which allows an amendment to be made to the Constitution. It is a fair dinkum process that most Australians would entirely agree with, but it is not a plebiscite which is really just an opinion poll and is certainly not in the Constitution. Our Constitution says in the first paragraph that the people have agreed to unite in one indissoluble federal government under the crown and so on. It goes on then to detail the steps necessary—quite precisely—how changes to our Constitution can be made. This means the process, as spelt out, is to go to the people in a referendum. The process of a plebiscite or opinion poll is not mentioned.

In the recent 1999 referendum on the topic of Australia becoming a republic, the people of Australia resoundingly voted to stay as a constitutional monarchy in all states and one territory. It was an extremely expensive exercise over 10 years or so and it failed to gain traction for the great majority of the people of Australia who wish to retain the status quo. I do not believe that the people of Australia today, just five years later, have changed their view and contend that any process to pursue this view held by some is pointless—in fact, I believe it is wrong. I suggest that we have many other more important and urgent problems to face in this nation of ours today: security, infrastructure, roads, water, development of our lands and more, drugs, youth problems, marriage breakdowns and other social problems. Again, why the inquiry? I believe it is simply not necessary.

The second point I want to make is: put up a model—why ask for submissions on the most appropriate process of moving towards the establishment of an Australian republic when the great majority of the people do not want one? It is clear to me that those few who want Australia to become a republic are calling for help for someone to dream up a model that will win the hearts and minds of the Australian people. This was precisely the same problem the republicans faced at the Constitutional Convention in 1999 and others on my side were asked along with me to help them develop a model. We did not see this as our job. We and the majority of Australians did not want a republic then and clearly the same applies today.

The third issue is the stability of our nation. It seems to me that while it is perfectly reasonable for all of us to want change in the way we do things from time to time, surely we should be putting up sound reasons to support any change. In the case of changing our Constitution, which has stood us brilliantly for more than 100 years, I have not heard any good reasons presented. I believe we should be very careful that we do not upset the stability of the nation by pushing the barrow unnecessarily. The world today has many problems with emerging new nations and their problems; concerns with security—we have a world war on our hands; and huge health problems worsening every day with things like malaria, AIDS, drugs, alcoholism and starvation. It is my view that to persist with the process of trying to have Australia's Constitution changed to a republic when the people are not interested will have a destabilising effect on our nation. I think it is wrong.

Fourthly, the cost: to pursue the course of pushing for a republic by whatever means would be a complete waste of money—money that could be better spent in other ways. I know the Senate set up this inquiry for you, Chair, and your group to pursue this issue, but I am simply saying that the inquiry should report that the high cost involved alone cannot be justified by the people—meaning that the true majority of the voting population are not interested.

Fifthly, Australia's head of state: it seems to me that, when convenient, Australians and everybody seem happy to say that the occupant of Yarralumla, currently His Excellency Major General Michael Jeffery, is our head of state and is recognised as such. If that is not convenient, those who do not like the present system say: 'The head of state is not an Australian. We don't want a foreign head of state such as the Queen.' The truth is that the Queen is not our head of state. She is the sovereign of the British Commonwealth, which includes Australia. Like millions of Australians, I am very happy with this arrangement, and I am honoured to have Queen Elizabeth II as our sovereign, for she represents a major part of the origins of our nation in so many ways.

The sixth issue relates to the strength of our current system compared with the records of republics: the record of republics is not one of stability. It is not good. In all the arguments on the question of Australia becoming a republic, I believe the key point to keep in mind is that the present system has produced stability for our nation since Federation and, in the world scene, virtually holds a record of such stability. Our Constitution ensures that the control of our nation is firmly in the hands of the people. To introduce a republic, as discussed so deeply at the Constitutional Convention, hinges on the appointment of a president. This raises the questions of who he or she may be, how he or she would be appointed or sacked and what powers he or she would have.

At the present time in Australia, our Governor-General, who is our head of state, is, in simple terms, an unbiased, independent referee or umpire in affairs of the constitutional stability of our nation. In my lifetime I have seen many examples of potential instability in our country—the most notable being the sacking of the Whitlam government in 1975. Despite personal anger of individuals, our nation remained stable and steady. There was no civil war, no blood in the streets. We went about our business because the umpire had spoken, and we accepted that. Several other incidents could be cited, such as the recent change of the governors-general and the crisis in Tasmania a few years ago when the Governor, Sir Phillip Bennett, who, as a good umpire, made the decision following an election that Mr Field could set up a minority government. I am sure constitutional experts could list many other similar examples of stability. On the world scene, the history of stability in republics is very poor. Many European countries have appalling records of violence and bloodshed under republican models. We have not had that. That is the strength of our current Constitution, and it has not let us down. It is fair and it is not dominated by political whim, money or corruption. I contend that it should be retained.

CHAIR—I will start with one or two questions, and then others around the table may ask questions. Major General James, if you look at public opinion polls from the last five or six years, you will find that, of all those who have a view on the republic, something like 60 per cent take the view that Australia should become a republic. And that is continuing to increase. There is a trend upwards for that over time. Despite your concerns, do you think it is inevitable that Australia will become a republic one day?

Major Gen. James—I do not think anything is inevitable, except death and taxes. No, I do not, but I take your point, Chair. The people of Australia are satisfied and comfortable, in my view. Those who are not, who for some reason desire to change things, are noisy, and that happens with all sorts of things. You see that almost daily. They do not happen to be the great majority of people.

I suggest that what you are talking about is, when you do a poll, only those who are interested in making a noise answer it. We have polls on the television every night. I could spend my life answering the jolly things, but I do not. I suppose, if I loved some point they made, I would. In other words, I do not believe polls necessarily fit the bill or, in other words, represent the people of Australia. If I may say so, you as a politician would have to agree that in some cases polls do not help you in your life either.

CHAIR—That is for sure. But what we look at as politicians is, I suppose, a trend over time and that trend has to represent and does represent something. A momentary poll can go up and down but, for instance, over the last 25 years support for a republic has increased continually.

Major Gen. James—I can understand that, because there has been a lot of noisy presentation. We have newspaper owners who live in America and that sort of thing who want a republic. That makes the poor old Australian person think, when they read the *Courier-Mail*, the *Daily Telegraph* or whatever it is, ‘It is inevitable.’ But I am saying that it is not, on the one hand, and—

CHAIR—Do you think there is a republican influence coming from the USA?

Major Gen. James—Very much in the name of one fellow—whose father was at Gallipoli, I might add, for a while.

CHAIR—What I find intriguing—and you said it very explicitly—is that you fought for Australia and an Australian way of life; you refer to the spirit of Australians and the capacity of Australians. In that context, why can’t we have our own umpire? You talk about the umpire who is essentially not sourced from Australia. Why can’t we, mature enough as we are, have our own umpire? I presume, when you were fighting, you were fighting for Australia; you were not fighting for the UK.

Major Gen. James—No. I was fighting for Australia under the Australian flag. I know the point you are making. But the safety that we have in our Commonwealth, the British Commonwealth, I believe is so good that we are unwise to break away from it. I know we spoke of this at the Constitutional Convention—and I see that there are people here who were present there—and we argued the toss about a lot of things. But what we did find and were terribly concerned about was the safety of how you appoint your umpire. It comes back time and again to being a political appointee. That worries me because there is baggage.

CHAIR—But aren’t they political appointees now? Isn’t the Governor-General a political appointee?

Major Gen. James—Yes. But if he upsets the country he can be sacked easily. Equally, the Prime Minister can be sacked if he does the wrong thing. The safeguards we have built in now

are so good we could not see a way of doing it. I remember the late McGarvie, the ex-Governor of Victoria. You may remember that he presented a model that simply retained what we have today, deleted the Governor-General as we presently have him and inserted three wise men or three wise women—in other words, very fine people, High Court judges or whatever. As you may know, Dick McGarvie was on the Labor side politically in his earlier days and then he became Governor. We were great friends. He was moved, as are all governors and governor-generals that I have ever spoken to, with the position he held by how important it is to be totally apolitical—and they become that way. That is what Dick McGarvie was worried about and that is what I worry about.

Senator PAYNE—Thank you very much, Major General James, for your appearance this morning and for your opening statement. One of the points you raise, which I want to go back to, is the question of how plebiscites operate. You avert to the fact that they are not in the Constitution but nor is the Prime Minister of Australia in the Constitution, so I am not sure that gives us a great deal of ground upon which to rely. But a plebiscite is an opportunity for all Australians to cast a view in a process of national consultation, if you like. What do you think is the problem with that that made you refer to it in negative terms?

Major Gen. James—There are two problems. One is that a plebiscite is a voluntary system; in other words, presumably you have to be on the roll, but it is not intended to be compulsory. The other problem is that, rightly or wrongly, which can be argued about in whatever way you like, the founding fathers in forming and writing our federation—which we all agree is a so-called weak federation; in other words, the states still have strong control, although it has been frittered away a bit over the years—brought the states together. It was agreed that the only way to get agreement was by having a Constitution that ensured the states were represented in any decisions to do with the ‘big vote’, as it were. So the referendum has two elements, as you know: one is a majority by the people overall and the other is a majority by the people of each state; you have to have four states or whatever it is to pass it. My concern is that a plebiscite does not do that.

Senator PAYNE—But the plebiscite is not intended to be a binding process; it is intended to be an indicative process and voting can be made compulsory.

Major Gen. James—Yes, and we have just talked about that and in regard to getting publicity for it. It is a publicity-seeking arrangement, I would suggest.

Senator PAYNE—That is an interesting interpretation. At the risk of going down a sensitive road, I wanted to raise one other point. You have spoken at some length about your personal service and the service of many other people that you know. You referred to it in your speech at the Constitutional Convention. I am the daughter of a veteran and I spend a great deal of time, in my current role, amongst the ADF both here and at deployments—whether it is East Timor or Afghanistan—and I find, I must say, as many and as varied views as I find in the breadth of the population. I do not think it is possible to say that, as a result of eminent war service, one immediately becomes committed to Queen and country. One most certainly becomes committed to country, but I do not think we can, with a sweeping generalisation, assume that all those who have undertaken service on behalf of the country are committed to the current system. Is that a fair assessment?

Major Gen. James—I could not disagree with that. I would suggest that in the Army, Navy and Air Force there are more who are not republicans than who are republicans; I could put it that way, but I have got no way of knowing that. There is no magical sort of thing in the sense that people fighting for it would not want change, but they are certainly fighting for a country which is safe and which is what they want. I was making the point, really, about my own service, my age and those sorts of things. I wanted to make the point—which is probably unnecessary, because I am old anyhow—about how strongly I felt that this had happened to our country, and it is such a precious country. That is what I am saying. It is just a terrific country, and all these people died for us, and all these people are fighting at the moment. There are people here swimming on the coast and doing what they like, and we are sitting here, but there is a war on right now. We must do the right thing, and I have to speak against what you are trying to suggest. That is what it is about.

Senator PAYNE—Thank you very much.

Senator STOTT DESPOJA—It is good to see you again, Major General. I might start on the point at which we last met, and that was at the Constitutional Convention. I am curious to know whether or not you thought that was a worthwhile process. I ask that in light of your comment just then about what a terrific country we live in. I think we would all agree with that. And one of the features of this terrific country and our democracy is that we can have these debates in a relatively peaceful and civil way. Is it not worth having those debates over a regular period—whether it is to do with a republic or constitutionality or changes to the Constitution? Isn't that a worthwhile debate and isn't it better that we have it in that kind of setting? Would you consider it appropriate to have another constitutional convention, or would the cost or other aspects concern you?

Major Gen. James—I agree entirely with the way we do it. What we do not want, as I said earlier, is fights in the streets to work out where we are going. We all agree with that. I have two points. One, I will be making my point as strongly as I can that we should not change, and that will always be the way I feel. Two, I think the frequency is such that we are destabilising our country—every five years, for goodness sake. There were 10 years leading up to the previous one. There was money spent and running around and newspapers having a lovely time and everything else. And why? Put a figure on it if you want to. Every 25 years I do not mind. But certainly the answer is yes, we must have a discussion and we must have a convention. But the frequency is a thing that concerns me.

Another thing I should mention is that what we perhaps ought to be doing is making sure that the people of Australia are trying to help them in our schools and I can divert there if I may. I do not think we are teaching civics in our schools to our children. I think we are teaching them a lot of rubbish. The history we have taught in the last 20 years has changed. If we took some time and really thought about it we should be teaching our children at school about the history of our nation, the history of the world and where it is going and so on and then they would be comfortable to go to a referendum.

As I saw it at the last referendum, I was on a polling booth, young people came rushing in 10 minutes before the close of the gates saying, 'What's it all about? What are we doing?' Naturally, I gave them my spiel and they all voted my way I think. But you know what I mean. I suggest proper education, not the fads of people pushing other barrows but a true education of the nature

of Australia, is what we ought to be doing. I would delay it until you are satisfied that people know about our country.

Senator STOTT DESPOJA—You pre-empted my other question which relates to education and information. The Constitutional Convention could be one aspect of that. Civics education is another. Just based on your comments about the last referendum and, indeed, your experience at the polling booth—I am sure that some of us would argue that we had the complete opposite experience—do you feel that the education surrounding that referendum was sufficient? I am not just talking about young Australians; I am talking across the board. A lot of witnesses and, I think, some members on the committee have queries as to whether or not people felt well informed. At the end of the day, I guess our job is not to tell people which way to vote or to think or which model to prefer. I want people to make an informed choice. Did they make an informed choice last time?

Major Gen. James—No, I do not believe they did. I believe that some help in this is essential if we want to get the true result. The other point I would add to that is that it ought to be equal storying if you are going to talk about the republic versus the constitutional monarchy in every way. We should be assisting both sides. It was not quite so in the nineties if you remember with my friend Mr Keating—he was my friend too, I knew him well—but he pushed like mad for his side of it. We used to argue about it. If we are going to teach them, it ought to be bland teaching that is not punching a line either way.

Senator KIRK—Thank you, Major General. You were talking about opinion polls and the plebiscite. I understand that your view is that we should not hold a plebiscite because it is nonbinding and it will have no effect. How then are we meant to gauge whether or not the opinion of the Australian people has turned; whether or not it has changed? Let's say in five or 10 years time, if we cannot rely on opinion polls as you suggest and if we cannot do some sort of plebiscite which is nonbinding, what choice is there? Do we have to go to a formal referendum at that point? How do we, as members of parliament, gauge public opinion?

Major Gen. James—When you say 'we', who are you referring to?

Senator KIRK—You are fully aware, as am I, that in order to initiate a referendum process it first has to derive from the houses of parliament.

Major Gen. James—Are you a senator when you say 'we' or are you a member of the Republican Party?

Senator KIRK—How do we, as members of the parliament—as senators and members of the House of Representatives—gauge public opinion?

Major Gen. James—I find it absolutely staggering that there is this constant polling going on—presumably, from what Senator Bolkus states but which I do not see. I can only assume it is from people who want a change. I think the people out there could not give a hang. Up here we have our State of Origin football matches and so on, and they play those. We have the Olympics coming up, we have footballers who get into trouble and we have other things happening and I do not think the average fellow—I mean 85 per cent of people in Australia—could give a hang about change.

Senator KIRK—That is your view. I suppose what I am asking is: let us say in somewhere between four and 10 years there is the shift in public opinion. How do we gauge there has been that shift unless we engage in some sort of polling—perhaps a plebiscite or something of that description—before going to the formal referendum, which is expensive, time-consuming and difficult quite often?

Major Gen. James—It is time that my vintage moved on and that all those fighters who fought the last battle moved on. We will let the next generation be educated and let them make the decisions. I think: take the polls then.

Senator BUCKLAND—Let me say first up that, if we had met 15 or 20 years ago, you probably would have swung me over. I find you to be extremely sincere and very measured in your attitude towards this, despite us being on the other side of the fence from each other. It has been a pleasure listening to you. When you said that the next generation should look at things, do you think that is something that we have to give the next generation time to establish before they do it? I ask that because it worries me. Six or eight years ago I would have said no young person should have entered a parliament of any nature until they had had their ears bashed around a little bit and they had been out and seen life but, having recently been to a function with young scientists who were medical researchers, I am so enthusiastic about those people taking over the reins and cleaning up the mess we have left. Why would we need to leave it rather than try to help those people to establish change now?

Major Gen. James—Thank you very much for that question. Going back to what I said to Senator Stott Despoja regarding education, what I am really saying is that we are in a frame now where so many are committed to one side or the other but then we have an ignorant mass—if I may use that term—of people out there because they have been poorly taught in their schools. The teaching now is so vastly different—the topics they do and our place in the world—from what I knew when I was younger. Maybe they were wrong when I was a kid, but I do not think so. Talking to young people, they have no idea about many areas of our great nation. I saw this in the RSL. We went on a very big campaign to teach them. Con Sciacca was the minister when I was involved and he was absolutely magnificent. He helped us in the Australia Remembers year. The whole effort was to try educate Australians about our military forces—that is really what I am getting out. We have to educate people if we are going to keep pushing for another referendum or whatever, because the people do not know what they are talking about. That is my concern.

Senator BUCKLAND—Earlier on you said that you are speaking as an older Australian. I guess I could almost—and many would say I could easily—put myself into that bracket as well. As an older Australian, I will reflect on a few things you said. One is that we have to look at some of our social problems. My grandfather had a very distinguished military career, if you want to call it that, in Palestine. My family was very proud of him. But he was absolutely opposed to us having a foreign head of state. Having lived with my grandparents as a child, I can remember many discussions over the dinner table on that very debate. Not all proud diggers would support the monarchy. Not being very educated, I have to say, I keep reflecting on that.

With regard to the problems that you mentioned—youth, drugs, alcohol, divorce and things like that—history tells us that we have had those ever since we have had life on earth. It worries me that people like me think that we have to fix these problems and that it is getting worse.

Frankly, it is not getting worse. I think it has been the same all the time. I just wonder why we need to see that as a reason for not moving ahead—that we have to fix those problems first. Reality tells us that throughout history we have never fixed them. I would love to see them fixed. I would dearly love to see the abuse of drugs or alcohol, violence in marriage and things like that fixed. We are going to have to work on that. I do not think changing to a republic would alter it.

Major Gen. James—That is fine. That is a view that you hold. I do not necessarily disagree with you. I am saying that I do not believe that we need change involving all the expense and the risk that it might foul up. That is what I am really saying. We have a perfectly workable system now. It is good and it goes well. We are both talking about the same thing.

With regard to your late grandfather, of course there were many who were not monarchists and who were in the military service. World War I produced a lot of our people who came back absolutely fed up with the nonsense of how to fight a campaign in France under the British system. But that was just dumb tactics, if you could call it that. It was Monash who led Australians to the greater victories with modern thinking, good planning and so on. There was a lot of bitterness against the Brits. It was on not so much the basis of the Constitution but the fact that the British were not good leaders, I suppose.

As I said earlier, I am not suggesting that all the Army take my view. I can assure you that many of my friends do not. But I see no point in changing for change's sake. I see no point in spending money in the way we are, in arguing and so on, when there are other battles. I really cannot agree with you that we never solve the other battles. I have never seen before the degree of problems we are having now with marriages breaking down, and kids and drugs and so on. As a doctor I can tell you that there was no such thing as a drug problem in the Army when I was in Vietnam. There were not any problems in the Australian Army in my time—1968. It started later. To say that it has not worsened is not right. I have to disagree with many of the comments you make.

CHAIR—There was one thing you said earlier on. It is a chair's indulgence to ask you this. I agree with your description but you mentioned the conflict in Iraq and you called it a 'world war'. How did you come to that definition?

Major Gen. James—I did not mention the conflict in Iraq.

CHAIR—I am sorry. You said that we were engaged in a world war.

Major Gen. James—In broad terms, I think we are in the third world war in the world because there is so much conflict going on. The concept of terrorism is frightening. That is a war in itself. Where the hell it is does not matter. That is what I meant.

CHAIR—That is what I understand as well but I asked it wrongly. The fact that you do see this in a global and world war dimension is something I find interesting.

Major Gen. James—I would not specify religions or anything else.

CHAIR—Thank you very much. Your evidence was helpful. It was good to see you again.

[9.40 a.m.]

PYKE, Mr John Richard, (Private capacity)

CHAIR—Welcome. We will start with the formalities. You have lodged submission No. 512 with the committee. Do you wish to make any amendments or alterations to it?

Mr Pyke—No.

CHAIR—Would you like to make a short opening statement?

Mr Pyke—Yes, thank you. I am a lecturer in law at the Queensland University of Technology, but, of course, I am not speaking for the university—I am appearing in a private capacity. Let me take as my text something from Mr Ross Garrad's submission. He said that we have arrived at a stand-off between the politicians and the people, and I think that sums it up. It is between politicians, aided by some academics and intellectuals who are frightened of a President elected by the people and the great mass of the people.

Contrary to what Major General James said, I think we can believe opinion polls. The people who respond to opinion polls are not the noisy activists. Not only have opinion polls taken by the usual organisations like Gallup and Newspoll but a very major survey done by some political sociologists immediately after the referendum showed that the great majority of Australians would prefer us to be a republic. It is clear that they do not think it is the major issue of our times. I actually ran for the Republican Party of Australia for the Senate against Senator Stott Despoja's mate Senator Bartlett. I got about 2,500 votes. The majority of Australians would agree with Major General James—that there are many other more important issues. But if they are asked, 'Should we have a republic?', the majority say, 'Yes'. If they are asked, 'If we have a republic, should we vote to elect the President directly or should we leave it to the politicians?', the figure for yes of 75 per cent has been quite consistent for the last decade. And that then allows the monarchists to express their view of which of the two possible alternatives they would prefer if the worst possible thing happens. The figure for people voting for a President themselves has been consistent at about 75 per cent for over a decade.

Therefore, I wonder what the point of two plebiscites is. I rather wonder what the point of a Senate inquiry like this is. Let me answer my question about the plebiscites. I think the main point of a plebiscite is just to demonstrate something to the politicians who want to hang on to the power to select the President themselves and to their academic supporters, like Greg Craven and a number of others, who refuse to believe opinion polls and use arguments like Major General James's—that the polls are skewed and that nobody ever believes the polls. Indeed, with the question of 'How are you going to vote tomorrow?', everybody always takes the polls with a grain of salt because they know they are going to change over the next couple of weeks as political debate continues. But with a question like, 'What pattern do you want for the future of the country?', I think we can take the polls as evidence of what the majority of the people are saying.

If the majority of people want a republic but want to vote for the President—and up until now the majority of our federal politicians have wanted to have a republic but to select the President themselves—I guess there are three ways forward. Firstly, the presidential selection people can invest an enormous amount of energy and propaganda into convincing the majority of Australians that they are wrong. I think this will take forever, because the majority opinion is based on a deep-seated democratic conviction that we, the people, should be the sovereign.

Secondly, those who advocate presidential selection can tinker at the margins of the model suggested in 1999 to try to make it a slightly more acceptable second-best alternative and to try to get a majority of 51 per cent voting for it in a referendum. That could succeed. But you have to be aware that the bulk of the people were voting ‘yes’ on the basis that they saw it as a second-best alternative. Even in 1999 the big survey taken by political sociologists showed that, of the 45 per cent people who voted ‘yes’, 25 per cent were willing yeses who really liked that model and 25 per cent were reluctant yeses who really wanted direct election but were prepared to vote for the only republic that was being offered. You might increase that 25 per cent to 31 per cent, and then you would have a republic, but you would know that the majority of the people saw that as a second-best option.

There is a third alternative for our politicians. The leader of the Labor Party has signalled that this is the way he is preparing to go if he is elected Prime Minister at the next election, whenever that might be—next March?

Senator STOTT DESPOJA—Are you telling me something?

Mr Pyke—Mark Latham has suggested that he is prepared to drag the Labor Party into supporting direct election. If that happens the politicians will be presenting to the people a model they are prepared to support as their first alternative. I suggest that that is really the way to go. The best function this committee can perform, and the main function that one or a couple of plebiscites would perform, would simply be to signal to those politicians who do not want to trust the people—and to academics like Greg Craven and a few others I know who do not trust the people—that the people want to be trusted. If that mood change can be achieved amongst politicians and opinion leaders then the real job starts.

The real job is not debating between monarchy, presidential selection or direct election; the real job is drafting a reasonably sane, clear, teachable draft of a constitution for a republic where the people directly elect the President. We are not without precedents, and I recite these four countries endlessly: Austria, Iceland, Ireland and Portugal. I wonder how many people in this room know that Iceland had a presidential election last Saturday. I have not seen the result yet, but the Icelandic opinion polls show that President Grimsson was heading for re-election by a huge majority against a couple of eccentric millionaires who were predicted to attract maybe 1½ and five per cent of the vote respectively.

If we want to understand how republics work, shouldn’t a Senate committee like this look overseas? This year there are presidential elections—direct election by the people—in three European countries. I suggest that Australian politicians ought to have attended them as observers. But, no, we go around talking to ourselves and worrying about the possibility that the people will elect a footballer, rather than getting out into the big wide world and getting

acquainted with the way republics, responsible government and the rule of law continue to work in other countries around the world.

CHAIR—That might be a good point on which to start the questions.

Senator PAYNE—Given that we are in Queensland, I assume that it would be ‘President Sailor’!

Mr Pyke—My presumption is that we would not vote for Wendell. We all love Wendell, but I do not think we would vote for him as President or Governor of the state.

Senator PAYNE—We hope he did not do a hammy, anyway! The observations you make in relation to plebiscites are very interesting. We have had some very compelling arguments put to us that a plebiscite would play a partly educative role in some ways and an engagement role in other ways—from those who support change, obviously—and that this is a very important step in the process, in complete contrast to the approach that was taken to the referendum in the late 1990s. I gather that on none of those grounds do you agree with that.

Mr Pyke—That is not quite right. I did say that, if a plebiscite would achieve one thing, it would be to inform all those who are reluctant to believe the opinion polls what the majority of Australians really think. You can give that your label of educational role.

Senator PAYNE—The step that I then wanted to pursue with you was your observation about the Craven position—that is with a capital ‘C’—

Mr Pyke—You can also use a small ‘c’, but that is a rather cheap joke at Greg’s expense.

Senator PAYNE—Given that I am making a respectful reference to Professor Craven, I would use a capital ‘C’. Given his contention that concerns about direct elections from non-direct election republicans would see such a proposition fail, is it not better to try to work through that process and try to deal with those questions and challenges?

Mr Pyke—I can see there is an argument for slow workings; I am just getting a bit impatient at the reluctance of presidential selection republicans to accept the evidence which is out there. I sent the committee a telegram—I do not know whether the staff passed it on to you—comparing it with the causation of lung cancer by smoking. It is an established scientific fact. A lot of people still refuse to believe it. Poor Jim Bacon refused to believe it until three months before he died. It seems to me that, with all the scepticism that we might have about opinion polls, it is an established scientific fact that, if a reasonably sensibly drafted constitutional alteration proposing direct election was presented to us, the majority of Australians are prepared to vote yes tomorrow. The less impatient and more cautious side of me—and when I do psych tests I show up as reasonably balanced between the left forebrain and the right forebrain, showing daring and caution combined; and these are very cheap pop psych tests, I might add, but I think they may be saying something about me—says, ‘Yes, let’s do it a bit more slowly, step by step; let’s have a plebiscite so people can see real evidence of how other Australians think.’ Then some people like Professor Craven will probably still, as he suggested in evidence before you, find themselves allying with Professor Flint and campaigning no, despite their distaste.

But another thing the big survey by the political sociologists shows is that the leaders of the presidential selection people and the leaders of the monarchists are a bit out of touch with their followers in the passionateness of their objection to direct election. Among ordinary rank and file, only five per cent out of the 20 per cent who favour selection by the parliament say, 'My model or nothing'; the other 15 per cent would reluctantly vote yes. Again, the majority of monarchists—whatever their leaders might say—say, 'If we're going to have a republic, let's go the whole hog and vote for the President.'

Senator KIRK—Thank you for your submission, Mr Pyke. You say in your submission that an altered Constitution, with the changes that need to be made to it, should be put together by a panel of constitutional experts rather than an elected convention. I wonder if you could outline for us how you see this body of constitutional experts being selected, how they would operate and what their process would be.

Mr Pyke—I am not sure that it matters very much. It seems to me the crucial stages are after the first drafting is done and tabled in parliament. The most constructive thing you senators could do would be to table a draft constitutional alteration in the Senate and get discussion focused on a particular model. This is what happened in the 1890s. When the first constitutional conventions were called, two people—Charles Kingston and Andrew Inglis Clark—proposed drafts, and they became the basis for the drafting commission's drafting subcommittee's work in the 1891 convention. It became the basis for the drafting subcommittee's work in the 1897-98 convention. What we really need, rather than everybody saying, 'It's too difficult; there are too many models about,' is for somebody to sit down and do it. Senator Kirk, you are a constitutional law teacher. Why don't you sit down with George Winterton and myself and produce a model, present it as a constitutional alteration bill—without any signal that we are committed to this model or nothing—and let discussion start happening about the details: about the nomination process, whether we have an Irish type nomination process or that brilliantly democratic one that Ross Garrad has suggested, about codification of the powers—although I would prefer to say 'Let us describe the powers of the President and the executive accurately, rather than persisting with this 19th century monarchical misdescription we have in the Constitution.'

The important part of the process is not how you get together a team to do the drafting in the first place; the important part of the process is a prolonged period of treating the bill as an exposure draft. You should maybe try to focus discussion on each issue for a couple of months: the selection process, the dismissal process, the description of the powers. You should try to involve the people as much as you can—I take Major General James's point that they are much more interested in State of Origin, but some of them can be got quite interested; you can do things like deliberative polling—so that in the end, whoever has drafted the model has a prolonged period of feedback to finetune it. This will mean that, by the time that you are putting the model to a referendum, you have some grounds for confidence that it is going to be accepted by rather more than a majority of the people in a majority of the states.

It seems to me that the referendum provision in section 128 is in some ways a bit dysfunctional. It says that, after a bill has been passed by both houses of parliament—or, unusually, by one house a couple of times—the bill must be presented for a referendum between two months and six months after its passage through the second of the houses of parliament. The period of two months to six months is just long enough for hysteria to be really whipped up and

not long enough for it to die away again. Perhaps this can start from the Senate, which is the only House where real debate about the content of bills takes place these days: I suggest to members of parliament that an alteration bill should be presented which states that even if it is passed by the Senate—even if, *mirabile dictu*, it is passed by the House of Representatives—that there should be no feeling that it has to go to a referendum between two months and six months. Let us chew on it for a bit at that stage and look for intelligent commentary about the good points and the defects of the bill. Maybe it should go back to both houses of parliament and be passed again after comments have been received and digested—just as the model in 1897-98 provided that a draft was released, then there was feedback and then they had another session of the constitutional convention before they settled on the final draft.

Senator KIRK—Thank you. There are some excellent ideas amongst that.

Mr Pyke—It is not totally original; Cheryl Saunders said something like that in one of the Constitutional Centenary Foundation publications.

Senator KIRK—Thank you. I think what you say is quite right. My view is that one of the problems with the earlier Constitutional Convention we had was that it only sat for that two-week period, and it was very difficult to find time to sit back and reflect upon what had been decided. And I agree with you that—

Mr Pyke—I remember we left the actual drafting to a committee in the Prime Minister's department.

Senator KIRK—Yes, correct. Just on that, do you think that the people would feel engaged enough in the process that you have described? This is something that is coming through to us—that people do want to be engaged in the process. The way that you have described it, whereas I might think it is a good idea, general members of the community might feel as though they would not have enough exposure, comment and feedback in that process. Do you have any ideas as to how we might be able to open up that process that you have described?

Mr Pyke—Spend money! I would envisage a process something like this: you table the bill and you maybe even formally pass it, but then you spend some money on television advertising, in prime time for one week, focusing on the selection method and saying, 'We have proposed this selection method, but other models are around; what do you think?' And you try to set up some polling method so that the same person cannot hit 'yes' 35 times—and that can be done; Internet polling can identify whether 35 votes have come in from the same IP address.

There are maybe three important things to be decided. One is the nomination method—I think the voting method is crystal clear: it would be optional preferential; another thing which is maybe contentious is dismissal; and the other thing is some good way of describing or codifying the powers of the President vis-a-vis the Prime Minister. As a qualification to that let me say I think getting the nomination method right is fairly important, but there is some evidence from the opinion polls that this is not so important. Did you see that grotesquely overpriced little pamphlet that George Winterton produced through one of the centres at UNSW? I paid my \$25 for it, expecting to get about 80 pages, and it is about 25 pages—\$1 per page. He makes the point in that that the majority of people seem to care less about the prospect that the President might be a politician than a lot of the 'commentariat' do.

What the majority of people really want—no matter what the nomination process is—is the last word and the ability to go to a polling station and choose between some candidates. Still, we should invest a bit of time investigating alternative nomination processes. But I think there are ways of engaging those people that want to be engaged, and they might involve spending some money on prime-time TV ads.

Senator KIRK—Expensive.

Mr Pyke—Yes.

Senator KIRK—It is an expensive way of doing it.

CHAIR—We could reallocate some current advertising, I suppose!

Mr Pyke—Instead of selling Medicare, yes!

Senator STOTT DESPOJA—Mr Pyke, your last comment about engagement, education plus information, ties in with the problem I am having with your submission. There are so many areas where I agree with you, but are there not fundamental distinctions between the issues in the 1890s—indeed, some of the debates over the 19th century—and now? Clearly, the first of which is the empowerment of people. I have no problem with—well, maybe I do, but I can see the practicality of—the principle of a couple of legislators, academics or decision makers coming together with a model or two to speed up the process. I love exposure drafts; I would love to go into the parliament, put the Stott Despoja model down and get it discussed and voted on. However, we are not in a time when the country is run by a handful of men and we are not in a place where we do not have technology and the kinds of information-sharing abilities that we have today which of course they did not have in the 19th century, at the end of the 1890s.

Mr Pyke—But people did attend public meetings.

Senator STOTT DESPOJA—Indeed they did—and, of course, that is a principle I endorse and would love to see more of—but, regardless of the level of disengagement in this or any other political debate, would the people of Australia not expect a say? Herein lies the difficulty with presenting one model without that indicative poll—without that indicative plebiscite—that says yes or no. If we go to the people with a model that is finetuned by legislators—or by anyone else for that matter—is there not inevitably going to be a backlash? People are, quite rightly, going to demand a say and some involvement in that process.

Mr Pyke—I think the evidence we have—perhaps there is not a lot of it, but I refer to the evidence that George Winterton quoted—suggests that the majority of the people of Australia do not care too much about the fine details as long as there is a clause in there that says, in the end, they get to choose between the candidates. In principle, I am all for the widest possible discussion. When I say, ‘Present a bill to parliament,’ I am not saying present that as the only model. That is totally contrary to my suggestion. You could present a bill to parliament and, as you focus on each of its elements, make clear to those members of the public who are interested that these are the alternatives. You could say: ‘Although I have moved this bill, I am not tying my fate and my soul to that particular clause about the nomination method. We want to hear from you about some other nomination method.’

I have suggested in my submission a nomination method that is very like that used in Ireland, Portugal or Austria. Ross Garrad—whom I believe is appearing, although I did not see him behind me earlier—has suggested something brilliantly democratic: citizen juries from each of the electorates casting their eye over the list of nominees before refining it down to a short list of six. I would be perfectly happy with that. I am not sure that the people of Australia want that degree of complication, but let us offer them both and see. When you talk about indicative plebiscites, it seems to me there would be more point in having indicative plebiscites on three or four of those points of detail than having an indicative plebiscite on whether people want monarchy, parliamentary selection or direct election—to which we know the answer. I take Senator Payne's point that it may be worth doing for educational purposes, but we know what the answer is going to be.

We do not know what the answer is going to be to: 'Would you be happy with an Irish nomination model or would you rather have Ross Garrad's nomination model?' If we can find cheaper ways of ascertaining the popular preference for that than having another indicative plebiscite on it, let us do it. But if the only way of ascertaining it is to have yet another indicative plebiscite, that, to my mind, would be a much more worthy indicative plebiscite than one which is simply going to prove to us what we already know from opinion polls and university political sociology surveys.

Senator STOTT DESPOJA—That is an interesting point when you put it like that. I had not really thought of breaking it up to that extent. It is a bit like republic by numbers: dismissal, nomination, codification or whatever expression you care to use. I think that is a very new concept for the committee.

Mr Pyke—It would really be democracy at work. You can do it in a terribly complicated way in the final referendum, presenting alternatives at the final binding referendum. I have severe doubts about the practicalities of that. You will have people like Major General James crying out, 'What a waste of money,' but it is worth spending some money on democracy, as long as we do not get totally obsessed by it and stop spending money on AIDS education and so on. It really seems to me that a good way of drafting a constitution to get the people involved would be to present not too many areas but the crucial areas. But let us not get too optimistic, because most people are going to say, 'Ho hum, I would rather go and watch the State of Origin.' You could ask: 'Do you want anybody to be able to self nominate?'—which is one suggestion I have seen—'Do you want Ross Garrad's model, where 100 can nominate but citizen juries refine it to six?' or, 'Are you happy for the political parties to nominate?'

It seems to me that too much artificial fear has been raised about the President being a politician. As Major General James said, Mr McGarvie had been a politician and he became a totally neutral Governor. We have had governors-general here who have been politicians—Bill Hayden, Bill McKell, Lord Casey, Paul Hasluck—and they have all been totally neutral, unbiased, admirable governors-general. In Austria, Iceland, Ireland and Portugal the President is always an ex-politician. They are even allowed to run for office while they are still politicians. The Foreign Minister of Austria recently ran but was defeated. They know what the role of President is. They immediately switch out of the political role into the presidential role and they do their job admirably. The rule of law and responsible government continues.

Senator STOTT DESPOJA—I could ask you many questions but I know that we are short for time. You have indicated a number of times—and this is obviously one argument against the indicative plebiscite—that the opinion polls tell us that there is a majority who feel this way. You then go on to say that a majority of people who are polled prefer direct election. Again, this relates back to the issue of education and, thus, being informed and influenced. We are all very conscious of opinion polls here, and I have probably got more reason than others on this panel to feel more sceptical about them—

Mr Pyke—Yes. How are the Democrats going in South Australia?

Senator STOTT DESPOJA—I am saying that as a senator who is not up for re-election. The consensus convention, as an example, or the people's convention, the deliberative convention that took place prior to the last referendum, showed exactly that: a majority in favour of a republic and a majority of that majority in favour of direct election. People changed their views as a consequence of the education or the information presented to them. People can argue that it was undue influence or it was positive influence, regardless.

Mr Pyke—You have just anticipated my response.

Senator STOTT DESPOJA—In which case, I will stop there and let you comment. I am curious about the role of education in that process vis-a-vis direct election.

Mr Pyke—I think that deliberative polling sounds like a marvellous idea. Most deliberative polling that has been done in America has been organised by liberals, in the proper sense of the term—with apologies to Senator Payne, who I think is a liberal in the proper sense of the term—and the critics have said that they are force-fed information in such a way that swings them further to the left. I suspect that the deliberative polling that was done in that particular instance, about methods of election of a President, was fed to them in a way which forced them to the right. Having not seen all of the material and digested it and having not been a fly on the wall, I cannot be sure. It is so easy when you have a small group to feed fear to them.

Senator STOTT DESPOJA—It is curious that you define it in a left/right dichotomy.

Mr Pyke—I think this is a classic left/right situation. There are many in the party of the left who are in the right wing of that party who want to keep the power to select the President to themselves. But in 17th century terms, the Left are those who think that all of the people should have equal rights, and the Right are those who think that a small group of the elite should reserve the power to themselves. So I do not think that it is inappropriate to call that a left/right dichotomy.

CHAIR—That is a good comment on which to finish. It is very useful evidence, thanks.

[10.14 a.m.]

KENDALL, Mr Rodney C., (Private capacity)

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Kendall—I am the Convenor of the Queensland Branch of the Australian Republican Movement but I appear on my own behalf today, not in that capacity.

CHAIR—Your submission to the committee is now numbered 456. Are there any amendments or alterations that you wish to make to it?

Mr Kendall—No, thank you.

CHAIR—Would you like to start with an opening statement?

Mr Kendall—Thank you for the opportunity to expand on my submission, which dealt with two aspects: that the plebiscites on the threshold question and the model should be held separately, and the overwhelming need for a thorough information campaign. If the two plebiscites are held simultaneously, I am concerned that the first one will simply be buried as different groups seek support for their favoured models with claim and counterclaim and with those opposing any kind of republic running a massive scare campaign, as was so effective in 1999. In this scenario we could even end up with a majority vote for no on the threshold question of becoming a republic but, because a choice of model had had to be made, with a model being chosen when the republic had been rejected.

The value of the threshold question as a stand-alone question is quite considerable. It enables the Australian people to clearly indicate the direction in which they want their nation to go. It can draw a line in the sand between our monarchical past and a republican future. And it enables a debate and vote on models to take place on the foundation that this is the way forward that Australians want to go. It also impacts on the nature of the information campaign, which is my second point.

The information campaign is very important. One of the accusations made by opponents of the republic in 1999 was that the republic was just something that the elites wanted. Such accusations are effective when people have poor knowledge of the system as it works now. When they do not understand how the current structure functions it makes it difficult to evaluate the changes being sought. Scare campaigns do not need much information to be effective, whereas campaigns arguing for change must provide adequate information for people to be confident to vote for the change.

The official information campaign in 1999 was quite poor. While there was a 71-page booklet and brochures, the main item of information on television had a camera travelling down a road to a T-junction, with a choice to be made on the Constitution—one way pointed to the republic, the other way pointed to the constitutional monarchy—but no details were provided. Holding the

first plebiscite alone enables two aspects of the information campaign to occur without being drowned in a debate of models. The two aspects are: information on how the current system works and information on what changing to a republic means. At this point, information could also be given that, if the people vote yes at this stage, future votes will ask them to choose a model for an Australian republic, thereby countering the blank cheque argument. Before the models plebiscite, again information needs to be provided on the basic structure of each model. But the big question now is ‘how’—how the information campaign should occur.

While I support Professor George Williams in the use of local forums and meetings, especially involving local government, it can only be one tactic in the information campaign. It is worth noting that from October 1997 to October 1998 the Constitutional Centenary Foundation, in collaboration with the Australian Local Government Association and more than 70 participating local councils in all states and territories, conducted 58 local constitutional conventions, which were attended by only about 3,000 people. In the debate on an ACT bill of rights, while 49 forums were held—it was estimated that there was one meeting for every 6,500 people—six evening town meetings drew an audience of four at the smallest and 50 at the largest. These are cases of people having to go to the information. What is needed is information going to the people. This really means radio and television advertising. That is the only way to reach large numbers of people.

In the case of the first plebiscite, and perhaps using a flowchart, the ad should explain how the people vote for parliament; how bills having passed through parliament must be signed into law by the Governor-General, who represents the Queen; how the Queen secures her position by being next in line in the Windsor family; how the Governor-General is chosen by the Prime Minister and automatically approved by the Queen; and how in a republic both the Queen and the Governor-General would be replaced by one Australian as head of state, chosen or elected by the people. What I just said took about 30 seconds. Current government advertisements on various themes run for about 60 seconds, so obviously there is more scope to deliver the information. So it is possible to get hard information across and not just some soft information about a vote coming up, as occurred in 1999.

With the models plebiscite, one advertisement could briefly describe all the models in the ballot, as the titles in the Australian Republican Movement’s booklet on the six models do. Separate ads for each model could then describe how they work. I have conducted several sessions on the six models document, explaining the models and asking those present to vote on them at the conclusion of the session. One comment I invariably receive is one of appreciation for the information that participants simply did not have before. In the 1977 plebiscite on the four choices for the national anthem, advertisements were run on television and radio containing segments from all four tunes. Incidentally, \$150,000 was spent on those ads, which equates to only about \$588,000 today. And the people subsequently made their choice.

Finally, may I reiterate a point from my submission: I believe it is a solemn obligation of the federal government of the day to conduct an extensive and thorough information campaign to provide the Australian people with the data they require to enable them to make an informed decision on the republic—and any other referendum question, for that matter. Thank you.

CHAIR—Thank you. I have a few questions about your concept of legislative guarantees of the process to be undertaken after the plebiscite. Do you anticipate those guarantees being

passed in legislation which provides for the plebiscite or do you see them as coming into play in some other way?

Mr Kendall—I think the best way to head off the concept of the blank cheque is to guarantee the plebiscites in legislation—perhaps the two plebiscites together in the legislation. Otherwise the anti-republican forces will just run a campaign that you are signing a blank cheque, and what does the future really mean? They will say there is no guarantee on the table that this will occur. Although I must admit if you look at what is happening now, with the proposal by the opposition leader, Mark Latham, for having the first two plebiscites 12 months apart, even his putting that forward as a policy platform again lays the groundwork: ‘Well, there are stages in this process and this is just the first stage.’ But I think putting them both together in the legislation would be the best way to guarantee them.

CHAIR—I am attracted to that idea. I thought I would give you the opportunity to elaborate on the process and also the content, if you have anything else to say in terms of what sorts of guarantees you would anticipate being in the legislation.

Mr Kendall—I would probably go a step further. I was thinking before when Major General Digger James was speaking that at times people who were not aware of the difference between a plebiscite and a referendum would believe they were changing the Constitution with a plebiscite, and that is clearly not the case. Again, part of the education campaign has to be: ‘Look, the only way you can change the Constitution is with the referendum, which comes at the very end, and we are just seeking your opinions through this stage.’ I get asked: ‘What is the difference between them?’ and ‘What is a plebiscite full stop?’ It is not a term that is in general currency. So, again, I think the government has an obligation to explain that aspect.

CHAIR—Thank you.

Senator PAYNE—Mr Kendall, thanks very much for your submission. One proposition that has been put to us by a number of organisations is that in fact there is no value in the plebiscite process because it is not a legitimate—to use their turn of phrase—constitutional process for consultation with the Australian people. In your submission you have put a lot of emphasis on the plebiscite process, and I wonder how you would counter that argument.

Mr Kendall—One of the counters is the very fact that we have had one already, for the national anthem, where the people had their choice and that choice eventually became the national anthem. I would say that an issue does not have to appear in the Constitution to hold a plebiscite on it. The other aspect I would emphasise too is that I think there is great value in it, because one of the themes or messages that you keep hearing is that there is a disengagement with the public. The plebiscite process, I think, has the tremendous value of re-engaging the public. John Pyke, speaking just before me, was talking about plebiscites and other matters from the ones I was mentioning here, but again I would support that idea—that the plebiscite process has the ability to give the people a say in the process and make their opinion valued, instead of people just being faced with a referendum where all the decisions have been made beforehand. So this plebiscite process can do that.

One of the other things which is disconcerting from my point of view particularly, because I admire the system of government that we have, is the great cynicism that tends to appear in

Australian society at the present time towards politicians. I think one of the most disgusting things that happened in the 1999 referendum was people saying, 'Don't vote for this model because you shouldn't trust politicians.' Some of the people saying that were politicians themselves. I thought that was undermining the very system of government that we have, because every three years we go and elect these same people and yet, as we are electing them, we should keep in our minds that thought from that particular person saying we should not trust these people we are about to elect. That is an appalling situation. So I think the idea of the plebiscite has the ability to start to build back some of that trust and faith in the political process and in the people who are in Parliament House.

Senator PAYNE—That thought did strike me at the time of the referendum, Mr Kendall. The other point which is made in some submissions, and which was reiterated this morning by Major General James, was that the 1999 referendum was on whether Australia wants to become a republic—end of story, full stop. You make the observation in your submission that that is not your view and that you regard that as a false position. Can you elaborate on that, please?

Mr Kendall—The 1999 referendum was the outcome of a series of events, and they really started in the general election in 1996. Paul Keating, as the incumbent Prime Minister, was running hard on the issue of the republic, and John Howard countered that by saying that he would hold a constitutional convention for the people to have their say on the republic. One of the slogans was that he would allow the people to have their say on the republic instead of the people having Paul Keating's republic foisted on them. In actual fact I think that was a false statement to make at the time, because my understanding is that Paul Keating actually favoured the holding of a plebiscite first. In any case, as a result of the election we went to the Constitutional Convention, and the conditions set on that convention were basically that that had to come up with something that could go to a referendum, so consequently we went to the referendum. The referendum was on a particular model; it was not on whether Australia wanted to be a republic or not. You can see that very strongly in the unholy alliance between various direct electionists and the monarchists who joined together to defeat the referendum. How you can then say that the outcome of that referendum was that people did not want a republic is certainly beyond me.

Senator PAYNE—Thanks very much, Mr Kendall.

Senator STOTT DESPOJA—Good morning, Mr Kendall. I am interested as to the time line that you would promote in relation to a plebiscite: how soon could it be or how long do we have to wait?

Mr Kendall—I think the first plebiscite could be brought on fairly quickly—

Senator STOTT DESPOJA—Next election?

Mr Kendall—No, not that quickly.

Senator STOTT DESPOJA—I have got a private member's bill in the Senate ready to go. If we return we could—

Mr Kendall—Given the time frame from now until April—the last date that the election can be held—I think it would probably be too soon. You do need to run this information campaign, and I would say that that is far too soon. I would agree with John Pyke as well, that one of the claims that will always be made against the republic is cost. But the cost of a democracy is, I think, worth it. Consequently, I would prefer to move beyond the general election to begin the process, so it is not clouded by issues of Medicare, education and Iraq. I think it is more important than that.

Senator STOTT DESPOJA—Could I clarify then: are you talking about not simply the amount of time but are you arguing that the plebiscite should be separate from a federal election?

Mr Kendall—I think so, yes.

Senator STOTT DESPOJA—In relation to cost, I note that you have done some impressive calculations about how much the advertisements cost for the national anthem in today's figures. Do you realistically have a figure that would encompass some of the measures that you have referred to—from advertising through to education and presumably direct mailing? Are we looking at many millions of dollars, or is that something that the ARM or you have not necessarily put a figure on?

Mr Kendall—I personally have not, but I think there are two aspects to the cost. One is the education campaign. I think it is a waste of time spending all the money on holding the actual ballot, which is expensive, if the information campaign does not run beforehand. If the people make a decision, either for or against a republic, based on information which they have, then whatever the cost it is justified. But if you run a ballot, with all the expense that entails, and the information is not there for them to make the best judgment they can, either way, then I think we are doing a disservice and really wasting money.

Senator STOTT DESPOJA—We have all made assumptions and there have been various comments about the levels of education and understanding among different groups in the population, and I note that young people have been the subject of this discussion today. Do you or the ARM in Queensland—forgive me for asking as to your two hats—have any information, such as research or polling or focus groups, that indicates the level of education or understanding? I think that relates back to the time line issue as to how much time you need to spend on a promotional or educational campaign.

Mr Kendall—I think it is the case that, as with all votes, attention only tends to focus as you get closer to the vote itself, so consequently that is where the focus of the information campaign has to be. That is why, as I mentioned in my extra comments today, television and radio advertising is the way to reach the biggest number of people, and that will only really occur as you get closer to a vote when a decision has to be made. A member of the Queensland ARM did an analysis of all the high school syllabi as to where civics, particularly an understanding of the political system, features in them. While it was there in a lot of the syllabi, oftentimes it tended to be an option. We were rather dismayed by that and maybe that has changed since that was done, which was about two or three years ago. That is a little bit dismaying because the education of the young, who will be future voters, is a very long process but we are talking about bringing the republican issue on in the near future. You need to reach a huge number of people

who have left the education system some time ago perhaps, so the only way to do that in this day and age is through television and radio advertising.

Senator STOTT DESPOJA—I think that is an important distinction for us to note. When we have school groups touring Parliament House and we go along to speak to them, I—like, I suspect, some of my colleagues—wonder if they are going to ask us questions such as what we get paid or what a senator does but they say, ‘Senator, what do you think of section 44 of the Constitution?’ I actually believe that there is an arguably greater level of such understanding than ever before among young people. They are certainly better educated in civics education than I was at school. Perhaps I share Senator Buckland’s faith that that process is ongoing and that perhaps young people are a little more insightful on this than we sometimes give them credit for.

Mr Kendall—I would certainly hope that is the case. I will relate another small anecdote which struck me at the time. When the Constitutional Convention was on in 1998, a relative of mine had, by circumstances, to be at home and ended up tuning in to the sessions broadcast by the ABC. She was fascinated by them. She passed the comment to me afterwards that she would like to have her vote again, having just listened to all of the debates and arguments and different speakers. I thought that was a case in point that she did not have the information beforehand. Now she had it, she wanted to make another decision on the matter. I take your point, and I hope that it is the case that perhaps those options that I mentioned are being taken up by teachers in the classroom, which would be a very positive thing for our society.

CHAIR—Thank you, Mr Kendall, for some very useful evidence. Before I call the next witness, I will refer to one thing that has arisen this morning. We all know of the passing of Australia’s last World War I veteran, Ted Smout, a little while ago. I welcome amongst the audience here today his brother Arthur, who is sitting in the front row. It is good to see interest in the republic being maintained and upheld in that family. We wish you all the best, Arthur. We thank you and others for being here for this morning’s proceedings.

[10.35 a.m.]

NGUYEN, Mr Andrew, (Private capacity)

CHAIR—Welcome, Mr Nguyen. You have lodged submission No. 256. Do you wish to alter or amend your submission?

Mr Nguyen—Yes. There are quite a few amendments to my submission, purely because I wrote it a few days before it was due. I had no idea this committee existed, until I did some research on the Australian republic for one of my assignments, as part of my course. I will start with page 7—

CHAIR—The committee have a copy of the amendments.

Mr Nguyen—Yes, the second part is the amendments. The first part is just a supplementary submission for your reference.

CHAIR—So the supplementary submission includes corrections and amendments. We take it that they are the amendments that you wish to make to your submission.

Mr Nguyen—Yes.

CHAIR—We will accept those. So you may like to start with an opening statement.

Mr Nguyen—Firstly, I like to thank the committee for giving me this opportunity to speak at today's hearing. I would like to start my submission by saying that I do not sit here to profess that I am an expert on the Australian Constitution, nor do I profess that I am expert on Australia's political history. However, I can safely tell you two things: I am a staunch republican and I am a proud Australian citizen. I speak to you today as an average Australian. The submission I give before you today calls for the abolishment of the Governor-General in an Australian republic. Hence, the reserve and non-reserve powers of the present Governor-General would be transferred to the Prime Minister, who would become the President of Australia, the Speaker of the House of Representatives and the President of the Senate.

This model does not change our political system, nor does it change the way the country is governed. This change only proposes that the office of the Governor-General to be abolished. The main argument behind the submission is that the Australian people no longer identify with the Governor-General, nor does the position hold any symbolic significance. If the nation is to keep this position in an Australian republic, I do not expect that this inference will change. Australians deserve a head of state who is both their leader and their representative in Australia and in the international community.

Australia's future head of government should also be called our head of state. Currently, only two per cent of Australians know the full name of our Governor-General. I myself struggle to name more than four governors-general: Bill Hayden, William Deane, Peter Hollingworth and Michael Jeffery. On the other hand, I can proudly look back at Australia's political history and

point out many prime ministers who have done so much for Australia, whether or not anyone has at times disputed their actions. Our future prime ministers deserve to be recognised as our heads of state. Currently, most if not all Australians identify with our Prime Minister. Whether he is opening a major sporting event, presenting national awards or comforting Australians in a time of crisis, most of us would consider him as our national leader, both symbolically and politically.

A further point I wish to make—and I did not propose it in my submission—is that Australia should not become a republic for the sake of becoming a republic. Let us not submit to a certain model of a republic merely because it is the simplest and most cost-effective way. Let us not take the easy way out if it is not the best way out. If we need a major constitutional change, then so be it. However, I believe the model I have presented today is one that is viable for the Australian public to consider as an alternative, as it suggests no major changes.

The republic is a major step ahead for Australia's national identity. Of course compromises must be made to please most, if not all, republicans. But, with that in hand, we should not compromise our chance to make Australia a true republic. In addition, there is a widely held belief that, should the office of the Governor-General be abolished, it would lead to only one possible alternative model—that is, the model of the United States style presidency, which would bring major constitutional change. This is a scare tactic used by both the Australian Republican Movement and the anti-republican movement.

In addition to the reasons I mentioned before, I believe this is one of the major reasons that the vast majority of submissions to the committee concurred with the models of the Corowa conference. In other words, I believe the Australian people have been misled to believe that the only viable option is merely to replace the Governor-General with an Australian head of state, unless Australia wishes to proceed down the path of a US style presidency. The five models proposed by the Australian Republican Movement are not five alternative models but rather five means to one end: replacement of the Governor-General with an Australian head of state. I believe that I have submitted a model which stands by the principle of our Westminster system without suggesting any major constitutional change and that finally gives Australians a figure they can truly identify with as our head of state—a head of state that is both a leader and a representative. It is a viable model. It has been more than 100 years since Federation, but it is time that the symbols of this nation were redefined—redefined for the future of Australia and the future of the Australian people.

Senator PAYNE—Thank you very much for your submission. At the beginning of your submission you make the observation that, as the Republic Advisory Committee suggested, the model you propose would mean an absolute departure from our current Constitution. I have to say that, in the process of this inquiry and in the time over the years I have spent discussing it issue, I have not come across great enthusiasm for shifting to a head of state who is also the head of government in Australia. What makes you put forward this proposition today?

Mr Nguyen—As I said before, it is an issue of identification. Along with many of my colleagues and friends, I say that we do not identify with the Governor-General any more. What does he do for Australia? What does he do for this nation? I have not seen the Governor-General in the media, in print or whatever, as a prominent figure of Australia. A head of state should be a prominent figure who represents our ideals both here in Australia as well as in the international community. When George Bush Jr or President Putin addresses the Prime Minister, they are

addressing a head of government, but they should also be addressing a head of state—as would be the case in any other country.

Senator PAYNE—You talk about prominence. I understand, I suppose, the point you are making, but it is the shift in power which makes most people nervous. That does not bother you?

Mr Nguyen—With my submission I do not see that there would be any major shift in power merely because, with the abolishment of the office of the Governor-General, the powers would be transferred or the constitutional conventions would be legitimised into the office of the Prime Minister. The Prime Minister already does a lot of things which are stated in the Constitution which the Governor-General no longer does. I think it would be legitimised if we were to codify in the Constitution that the Prime Minister now holds that power—which, if I may say so, he holds already.

Senator BUCKLAND—I will carry that on a bit further, because it is an intriguing concept that you put forward—and, let me say up front, it is one that I cannot support. Don't you think it is because the Prime Minister is usurping his place in society that the Governor-General, as head of state—albeit under the system we have now—is not known by the people to be doing certain things?

Mr Nguyen—I am sorry, I do not quite—

Senator BUCKLAND—The Prime Minister is attending functions that in the past, from my knowledge of governors-general, the Governor-General would have attended.

Mr Nguyen—But I do not see the Governor-General doing that.

Senator BUCKLAND—Because he is not given the opportunity. Don't you think that could be one of the problems we have?

Mr Nguyen—I cannot see why it would not be adequate for the Prime Minister in his capacity to do that. Why do we need another figure to do that? If the Prime Minister does it already, shouldn't we legitimise that?

Senator BUCKLAND—The whole idea of having a head of state is to keep it a little separate from the government itself.

Mr Nguyen—Are you saying that the position should be depoliticised, in other words?

Senator BUCKLAND—I do not think you can ever depoliticise a position like that.

Mr Nguyen—That is true.

Senator BUCKLAND—Even going by your appendix A and following that through, you cannot depoliticise the position. It is important to have someone, rather than the political leader, performing the function of representing the people of Australia.

Mr Nguyen—This is my perspective and the perspective of many people I have asked about this model: we consider the Prime Minister to be the most prominent figure in Australian politics and in Australia itself. When I ask, ‘Who do you consider to be our leader, the representative of our ideals?’ generally the answer is, ‘The Prime Minister.’

Senator BUCKLAND—Because the Prime Minister makes sure you say that.

CHAIR—I think we have got your point Senator Buckland.

Senator BUCKLAND—Mr Nguyen, it does worry me that you have that opinion; it does not make sense to me. I will just go to Appendix A that you have here. We have a national plebiscite; I understand that. We want a republic: a multiparty committee, which I imagine would be similar to what we have here—probably joint houses would be involved in it—then public forums and meetings. How do you see those public forums and meetings taking place given that, in my view, the last lot were not too successful?

Mr Nguyen—I think the problem was an explosion of information. I was 15 when the 1999 referendum occurred and, to me, there was not enough information given to the Australian people to consider the model that was proposed. I specifically remember a forum on the ABC and both the Australian Republican Movement and the Australians for Constitutional Monarchy were there. When the model was explained to them, the majority of those people who agreed with the monarchists said, ‘Yes. This model that is being proposed does make sense.’ After that information was given to them that is what they said. This time around, if there was a more adequate amount of information given to the public through various forms of media, through forums as well to give the public the opportunity to have their say and to give the people proposing models to have a say and explain what their model is really all about, then I think the Australian people would better understand the processes of choosing a republic.

Senator BUCKLAND—It has been put to us at earlier hearings that perhaps local government could play a role in calling meetings and forwarding the debate within the community. Do you have a view on that?

Mr Nguyen—I do not think it really matters who chairs the debate as long as the Australian people get a chance to consider the models that are being proposed by the republicans and the arguments forwarded by the constitutional monarchists.

Senator BUCKLAND—By the republicans and, of course, the other side as well.

Mr Nguyen—Yes; that was just what I was about to say. If the Australian people get a chance to soak in all this information—there is so much information out there; there are so many models being proposed—and to consider a model over the 12 to 18 months after a plebiscite, then I think it is perfectly fine.

Senator BUCKLAND—We would go through that process; there would be a report tabled in the parliament. Following that through, I would assume that the model party committee would need to be in some way represented at those public meetings.

Mr Nguyen—Of course.

Senator BUCKLAND—You could not all traipse up to Woop Woop town hall and hope to hear something, but someone would need be to be there.

Mr Nguyen—Yes. I think parliament has the capacity to supply senators and members of the parliament to be present at these hearings; one or two would be enough.

Senator BUCKLAND—Then there would be a further plebiscite to choose which model would be pursued, and that final chosen model would then go to a convention for amendments. Would it not be better to have all those amendments in place prior to putting it to the people, because it might be very differently formed after that convention?

Mr Nguyen—Yes. This goes back to one of the amendments that I made for this appendix, that the national plebiscite is to choose a type of model, which I refer to as type A, type B and type C. Type A is a model which keeps the position of the Governor-General; type B is a position that abolishes the office of the Governor-General; and type C is your profound change of the Constitution, which is the US style presidency. It would not so much be a choice of a particular model per se as a choice of a type of model. After that, in the constitutional convention you would probably come up with a model which correlates with the result of the plebiscite.

Senator STOTT DESPOJA—I understand the point you were making about the prominence of the Prime Minister. With all due respect to my colleague Senator Buckland, I do not think it is simply the Prime Minister telling us to think he is the most prominent figure; I think it is just that he is the most prominent political figure. Having said that, I am not convinced about him or her—I am glad you refer to ‘he’ and ‘she’ just on the off-chance that we might actually get a female leader—subsuming those powers. Thank you for pointing out A, B and C models. By virtue of giving us three models for the parliament to choose from in your appendix A, is there a danger in not getting a clear majority on one of those particular models? How do you consider that?

Mr Nguyen—In the appendix I suggest that the parliament choose three models and then put them to a plebiscite. It would not choose a single model to be put to a referendum like it did pre-1999.

Senator STOTT DESPOJA—We would choose three models along those lines for A, B and C. So, as you said, the specificity and the amendments could be worked out after the constitutional convention process.

Mr Nguyen—Yes. The Australian people would have the opportunity to say whether they still want a Governor-General or whether they want a US style presidency.

Senator STOTT DESPOJA—In relation to the first part of your process, which is one that makes a lot of sense, the national plebiscite, do you have a view as to the voting in that process? In your submission, you ask the question that we put to you: should the process of voting be compulsory or voluntary? I do not think you answered it. You said yes, and then you talked about the importance of people being involved in the process. I cannot quote you immediately. What is your definitive response?

Mr Nguyen—I am sorry if I did not define myself very clearly. I think it should be compulsory simply because for the past 100 years voting has been compulsory in elections and referendums. I do not think there should be any reason why it should change.

CHAIR—Thank you, Mr Nguyen.

[10.53 a.m.]

GARRAD, Mr Ross Edwin, (Private capacity)

CHAIR—Welcome. Is there anything you would like to add in relation to the capacity in which you appear before the committee today?

Mr Garrad—Yes. Despite the report on the inquiry in Saturday's *Courier-Mail*, I am definitely not representing the Australian Republican Movement—an organisation in which I hold a relatively junior position here in Queensland.

CHAIR—Thank you. We have not seen that report; we should try and track it down. You have lodged submission No. 533. Do you wish to amend or alter that?

Mr Garrad—Yes, I would like to ask the indulgence of the committee to make two small amendments, largely in light of my reading of other submissions to the inquiry. In part 2, at the end of my response to question 26 on the initial plebiscite, I would like to add the following two sentences: 'To ensure that the initial plebiscite is as fair as possible, it should explicitly ask voters to choose between two alternatives: remain a monarchy or become a republic. It must not ask a question requiring a yes/no response.' Also, near the end of part 3 of my submission, there is a section on possible strategies concerning the exercise of reserve powers. After the paragraph that comprises point No. 2, constitutional strategies, I would like to add a sentence: 'Further example: in this context the alternative strategy of requiring the consent of a constitutional commission along the general lines suggested by Sir Gerard Brennan and Professor George Winterton also holds great promise.'

CHAIR—Would you like to start with an opening statement?

Mr Garrad—Yes, I would. The thrust of my submission derives from my strong support of John Howard's position on the republic which he expressed forcefully in the election campaign that brought him to power. The people should be given the chance to choose the republic they want and not the republic the political elite think they should have. We found that this was just another non-core promise that was discarded when it became obvious the majority of Australians want a true republic that gives them the power to choose this country's head of state. On that note, I really should not say too much more following John Pyke's excellent submission; anything I say will be inadequate.

As an aside, I have a clear recollection that at least one opinion poll in the past found that the percentage of the population who favoured a republic with an elected President was actually higher than the percentage that favours a republic. If I am correct in that recollection, I believe that is pretty meaningful. Unfortunately, there is still a strong school of thought within the republican movement that the people are mistaken and once they have been given sufficient information about the inherent contradictions and dangers involved in direct election they will support some other approach. I strongly believe that most Australians want an elected, non-partisan head of state—essentially, an elected Governor-General.

If we are to make serious progress I believe republicans must give up any fantasies about re-educating the entire population and instead devote our energies to the task of developing two or three clear, detailed and credible models with a good chance of achieving an elected, non-partisan head of state. I realise the current thinking among many in the republican movement is to concentrate on the process of moving towards another referendum and not on the development of possible models. I believe this could be dangerous. The people will not support a republic unless they have a clear picture of what it could look like. If we go through a hard-fought plebiscite campaign without having a small number of well-developed models giving voters a clear picture of the possibilities, the result could be a high degree of confusion and disillusionment and the defeat of the threshold plebiscite, which would be a disaster.

The centrepiece of my submission is a model that addresses the central problem that must be addressed by all direct election models: where do the names on the ballot paper come from? If we are to have a reasonably open nomination procedure, then how is a potentially large field of nominees going to be cut down to a manageable short list to go to an election? If the short-listing is not to be done by the parliament, the parties or by a government appointed committee—and I believe all of these approaches are fatally flawed—then one obvious approach is to use a representative sample of the population. I suggest the use of citizen juries of 12 randomly chosen electors in each federal electorate—a total of about 1,800 people meeting in their electorates for one full day, sifting through the nominees and then voting as individuals to produce a short list of six candidates. I believe that this proposal compares very favourably with other direct election proposals and I am looking forward to some challenging questions on it.

I would like to take a couple of minutes to look further down the track, towards the actual form of the constitutional amendment that would go to the people. Some monarchists have suggested that section 128 cannot be used to turn Australia into a republic. This suggestion is likely to provoke an emotional response from me and, I would hope, from every other patriotic Australian who believes in democracy. But I think there is an important truth lurking in the monarchist misinformation, because the constitutional amendment required would be qualitatively different from every other constitutional amendment this country has seen in the past. It would change the foundation on which our entire system of laws and government is based to a far firmer foundation and it would greatly enhance its legitimacy. However, a weakness of the 1999 proposal was its failure to recognise the absurdity of leaving the constitution of a fully independent republican Australia embedded in an act of the British parliament.

As we look towards the actual form of a constitutional amendment, we should be aiming for the right balance of the radical and the conservative. The centrepiece of my submission, a citizen jury model for an elected non-partisan head of state, is, I think, a profoundly conservative proposal that seeks to maintain the existing office of Governor-General in its present form, even to the extent of using the last Governor-General of the monarchy as the first head of state of the republic.

The more radical parts of a republican constitutional amendment, at least from a constitutional law point of view, should firstly involve Australians reclaiming our Constitution completely from the parliament of the UK. Secondly, the most important part of become a republic in practical terms, I believe, and the most radical part in a sense—the part that would be most in keeping with our basic democratic values—would involve amending section 128 to give a

greater power to the people to initiate the process of constitutional amendment. I would like to commend the proposal to the committee. These three strands are all vital if we are to become a true republic and a truly Australian republic. The amendment to go to the people should encompass all three strands and should unambiguously give the Australian people more power over our Constitution and our system of government.

CHAIR—You put a lot of emphasis on the desirability of a nonpolitician being elected through this process. Why would you want that? I am not aware of any other country that deprives itself of probably the most experienced people in government, in process and in understanding of conventions, as you are proposing here.

Mr Garrad—I have not actually proposed a nonpolitician so much as a non-partisan figure. It is possible that a former politician could be a non-partisan head of state but, in a sense, I do not think politicians should have an advantage and there should not be an expectation that a politician should be elected to this position.

CHAIR—Do you draw a line between non-partisan and non-party political?

Mr Garrad—The important point is that the Australian people should be able to believe that their President does not owe allegiance to a particular side of politics. That is the essential point.

CHAIR—I suppose our history, as we have had spelt out quite well this morning, has shown that former politicians can actually make good governors-general and good heads of state.

Mr Garrad—They certainly can, although thinking back to the time when Bill Hayden became Governor-General I remember there was quite a lot of antagonism in the community about that. My personal opinion is that it would be better to look in some other field, but I certainly would not exclude politicians. I would prefer that sitting members of parliament would not be able to nominate for election to President. I would not exclude members of political parties by any means, but I think we should follow the existing convention with the Governor-General where members of political parties resign upon appointment and are removed from the electoral roll for the duration of their time in that position.

CHAIR—I could even find myself voting for Malcolm Fraser for President!

Mr Garrad—I think I could too, amazingly.

CHAIR—The major thrust of your submission seems to be the citizens jury selection process. You seem to be focusing on what you see as a need to have some sort of process to cull the nominations, I suppose, before they go to the public. It is a body which could amount to about 2,000 jurors. Have you thought of an alternative? One that I would ask you to think about is a process and a body selected like the Australian Senate but having a totally different function—having the functions that you would allocate to your body. Have you thought of a body elected like the Senate, with ongoing continuity and the responsibility of either culling the nominations or selecting—if that were an acceptable compromise proposal—the President?

Mr Garrad—I certainly have. It would be preferable to the 1999 proposal. It would give the people greater input at the stage of electing the electoral college that would do the appointing. In

a sense, though, the electoral college model manages to most likely take one of the negative aspects of many direct election models—that is, the likelihood that we would see an election fought by political parties—and combine it with at least the partial exclusion of the most positive aspect of direct election models, which is that the people have more of a sense of ownership of the election process. So, although I would not reject an electoral college model outright, it is not one that I favour. I think there are better ways of achieving the same end.

Senator STOTT DESPOJA—Could I just clarify something. Your comments at the beginning were about a poll that potentially reflected that more people were in favour of direct election than were in favour of the move to a republic. My understanding is that when people are polled as to whether or not they support a republic a certain number, usually around two-thirds, of those who respond say yes. The next question is: if Australia were to be a republic, what is your preferred mode of appointment, election or selection of a head of state, a President or what have you? That seems to consistently get a higher figure. So I am not sure if it is necessarily true to contend that more people in the population would prefer direct election than a republic. The committee might chase that up. We might check some of those polls, because I think it is an interesting point. In your submission you argue for the plebiscite to take place during a federal election, to minimise costs. Do you not think that there would be an issue of confusion or distraction and that people might have other political issues on their minds?

Mr Garrad—They certainly could have. That is something on which I do not have terribly strong feelings. Ideally we would have the plebiscite and, indeed, further down the track the referendum and further down the track still the election for the President separated from normal parliamentary elections. But there is certainly an issue of cost, and it is one on which the republic is attacked quite consistently. If it is a long-term approach, if we are not just talking about a short, sharp education campaign right at the very end, then I think it could work in conjunction with a parliamentary election.

Senator STOTT DESPOJA—As we have been discussing this today, and some witnesses have talked about the need to have lots of education information, it makes me wonder how many people do vote at a federal election feeling that they are totally informed about the issues, the parties and the candidates at hand. Is there perhaps the risk of too much of an emphasis in this debate on education and information for the sole purpose of a republic or a plebiscite campaign? Are we forgetting that, at the best of times, perhaps we do not always provide enough information and education?

Mr Garrad—I think there is certainly a need for Australians to be much better informed about our system of government. There was one poll, I think, that showed that the majority did not even realise that we have a written Constitution. I am not sure whether it was before or after the 1999 referendum when people were actually given a copy of the Constitution in the booklet that came out, but I think that is a great failing of our system. Perhaps one reason is that people seem to find it difficult to look at this sort of thing without looking at it through party political glasses and thinking that any such campaign must inevitably be politicised so they are looking for people with their own agendas. I think that is certainly a weakness, and there have been submissions coming to you, I know, from John Pyke and George Williams on the need for this sort of ongoing campaign.

Senator STOTT DESPOJA—The research to which I think you are referring demonstrated before the poll that a minority of Australians understood that we had a written Constitution. But the interesting thing was the follow-up poll, which was post-1999, which demonstrated that an increased number had an understanding that indeed we do have a Constitution. So maybe there is an argument that some of that process worked or that a referendum in itself is an educative tool. I am very keen to get on with it, but I should dampen my enthusiasm. You have suggested voluntary voting in relation to a plebiscite. Why is that?

Mr Garrad—Again, it is something I am in two minds about. I have always thought that, for voting in general, enrolment should be compulsory and should be enforced quite strictly but voting should be voluntary. I realise that there is an argument that one of the strengths of our system is that people are, in effect, forced to make a choice instead of dipping out totally. When it comes to the plebiscite I would like to see a situation where people who did vote did so because they wanted to and they had at least some opinion, even in a minimal sense, rather than having the ‘know nothing party’ coming along to claim its share of the vote.

Senator STOTT DESPOJA—Our first witness, Major General ‘Digger’ James indicated that there are polls where, if they are noncompulsory, then—he did not say a ‘noisy minority’—they were not an accurate sample. Is that something that we want to avoid in relation to this particular issue?

Mr Garrad—I think that is a very valid argument. The prospect that would concern me more would be the prospect of having fewer than 50 per cent of the total electorate supporting the successful outcome. I think that would be rather unfortunate, to put it mildly, and that certainly is a pretty strong argument in favour of compulsory voting—whatever my philosophical attraction to voluntary voting might be.

Senator STOTT DESPOJA—Thank you. Finally, I note that in your dismissal provisions you have included a role for the upper house. I am personally glad to see that, but what is your rationale for doing so?

Mr Garrad—Firstly, I should say that I do not share the opinion of many people on the crucial importance of a dismissal procedure. To me it is very much an afterthought that we put in just to keep the anti-republicans happy. It has not happened in the last 100 years so why should it happen in the next 100 or so? It has to be there, so it should be as democratic as possible. The most democratic way would be to send the problem back to the people for their decision, but that may not be practical. I think if three-quarters of the members of parliament do not have confidence in the President, then the President should go and that is it. I do not think the grounds should be necessarily spelt out; I believe it should be justiciable. To me that is a reasonably simple compromise between a fully democratic approach and an approach where the Prime Minister can basically dismiss the President at will.

Senator STOTT DESPOJA—Thank you for your submission.

Senator BUCKLAND—I was interested, Mr Garrad, in your method of selecting the woman or the man who might be our head of state; I think you thought it should be 12 people from each federal electorate. You said that would be about 1,800 people; I would not dispute that with you. But it worries me then how we select those folk, because I did a very quick run around on my

fingers; you might have seen me trying to count on my fingers. The federal electorate I live in is very large and I have worked out there are at least 12 major centres—I will not name them, because the ones I leave off will chase me—and 15 very significant centres. Over the years I have been involved in a lot of different committees and boards for the development of our region. I find it very difficult to work out how we would actually nominate or get those 12 delegates to attend, because it is the ones that are left off that frighten me as well. How do you see that coming about; is that an election or just an appointment?

Mr Garrad—I would see it as happening in the same way as people are selected for jury service in a trial—basically, a random selection. So we are really looking at a nationwide opinion poll, but one that tries to make sure we have a representative spread across the country by taking 12 people from each federal electorate. We would push a pin into the electorate roll and select those people. Of course, some might have reasons they cannot front up. I believe there is a reasonably well established system for doing this in the case of trials, but I am not a lawyer. That is the sort of system I would propose, where we have a random sample of the population.

Senator BUCKLAND—I do not dismiss out of hand any suggestion that comes before the committee, because we have got to deliberate on that, but I tend to think it would be unwieldy to start with, and once the 1,800 or so delegates are elected then you would get political pressure, if it were available. Twelve people out of a city based electorate would be terribly different from those from a country based electorate. I tend to think that would not be a fair representation at the end of the day.

Mr Garrad—From the statistical point of view you are likely to get a reasonable sample—I would say a very good sample—of the Australian population coming out of this. As far as city versus country is concerned, or the differences within the different juries, I think that is a reflection of Australia as a whole. The point about pressure upon the jurors is I think a very important one; it would need some consideration. Perhaps the precedents regarding juries formed for trial purposes could be useful here. Perhaps the identities should be kept secret instead of being spread out to the media. The essential point is that the jurors should not be regarded as delegates of the people in their electorate. They are simply a sample of the population, and so they are voting for themselves and not on behalf of the people in their electorate.

Senator BUCKLAND—I tend to think if you do it that way—this is why I wanted to explore it with you—basically you will have 1,800 different nominations to begin with. If I were selected I would have the perfect person to be the Governor-General—not me—next to William Deane. I cannot think of a better person. But I am one of 1,800, so we start off that process with 1,800 thoughts as to who would be the best head of state. How long is it going to take us to whittle it down?

Mr Garrad—My suggestion is that the jurors would not be responsible for putting forward nominations. For a start, it is quite possible to get 1,800 people who would really not have much of a clue about who would make a good Governor-General or, as you said, the 1,800 people might have different opinions. I think the nomination process should be pretty open, and I have suggested that 100 nominators would be a reasonable number to maintain an open process but keep out those who have no chance whatsoever. I know there are various other numbers in different models. I think in one model there were 3,000 required to nominate a candidate. In

republic model E, the number required is one per cent. I think that is pretty dangerous because we could have a situation where nobody gets 130,000-odd people nominating them for President.

But, in this model, say that nominees require 100 signatures. You might then end up with a couple of hundred nominations Australia-wide. The juries would then have to work their way through those people and produce a short list of six. Of course, you would need a pretty well thought-out procedure for doing that. There are people with far greater experience than I have in constitutional law, government, small group dynamics and electoral matters, who would take charge.

Senator BUCKLAND—And reality TV shows!

Mr Garrad—No, thank you. That was a very bad idea, in my opinion.

Senator BUCKLAND—I know where you are coming from and I think it is a system that would really make it open to the community. With the greatest respect, I just find it terribly, terribly cumbersome—the thought of so many people and the time involved working it through. At the end of the day someone has to nominate the six people. Their names have to be put forward by someone, whether it be by the state governments or whoever.

Mr Garrad—I would suggest that people are nominated by 100 electors, which is not a difficult problem for anyone who has a real chance of becoming President. After that you would have a certain pool of nominees. The juries on a particular day, in a procedure that would be very well thought out and controlled by the Electoral Commission, would meet, probably in the electoral office of their federal electorate, with audiovisual and computer hook-ups to allow some degree of interactivity between the jurors, the other juries and the nominees. After, perhaps, eight hours, they would be given their list and a pencil and told to tick six boxes. The six nominees with the greatest number of votes would go forward to become candidates. I know at first it might seem more complicated than some of the other procedures for nomination but I think if we got into it we would find that it was a very simple system indeed.

Senator BUCKLAND—It is certainly something to reflect on.

CHAIR—Yes, but are you seriously putting to us that the identities of a body of 1,800 people who will play a very critical role in the process will be kept secret? What do you reckon Kerry Jones would say about that?

Mr Garrad—Kerry Jones or Kerry Stokes?

CHAIR—Anyone. How could you seriously suggest that in a process like this the selection panel should be kept secret?

Mr Garrad—I think an important point is that the people are not selecting the President, although one bit of feedback I got from an academic who looked at this suggestion some time ago was, ‘Why not just short-circuit the process and get the citizen juries to do the full election of the President or Governor-General?’ I think, for the reasons you have outlined and also for reasons of the democratic legitimacy of the position, that should not even be considered. We are

looking at a sample of the population and, from what I know of statistics, I believe that a sample of 1,800 voting in this way would be very likely to give the same short list of six people as you would get if you took the whole 13,000,000 electors, locked them up for a day, gave them the same information and asked them to produce the short list.

Senator PAYNE—I am intrigued by the proposition that you support voluntary voting for the plebiscite so that the people who are choosing to participate are people who are interested, engaged and have a commitment to the process. Is that right?

Mr Garrad—Correct.

Senator PAYNE—But you think that we can successfully randomly select 12 people per federal electorate to participate in the very important nomination process. What engagement, interest or disposition do you expect those randomly selected individuals to have?

Mr Garrad—I expect them to have the same degree of intelligence, engagement, knowledge and so on as the 13 million electors Australia-wide. Obviously, we cannot expect them all to be sensible or even sane, but I think that is what we expect in a democracy. We expect 13 million electors to choose the people to run the country, and I think a representative sample of those people should be given the responsibility of not electing the President directly, as I said, but producing a short list.

Senator PAYNE—Thank you.

CHAIR—Thank you, Mr Garrad.

[11.26 a.m.]

SOLOMON, Dr David Harris, (Private capacity)

CHAIR—Good morning, Dr Solomon. You have lodged a submission, which is No. 457. Would you like to make any amendments or alterations to it?

Dr Solomon—No.

CHAIR—Would you like to start with an opening statement, and then we will have some questions for you.

Dr Solomon—I thank the committee for the invitation to appear before you this morning and put forward a view that is probably unique among the submissions you have received. That is not to say that I believe there would not be considerable support for some of my proposals. As the committee will be aware from my written submissions and from extracts from various books I have written, I favour a major change to our system of government. I believe we should have an elected executive President, generally along the lines of the US system of government. I believe that not only should we become a republic and have a President elected by the Australian people but also that the President, as well as being head of state, should also be head of government. That fundamental change should be accompanied by changes in the Constitution that would enhance the powers of the parliament vis-a-vis those of the head of government.

Those changes would deal with what I see to be a major problem with our current democratic system; namely, that too much power has accrued in the person who is the Prime Minister. The same criticism would apply to the powers the state premiers have acquired. These powers have developed in the absence of any separation of powers between the government—the executive, that is—and the parliament. They are moderated to some extent by the way the electoral system has empowered the Senate by making it very difficult for the government of the day to decide conclusively what legislation will be passed by the parliament and in what form. However, while the legislative power remains split between the government and the Senate, the executive power is subject to few restrictions. The committee will be aware of the way the Senate hesitates to use its undoubted inquisitorial powers to inquire into what ministerial advisers say and do.

Let me contrast some of the powers of the Prime Minister under our system of government with the more limited powers enjoyed by the US President under the American constitution. Here, when the Prime Minister heads a coalition government it is for him to choose the Liberal members of his cabinet and, subject to the coalition agreement, to allocate portfolios within the cabinet. Labor prime ministers have less power over who will be in their cabinets, though not over what positions they will hold. In the US, all cabinet appointments are subject to disapproval by the Senate; but, even more importantly perhaps, all appointments to the federal courts, the top ranks of the public service and foreign service and the heads of the various regulatory agencies are similarly subject to concurrence by the Senate. While this does not prevent an American President appointing people from his own political party to the most important positions in his government, the American system tends to result in somewhat less partisan appointments than is the current fashion in Australia. At least since the Vietnam War, it has also been clear that the US

Congress requires that it should be involved in questions of war and peace. That is not the situation in Australia, as was demonstrated over the Iraq war.

I do not propose to canvass here all the arguments for changing our system. Essentially, they revolve around the concepts of accountability and separation of power. My main purpose in making this submission is to suggest to the committee that, in considering what should happen next about the campaign for a republic, it should not restrict itself to the options that were debated at the Constitutional Convention and subsequently. One plain lesson of the 1999 referendum is that Australians are not necessarily attracted by the minimalist approach to constitutional reform. It should not be presumed that a change of the type that I have proposed, to something like the American system, is so beyond the pale that it should not be contemplated. There is some public opinion evidence that many of those who would prefer a directly elected President would also like a change in our system of government of the kind I am suggesting.

Senators will be aware that most young people are very familiar, through the influence of television, films and even the Internet, with the American system of government—possibly more aware of it than they are of our own system. The proposal would also avoid one of the criticisms that have been made of the proposal for the direct election of a President, namely, that the President and the Prime Minister might have competing mandates. My proposal would mean that there would be a single popular mandate for the head of government who was also the head of state.

I would hope that if the committee commissions any polling on the subject of this reference, as I believe it should, such polling should ensure that people are given a broad range of choices about system changes, including the one I favour. We all know that real elections and referendums do not always turn out precisely the way opinion polls suggest, but polls can give us an indication of the way the voters may react, provided the right questions are asked. Thank you.

CHAIR—My impression is that Australians would have greater confidence in our system than in the US system—and that may be related to the current incumbent in the US or whatever—but the question arising from that is: how feasible is it that your proposal would get up? If you do not think it is feasible, what do you recommend that the committee recommend?

Dr Solomon—I do not want to knock everything I have just said.

CHAIR—I suppose what I am saying is that in the context of the debate in Australia—and you are probably more aware of it than most—you would not be putting your house on your proposal getting up.

Dr Solomon—It would depend on how it was put. If there was a proposition for an elected President or a non-elected President, and there was a subchoice within the elected President regime between changing to an American style presidency and keeping the current system, then I would say it would have at least a fifty-fifty chance of getting up within the elected President regime. I think there is a great deal of dissatisfaction with the present system of government in Australia. A growing proportion of the voters have been turning away from the major parties in the last 30 years—this is reflected particularly in votes in the Senate—and that at least part of the explanation for that is discontent with the political system.

CHAIR—On that particular point, isn't this a worldwide trend rather than just an Australian trend in terms of votes for established parties? I would argue that anywhere you look around the world, particularly in systems where there is compulsory voting, people are finding different options, and established patterns of voting within communities and families are dislocating. Maybe they have the same problems internationally, but could there not also be other factors, such as different communication channels and different values coming through societies? Does it have to be a purely Australian problem that you are focusing on—or should I say that you and Allan Ramsay focus on?

Dr Solomon—There are so few other countries that have got compulsory voting that I do not think that works. One can really only talk about what is happening in Australia.

CHAIR—That is my point. I do not think you can and I do not think you should. I think maybe there is a global trend away from established voting patterns, and maybe that should be factored into the sorts of deliberations that lead you to your conclusions.

Dr Solomon—It is not evident in the United States.

CHAIR—That is why I draw a distinction with the United States—because people there just do not vote. Those who vote vote for the two major parties.

Dr Solomon—But the proportion of people who do vote has remained fairly static.

CHAIR—Statically low.

Dr Solomon—I know it is low. It may well be that it would be pretty low in Australia too if we did not have compulsory voting. Of course there are different ways in which people express their discontent with majority parties. Presumably you are equating non-voters with those who are dissatisfied with the established parties. I do not think that is necessarily a correct conclusion.

CHAIR—Not even in the US?

Dr Solomon—No.

CHAIR—You would not acknowledge that some of the non-voters are not happy with the established parties?

Dr Solomon—There have been choices for the presidency, for example, other than those put up by the established parties, and they have generally not attracted very many votes. I do not think that is simply because they have not had the money to advertise their wares. There is other public opinion evidence in Australia apart from the voting system about the discontent with the system and with politicians generally.

CHAIR—My colleagues probably think that we are going off on a diversion here, and we probably are. I will just ask one other question, and it draws on your answer given to the Senate forum you spoke at. You said:

I'm an optimist. I believe that change is possible. I accept that the smaller states could be galvanised into voting against change because ... their interests might be hurt.

How important a consideration is that in any proposal that this committee or the public are confronted with, and what sorts of things would you anticipate could overcome those concerns? After all, we have to get a majority of states.

Dr Solomon—Yes, I accept that. I think the main problem would probably be Tasmania. I cannot remember precisely the question that produced that answer. It was some time ago.

CHAIR—I might pass it down to you. Senator Payne might have a question to ask in the meantime, and then we can come back to this later.

Senator PAYNE—It behoves me to observe, Dr Solomon, that if we were to walk down the road you chart for us in 'A single-chamber Australian Parliament?' you would not be appearing before a Senate committee, because we would not exist.

Dr Solomon—You will have noticed that I said—I think in the latest Senate lecture I gave—that the parliamentary chamber would be very much modelled on the Senate rather than the House of Representatives. So I might be here.

Senator PAYNE—I wish I were confident they would let that happen. Dr Solomon, one of the issues that we have been considering—and not wanting to go down the path that Senator Bolkus took you down—is how we might in process terms move forward on this constitutional discussion, whether it is the path that you suggest or perhaps paths of lesser resistance. How do we actually progress that? From your experience in the media is there a particular role for media and are there some steps that we should be taking which we are not yet pursuing?

Dr Solomon—I think the media has not been terribly interested in the debate because it has not become a political issue since the referendum. I think that will happen as soon as it goes on the political agenda again. Who knows, it might even happen in the coming election. Until the major parties engage on the issue I do not think there will be much general interest expressed through the media or elsewhere in the subject, unless this committee were to begin a process of polling, as I have suggested. That might excite the interest of those involved—I was going to say 'on the two sides of the argument' but one of the points I have been trying to make, of course, is that there are more than two sides.

Senator STOTT DESPOJA—Without wishing to go off on a tangent—but I do think it relates to your broader point, and that is of radicalism and the notion that people are more likely to adopt bigger, bolder change—isn't one of the distinctive features of the United States system its bicameral nature?

Dr Solomon—No. I think that some of the American states have only one house.

Senator STOTT DESPOJA—That is true. I was talking nationally.

Dr Solomon—It is the separation of powers that is the primary feature, I think.

Senator STOTT DESPOJA—I am not convinced that you do want to get rid of the Senate—I think you like us too much—and I think that you have given us the solutions anyway in your chapter. It is wonderful stuff. I agree with you: get the ministers out of the Senate; a bill of rights; the committee process; conscience voting et cetera. All of those features I agree with. But I do not think that you obtain them necessarily through an amalgam of the two houses. Can I put in a plea, not just for my own job. I think there are many features in your chapter that are appropriate but I am not sure whether we achieve them by getting rid of our ‘Washminster’ system and I do not believe you would make our system purely Washingtonian by virtue of a US presidential style system albeit with externally chosen ministers. I am just not sure whether you require the abolition of one house in order to achieve some of the best aspects of the system to which you refer.

Dr Solomon—I accept that. But moving the head of government out of the House of Representatives is, I think, the key. I do not disagree that you can maintain the two separate houses. And, in terms of the federal problem, that is probably necessary—I was going to say desirable, but I do not really mean that it is desirable. It is probably necessary because—to come back to the initial question—it would not be possible to get through changes unless you had the two separate forms of representation in the federal parliament. It is possible to do that in the one house—but it is a bit ugly.

Senator STOTT DESPOJA—That gets me back to the broader point—that is, the extent of change that people are willing to consider and accept. Professor Craven, in his evidence to us, argued that putting forward a more radical model of direct election, for example—obviously there are a range—would consolidate all areas of the republican and pro-monarchist debate and that monarchists and those who believe in a parliamentary model would be united. The argument that he and others, I believe, put forward is that you should go for minimal change to achieve a positive outcome. Alfred Deakin said that you have to leap the chasm. Do you agree with him that we have to go for broader, bigger change and that that would be more successful or more likely to succeed?

Dr Solomon—Yes, I think so. I think you have to get people interested. I will go back one step. We have had the minimal change proposal. Clem Jones is giving evidence next. Certainly in Queensland a significant proportion of the no vote was the result of arguments put forward by the direct electionists, who advocated a no vote in Queensland. Professor Craven may be right about people who do not fully agree jumping on the other bandwagon. That is what happened last time. I think there is more chance of a majority for an elected President model than for any other model because it is an empowering provision, it brings people into the system and it takes it out of the hands of politicians.

Senator STOTT DESPOJA—You recommended polling by the committee. I do not know if we have undertaken to do any, but it seems quite a logical idea because the more we have been through evidence today and previously the more unanswered questions there have been about the research and information. Even in your last answer to me you talked about the positive attributes—sovereignty or empowerment—of a direct election model, from your opinion, but there is also an element of saying, ‘Maybe we should go for that because it is our best chance of success.’ Regardless of our chance of success, isn’t it important that people feel informed and educated? Maybe people would vote for a different model if they felt they had the information.

Dr Solomon—Yes. I will say something about the polling. Yesterday I went back over the major public opinion polls to see what has been done in recent years. I could not find anything in the Morgan or ANOP polls. I did not check the Nielsen poll, but I do not think there has been anything much since immediately after 1999.

Senator STOTT DESPOJA—That was the Newspoll one. We suspect there was a Nielsen poll as well, but we need to check.

Dr Solomon—Again my plea is for a series of broad questions, to tease out real public opinion, instead of fairly simplistic yes or no questions about this system or that system.

Senator STOTT DESPOJA—That is a good idea.

CHAIR—So, in terms of the proposals for plebiscites and so on, what would you envisage—how many and what sort of structure?

Dr Solomon—I think that the nature of the plebiscites would be helped by polling such as I am suggesting, but I accept that there should be a plebiscite first on the main proposals that might be advanced.

CHAIR—The main proposal or proposals?

Dr Solomon—Proposals. I know the danger is that if you phrase them one way you will split 30-30-whatever, depending on how many you have got. If you phrase them in a different way—for example, ‘republic, no change’, and have divisions within that such as ‘if yes to this, then this’ with models working down—then you can have a much better idea of what people really think.

CHAIR—And in the framing of those models do you anticipate a convention process, some other body of eminent persons or what?

Dr Solomon—I do not think a convention would be terribly useful in framing those models. Actually, I think it probably should be something like this: a Senate committee, giving people the opportunity to put forward their proposals and—it would have to be a joint parliamentary committee, of course—framing the questions that way.

CHAIR—So what would you do in the situation where—and this is a possible outcome—a majority of electors ticks one model but you do not get a majority of the states supporting that model, if in fact there is both a majority of electors supporting the move to a republic and a majority of states supporting that move?

Dr Solomon—Presumably you are still talking about your preliminary plebiscite?

CHAIR—Your preliminary plebiscite.

Dr Solomon—Yes, my preliminary plebiscite. If you were going to have three states clearly saying no, I would be inclined not to proceed with the referendum at that stage.

CHAIR—One of the concerns that I have—and it goes back to that quote of yours I referred to earlier—is that the smaller states could very well say, ‘A directly elected President means that our role in the outcome is subsumed by that of Victoria and New South Wales.’ Queensland could very well say, ‘We just beat them in rugby; we’re not going to let them take over on who’s going to be President.’ There is that rivalry between Queensland and other states. But the feeling of being a smaller state is not limited to just Tasmania; I think you underestimate that feeling in WA and South Australia for a start.

Dr Solomon—I must say I had not anticipated that sort of resistance from the smaller states on that basic question, ‘We can’t pick one of ours,’ not least because the political system does elevate people from the smaller states sometimes to positions of high office.

CHAIR—If you look at the last process, there was antipathy to some extent towards the whole push for a republic because it was seen as coming from the eastern suburbs of Sydney.

Dr Solomon—True.

CHAIR—We have to learn from that, don’t we?

Dr Solomon—Yes, that is really centralising it! I do not know what the answer is.

CHAIR—I think that is the problem at this stage of a 15-year process: we still have to work that through.

Dr Solomon—It is not going to be a short process.

CHAIR—No, I think we have worked that out. Thank you very much for your submission and your assistance this morning.

[11.56 a.m.]

JONES, Dr Clem, Director, Real Republic Ltd

CHAIR—Good morning. Dr Jones, you have lodged submission No. 492 with the committee. Do you wish to make any amendments or alterations to that submission?

Dr Jones—The only alterations I would like to make to the submission are to correct some spelling errors and the omission of reference to the 1993 informal ballot papers. I will give you that information.

CHAIR—Thank you. We will take that from you and amend the submission accordingly. Would you like to make an opening statement?

Dr Jones—Yes. Put very simply, the Real Republic Ltd do not seek now to put forward specific views on the various matters that will have to come before anybody considering the alterations that will have to be made to our Constitution in the event of bringing about a republic. We feel that the method of obtaining the republic should specifically include submissions or choices by the community in respect of all matters. Therefore, what we may think or what other people may think does not really matter because in the long term we propose that the community itself should determine all of the matters that are required to be determined in answering the three principal questions, which we feel concern, firstly, whether we abandon the constitutional monarchy and become a republic; secondly, the method of the election of the head of state; and, thirdly, the responsibilities and powers of that head of state.

We believe it has become quite clear that the Australian community will not accept the responsibility, if you like, of determining the answer to the first question in a single vote without knowing what they are going to have in relation to the second two questions. It is very easy to go about deciding whether we have a republic. But it is our view that in submitting that proposal to the people of Australia it is absolutely essential that we also address the other two questions. We feel, as we have said in our submission, that this can be done very simply by putting forward a multichoice preferential referendum.

If we are to have a plebiscite, we are simply going to have to propose the same sort of thing if we are going to get the Australian public fully apprised of what is involved in establishing a republic. There seems to us to be no reason why we should not do the whole thing at once and get the whole answer at once for the three problems, the three areas. Section 128 does not provide any way of presenting to the people a referendum. There is no bar to the proposal of having a multichoice referendum; it is only a matter of amending the referendum act. I would like to table the actual legal proposal. I am not competent to talk about it other than to say that this is legal advice and the other members of Real Republic believe it.

I would also like to table a past submission so that historically there is reference to the establishment of Real Republic. This is a submission that was to be made at Bond University at a hearing that did not take place. I also have a submission by David Muir, which I understand the inquiry has. I presume it is not required that I should table that also, but I have it here if it is

required. David Muir is the vice-chairman of the group. He was unable to be with us today, and he apologises for that.

Thank you very much for the invitation to be here. I do not think there is any need for me to talk about anything else. Mainly we have said all we had to say about the matters you put forward to us. The most important thing I have to say is that we have our own views on the specific queries in respect of powers and responsibilities and the method of election, but we feel that we have reached the stage where the Australian people will be suspicious of any proposal to put this forward and for the big question of whether or not we have a republic to be voted on in isolation. Even if we have a plebiscite which puts forward a proposal on these things, the Australian people will still be suspicious that, in due course, those things may be changed and not put forward in the way that they would want. If you have a multichoice referendum in every case, they will be able to know exactly what they are doing. Do you have copies of the Clem Jones Queensland constitutional republic team's submission to the last convention?

CHAIR—Yes, we do. But you can give a copy to the committee now. Dr Jones, are you saying that you would rather not have questions this morning?

Dr Jones—I am quite happy to have questions. But as I said, our view in respect of individual questions is that they are not going to help in any way, because we believe the last referendum showed—and we believe another referendum will again show—that the people of Australia want to know exactly what they are getting. They want to have the opportunity of deciding that for themselves by having a vote about each of those particular matters. These questions I have tabled are very much a layman's view of the sorts of questions that could be presented. Our view is that, for the first question, there is nothing wrong with simply asking people if they want:

- (a) The present constitutional monarchy remaining unchanged?
- (b) Australia severing links with the constitutional monarchy following the death or abdication of Queen Elizabeth II and becoming a republic?
- (c) Australia severing links with the constitutional monarchy and becoming a republic?

Those three questions could be answered by numbering them 1, 2, 3—a preferential voting system. The next question is:

Should the republic have the head of state:

- (a) Appointed by the Prime Minister.
- (b) Appointed by the Parliaments.
- (c) Elected by the people.

There could be other questions. These are only examples and are not intended to be what should be asked, but the principles that are involved are relevant. And then, again, the questions could be answered by:

Record your vote by writing the numbers 1 to 3 in order of preference in the squares provided to indicate your preference.

In other words, it would be a simple preference vote. Question 3 says:

If the head of state is to be elected by the people, should the election be—

- (a) Preferential.
- (b) Proportional.
- (c) First past the post.

Record your preferential vote by writing the numbers 1 to 3 in the squares provided to indicate your preference.

Question 4 says:

Should the head of state be:

- (a) So called.
- (b) Be designated the president.
- (c) Continued to be called the Governor General.

These are simply examples of the sorts of things that could be asked. Question 5 says:

Should the powers of the head of state be:

- (a) Executive.
- (b) Ceremonial only.
- (c) Part ceremonial and part codified powers.

That question follows with:

If the answer to this question is (a) or (c)—

- (a) Should the head of state have the right of veto of Australian federal legislation.
- (b) Should the head of state have the right of referral of legislation to the parliaments for joint review by the House of Representatives and the Senate.
- (c) Should the head of state have no right of referral.

Another question could be in relation to the right of veto. Anything that you or we believe that ought to be asked of the people, ought to be asked of them.

CHAIR—These could take a very long time to answer in a referendum. How many questions do you anticipate?

Dr Jones—I think that you would probably have somewhere between 12 and 15 questions, perhaps a few more. It does not really matter. But this is the most important decision that the

Australian people have ever had to make. We must make sure that the questions cover all aspects—it depends on the nature of the questions. They ought to be prepared by people who have their fixed ideas in these various areas—and basically there are only three areas, which form the base of all the others. We think that, once that is done, the expertise of draughtsmen will be needed to put these questions in a proper way—not in the way we have put them, as questions by laymen, but in a way which will make it easier for everybody to understand what they voting for and what they are choosing from.

CHAIR—It seems that what you are suggesting could make it more complicated.

Dr Jones—None of those questions that I have outlined here are complicated and none of them need be. We have dealt here with the most important things that have come to the minds of the people. In relation to the 46 references or whatever to the head of state in the Constitution—

CHAIR—What do you think of the idea that was proposed earlier of a plebiscite together with legislation through parliament to guarantee the next step in the process? This would be rather than having a plebiscite that says yes or no.

Dr Jones—I think the big problem we have—I think it is a dreadful thing, and we have said this in our submission—is that the people of Australia have lost confidence in their parliaments. This is a great tragedy because I think we have been served very well—in fact, better than most countries in the world have been—by all of our parliaments. The man in the street really is suspicious of what is happening in the various houses of parliament, particularly federal parliament. This may be because of a misunderstanding of the role of the Senate and things of that nature.

CHAIR—But that is not anything new, is it? That has been around, particularly in Queensland, for quite a while. That suspicion about politics, politicians, federal parliament and Canberra is not new; it has been around for a while. It is probably a healthy part of our system.

Dr Jones—That is right, and perhaps it is a natural corollary of our particular system of government. It is not good, and I think it is very important that we realise that there is that problem. We feel that the community at large will be suspicious of the presentation of a plebiscite on the basis that that means that these views that are expressed here are then subject to the drafting of the parliament and the decisions of the government to put into effect what they have said in the plebiscite. I am afraid that is what they will say. What will have to be then put before them is something which encompasses all these questions that we are saying they should answer. We are saying that this will do it quickly, it will do it once and that with one effort it will be over. People will have the opportunity to say what they want and the opportunity to choose the way that we are going. It is efficient, it is effective, it is democratic and it is all encompassing.

CHAIR—Dr Jones, you are a seasoned long-term politician. Do you think that the proposal that you are putting forward to us is the one that would really be best understood by the public and engender wholesale engagement by the public or would it have the effect of making it a bit too difficult, given that the process can in fact be enormously complicated? Are you talking about drafting instructions for legislation there?

Dr Jones—I think the Australian public evidences the fact that it is much more aware of the problems involved in government than we thought it was, particularly in the last referendum. I think that the Australian public would welcome the opportunity of having a say in what is going to happen and having a say in making a choice.

CHAIR—They are always going to get that, aren't they?

Dr Jones—No, they are not; that is the trouble. Last time everywhere we went we became aware of the fact that people in the community felt that they were not being involved, that they were being—

CHAIR—But you would have found that when you were a politician. You would have found that when you were in government.

Dr Jones—I agree with you. This was in the lower echelon of political activity.

CHAIR—You did not stay there long.

Dr Jones—Perhaps it is because I was in that area. In our three-yearly elections it was very evident that the best way to get voters to vote for you was to give them all the information they needed about everything of which they were concerned. That is exactly what you can do in local government. It is a lot easier to do this there than it is at other levels of government.

It is the same sort of thing that we are proposing here: putting forward to the people the various questions that arise in respect of the three matters that we summarised and saying to them, 'Yes, you have the chance to have your say,' then answering all their questions in community areas beforehand, as we did in the last referendum. They were well received and understood. That is simply why the referendum was lost—because I believe the people saw what they had not sought and that was a particular type of referendum which did not define these questions.

CHAIR—Senator Buckland has some questions. I have to apologise for Senator Stott Despoja, who has had to race off to catch an aeroplane.

Senator BUCKLAND—I do not have too many questions. You have just said, Dr Jones, that you would need to put forward about 15 questions. Is that 15 questions for the whole of the electorate to answer?

Dr Jones—There are about 46 references in the Constitution. Perhaps one of the questions I have not mentioned or touched on—I believe it is pretty well out of my sphere—is the question of whether or not you should go beyond the literal powers and into the reserve powers. Those are questions for others to answer. Taking the literal part anyway, I think there are 46 references to the head of state. A great many of them more or less can be answered in the one question. There is reference I think in section 65 to something in respect of a replacement of a minister and the advice of the Prime Minister or whatever. Most of those could perhaps be retained as they are or go together in the one question. That reduces it very substantially. There are a large number of those things. The specific questions such as I have exemplified here are not in great number.

Senator BUCKLAND—You are not suggesting to the committee, are you, that the electorate vote on all those 46 changes?

Dr Jones—Those changes have to be made in some way. Where there are numbers of terms of the Constitution which simply mean a change of name from head of state as it is now to Governor-General, those can simply be all collected under one question. Where the Governor-General's name is applied in the Constitution, it shall be amended to provide the title of the head of state as elected by this referendum.

Senator BUCKLAND—But the majority of the questions that would be needed to be asked for those 46 amendments that you would need to make could be done by a committee such as this or a parliamentary committee, couldn't it?

Dr Jones—I am quite sure it would be done by—

Senator BUCKLAND—So you would really only come to one or two questions you would need to put to the electorate? Would that be the case?

Dr Jones—More than that. I think there are four or five questions that I have exemplified here. Maybe there would only be another five. That is a matter entirely for the drafters. Where a change is needed then the question is asked. If it is one of a number of changes, all of which would apply to the terms of the Constitution, you have only one question to answer.

Senator BUCKLAND—My concern is that if you put any more than two or three questions at any one time to the electorate—not because people are incompetent but because it is the nature of people—I think it would be the surest way of never getting a republic.

Dr Jones—Of course, if we get a republic, you will get the answer. If you are right, the same inability of the community to understand means that their vote is based on that, whatever—even if it is done by a simple yes or no on something that has to be canvassed throughout the entire Australian public. I think it would be harder for them to appreciate all those things and then come up with a responsible yes or no answer. That is one of the problems we had in the no campaign last time. It was the simple fact that the community did not believe they had been told everything. They did not believe they were having a say. Here, we are giving them that say. If they are not competent to answer more than two or three questions, that does not mean they are any more competent when answering one, because they will not know the facts that go to make the three.

Senator BUCKLAND—That comes down to the manner in which the change is put to us. It is my belief, and I would appreciate your views on this because you are experienced, that, despite the public being critical of their politicians from time to time—pretty regularly, really—the public actually have a lot of faith in our political system. It is not as great a concern to them to ask the additional questions. The main questions the electorate has are, 'Do we change to a republic?'—yes or no—and 'How should we create our head of state?', whether it is by direct election, by the Prime Minister's nomination or whatever. They are the two critical things in my view. In regard to the rest, I think there is enough faith in our community to believe in our system.

Dr Jones—I agree with you entirely. I believe that the public do too, as I said earlier. I think we have the best parliamentary system perhaps in the world, and most people feel that way. But they still feel that they do not get enough advice and they feel that sometimes the parliament is acting in a manner which is self interested in its members—that sort of thing. When you come to the two questions, because of the way our society is, the third question is tremendously important. In fact, of all the questions that were asked of me in the campaign that we had, the most frequent one was: what is the President going to be able to do and is he going to be above parliament? That was the sort of question. Is he going to be able to say, ‘They can’t pass that legislation’? In other words: will he have the power of veto? This was the sort of question that came along all the time. You have to add that one to the two you said—the powers and the responsibilities.

Coming to the next question, I have said 12 or 15. I was thinking of a maximum that people would have to contend with. I agree with you that those three questions are most important, but you have to get down to the nitty-gritty of what the answers to those questions involve. That is why I have said, and I will repeat it: ‘Is the head of state to be elected by the people? Should the election be preferential, proportional or first past the post?’ That is what the people want to know. They know that there will be a selection. We all know that we have problems with different populations in different states and the desirability—in my view, anyway—of all the states determining this. I believe if one state says, ‘We don’t want a republic’ it is going to be very difficult to justify making a republic of the nation. This is the sort of thing about which we should say, ‘Should the election be proportional, preferential or so on?’ That may become a technical question and you may feel it is too hard for the community. Then perhaps the government draughtsman—or maybe you have another convention to talk about it; maybe that is the way to go—may come up with different words to get the right answer.

It is the same with respect to the very first question asked of me. This came from a lot of monarchists who felt that the time had come and they realised we were going to become a republic, so some of them said, ‘Surely the right thing to do would be to wait until Queen Elizabeth has died. That would be the right time to do it.’ That is a simple question. It does not matter a great deal if we are going to change it whether we do it now or when she dies, but that is something that a lot of monarchists would like to have a say in. They want the present situation to be unchanged but they think, ‘If it’s going to happen, let’s wait until our Queen has gone.’ So let them have that say. Let it go in there and let it be that way. If the majority say yes—that that is what they want; that it should be at that time—then okay.

CHAIR—Dr Jones, that might be a good note on which to finish. A few other people have to catch planes as well.

Dr Jones—This is a big saving to the taxpayers for the simple reason that it is a one-off situation—we do it all at once. Again, we suggest that it should be at the time of the federal election.

CHAIR—Dr Jones, that is one point of view and thank you for that. We have had quite a few different points of view today. I thank everyone else for putting their submissions to us both here and in other states. Thank you and all the best.

Committee adjourned at 12.26 p.m.

