

CONSTITUTIONAL CONVENTION

[2nd to 13th FEBRUARY 1998]

TRANSCRIPT OF PROCEEDINGS

Monday, 9 February 1998



Old Parliament House, Canberra

INTERNET

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

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

<http://www.aph.gov.au/hansard>

RADIO BROADCASTS

Broadcasts of proceedings of the Constitutional Convention can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

<i>CANBERRA</i>	1440 AM
<i>SYDNEY</i>	630 AM
<i>NEWCASTLE</i>	1458 AM
<i>BRISBANE</i>	936 AM
<i>MELBOURNE</i>	1026 AM
<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
<i>HOBART</i>	729 AM
<i>DARWIN</i>	102.5 FM

INTERNET BROADCAST

The Parliamentary and News Network has established an Internet site containing over 120 pages of information. Also it is streaming live its radio broadcast of the proceedings which may be heard anywhere in the world on the following address:

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

CONSTITUTIONAL CONVENTION

Old Parliament House, Canberra

2nd to 13th February 1998

Chairman—The Rt Hon. Ian McCahon Sinclair MP

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

ELECTED DELEGATES

New South Wales

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

Victoria

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

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

Queensland

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

Western Australia

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

South Australia

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

Tasmania

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

Australian Capital Territory

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

Northern Territory

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

APPOINTED DELEGATES—NON-PARLIAMENTARY

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

APPOINTED DELEGATES—PARLIAMENTARY

Commonwealth

Government

The Hon John Howard MP (Prime Minister)

The Hon Peter Costello MP (Treasurer)

The Hon Daryl Williams AM QC MP (Attorney-General)

Senator the Hon Robert Hill (Minister for the Environment)

Senator the Hon Jocelyn Newman (Minister for Social Security)

Mr Neil Andrew MP

Mrs Chris Gallus MP

Mr Kevin Andrews MP

Senator Alan Ferguson

The Hon Tim Fischer MP (Deputy Prime Minister)

The Hon John Anderson MP (Minister for Primary Industries and Energy)

Senator Ron Boswell (Leader of the National Party of Australia in the Senate)

Australian Labor Party

The Hon Kim Beazley MP (Leader of the Opposition)

The Hon Gareth Evans QC MP

Senator the Hon John Faulkner (Leader of the Opposition in the Senate)

Senator Sue West (Deputy President of the Senate)

Senator the Hon Nick Bolkus

Senator Kate Lundy

Australian Democrats

Senator Natasha Stott Despoja

Independent/Green

Mr Allan Rocher MP

State/Territory

New South Wales

The Hon Bob Carr MP (Premier)

The Hon Peter Collins QC MP (Leader of the Opposition)

The Hon Jeff Shaw QC MLC (Attorney-General and Minister for Industrial Relations)

Victoria

The Hon Jeff Kennett MLA (Premier)

Mr John Brumby MLA (Leader of the Opposition)

The Hon Pat McNamara MLA (Deputy Premier and Minister for Agriculture)

Queensland

The Hon Rob Borbridge MLA (Premier)

Mr Peter Beattie MLA (Leader of the Opposition)

The Hon Denver Beanland MLA (Attorney-General and Minister for Justice)

Western Australia

The Hon Richard Court MLA (Premier)

Dr Geoffrey Gallop MLA (Leader of the Opposition)

The Hon Hendy Cowan MLA (Deputy Premier)

South Australia

The Hon John Olsen FNIA MP (Premier)

The Hon Michael Rann MP (Leader of the Opposition)

Mr Mike Elliott MLC (Leader of the Australian Democrats)

Tasmania

The Hon Tony Rundle MHA (Premier)

Mr Jim Bacon MHA (Leader of the Opposition)

Mrs Christine Milne MHA (Leader of the Tasmanian Greens)

Territories

Mrs Kate Carnell MLA (Chief Minister, Australian Capital Territory)

The Hon Shane Stone MLA QC (Chief Minister, Northern Territory)

PROXIES TABLED BY THE CHAIRMAN

PRINCIPAL

Mr Howard
Mr Carr
Mr Borbidge
Mr Olsen
Mr Rundle
Mrs Carnell
Mr Stone
Mr Bacon
Mr Collins
Senator Alan Ferguson
Mr Kennett
Mr Beattie

Mr Court
Sir David Smith
Mr Fox
Mr Beazley

Ms George
Mr Kilgariff
Sir James Killen
Ms Imlach
Senator Faulkner
Reverend Costello
Mr O'Farrell
Mrs Rodgers
Mr Withers
Mr Green

PROXY

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

Senator Bolkus

Mr McGauchie

Mr Costello

Mr Anderson

Mr McClelland (9-10 February)

Dr Craik (9 February)

Senator Campbell (9 February from 3 pm)

Mr Abbott

COMMONWEALTH OF AUSTRALIA

CONSTITUTIONAL CONVENTION

Hansard

1998

OLD PARLIAMENT HOUSE, CANBERRA

2nd to 13th FEBRUARY 1998

Monday, 9 February 1998

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

CHAIRMAN—Delegates, there are a number of procedural matters that I wish to canvass with you at this stage. Firstly, on the distributed Notice Paper there are a number of matters which I would like your agreement to vary. Unless we spend a little time this morning talking about timing, there will be no other opportunity at the Convention. I therefore propose that after we have finished these procedural matters we might allow for some speakers from the floor which, as you recall, means that speakers have a five-minute opportunity to speak from their places or from the podium on the question of timing.

There seem to be several alternatives. I think it would be desirable if we had a resolution from this Convention as to the preferred timing for the commencement of the coming into place of a changed head of state, if that should take place. I therefore would suggest that we allow one hour, say, till 10 o'clock, on the specific development of resolutions for the timing of change. There is a speakers list for that purpose that has been opened.

From 10 o'clock until the luncheon adjournment at 1 o'clock we will talk about the preamble. I would suggest again that, as we have had an opening debate on each of the three reports, it might be better handled by debating each of the three reports so that

people can talk on any one of them as they wish. It had originally been the intention that we also defer and bring into play the debate at the same time on the item that is presently listed on the Notice Paper, the title of a new head of state and entrenchment of the Australian flag. I would propose that the title be debated by resolution of voting at 3 o'clock.

I have had some legal advice that there are difficulties with the present form of the proposal with respect to entrenchment of the Australian flag in the preamble. I would therefore suggest that the mover and the seconder might like to set up a working party which could look at the question and then bring it back for the consideration of the Convention tomorrow. If they did that, they might also wish to look at the Australian coat of arms to see whether there are other matters of that ilk that they wish to bring into consideration. The mover of the flag resolution and the seconder might consider setting up a working party to bring it back.

Sir DAVID SMITH—Was the view that was expressed to you about the legal difficulties of the resolution in terms of the amendment as we had it on Friday or the amendment as we have it today?

CHAIRMAN—The difficulty is that there are problems still in incorporating the words as I understand you have now proposed. In order to ensure that we do not have a debate about legalities, it seemed more appropriate that we had a working party which can do as in every other instance, that is, look at the resolutions, prepare the resolutions and report

back. The idea is that in a working party we might be able to produce what is a workable outcome. If your advice within that working party is that the present form is satisfactory, then it can be brought back in that form. But it will avoid a debate in the Convention about matters that really do not advance the general argument. I felt it was better to suggest a working party on that basis.

Sir DAVID SMITH—With the greatest of respect to the legal advice you have had, as the mover and seconder of this resolution have not proposed deliberately to draft the amendment, we feel that there are experts capable of doing that far better than we are. I would have thought that the final amendment as moved by Mr Johnston on Friday afternoon is a very simple statement of principle.

One of the things that concerns me is that every time delegates here try to get the Convention to consider statements of principle, the lawyers come into the act and we try to do the drafting in the heat of this Convention or in the pressure cooker of the various committees. It seems to me that the espousal of principles is not a bad way for us to go and leaving it to the government, the parliament and other experts to put these things into a legal frame after we have expressed our intentions.

CHAIRMAN—Let me point out that we are not precluding debate. There are already two further working parties scheduled to meet this afternoon. One is related to further constitutional reform. I was going to propose as one of my variations to today's Notice Paper that tomorrow morning there be a report on the flag working party, a report on the ongoing debate on the constitutional reform working party, and a further report from the working party on the oath of allegiance. So there would be three working party reports tomorrow. We have three working party reports today. I was suggesting that we have three working party reports tomorrow and that there be a debate following that on the subject. It is a matter of not doing other than postponing debate until tomorrow morning.

Sir DAVID SMITH—I am happy with that. I thought you were proposing that we have a working party and try to bring this back this afternoon.

CHAIRMAN—No. I am suggesting that the working parties meet this afternoon. I am going through the agenda sequentially. The proposal is that the flag debate be deferred while the working party meets this afternoon and reports with its recommendations by 7.30 tonight, for consideration tomorrow. I am proposing that the other two working parties—on the ongoing debate on constitutional reform and on the oath of allegiance for a new head of state—deliberate this afternoon and return with their reports by 7.30 tonight for consideration by the Convention in the morning.

Dr SHEIL—Mr Chairman, in the cognate debate on the three subjects, is it your intention that delegates speak only once? Delegates might want to speak on the preamble and civil rights sections of that debate.

CHAIRMAN—The intention is that delegates may speak on any one of the three subjects. When the reports are presented, we will allow time, as we did on Friday, for delegates to speak on each one of the reports sequentially. But because there is a speakers list that I have received for today's debate, I cannot identify from that on which subject delegates wish to speak. As we are speaking from the floor, it is more likely that there is an opportunity for delegates to speak twice, subject only to the fact that a delegate who has spoken once does not rise before the delegate who wishes to speak for a second time. The idea is to try to facilitate consideration of all the matters in the time that we have available.

Dr SHEIL—I take it that those speeches will be of five minutes duration?

CHAIRMAN—Yes, speaking from the floor.

Dr O'SHANE—You have just announced that the speakers to the preamble issue will be heard between 10 o'clock and 1 o'clock. Do I understand that correctly?

CHAIRMAN—I have been given notice that there are speakers who wish to speak to

the preamble. It would be my intention to call those speakers before I call other speakers from the floor. But those on the speakers list I had intended should be allowed five minutes rather than 10 so that we can have more speakers in the time available.

Dr O'SHANE—Is that between 10 o'clock and 1 o'clock today?

CHAIRMAN—Yes, 10 o'clock and 1 o'clock.

Dr O'SHANE—I and some of my fellow delegates have attended at the secretariat to pick up our papers for today but none of us has received a speakers list.

CHAIRMAN—I understand it is just being handed out now. I was given it only about five minutes ago so we are in the same boat. I will continue to outline the proposed program because I think that it might help delegates in the course of today. We move at 2 o'clock to receive a report from the resolutions group. The resolutions group is meeting this morning. They are going to make certain recommendations about procedures. I thought it would be appropriate if they were to meet this morning and report at 2 o'clock. With the group having reported at 2 o'clock, we can consider what recommendations they have made.

Voting: I am suggesting we also cut our luncheon break short by 15 minutes, as we did the other day, so session two would commence at 2 o'clock and the resolutions group might report then. I suggest we have our voting in accordance with the resolution of the other day. With the resolutions group report, we will start voting at 3 o'clock. We will start voting on the title, in accordance with the resolution moved by Mr Neville Wran. We have two alternative names at the moment. If there are further names and delegates wish to move a resolution in respect of them, they should lodge them with the secretariat no later than midday today.

At the moment we have two resolutions on names—as you will recall, one being for president and the other for Governor-General—and Mr Wran suggested that we think about titles over the weekend. If anyone, having thought about them, wishes to

move a further resolution, would you please give notice to the secretariat by midday. All the resolutions will be considered when we commence voting at 3 o'clock.

We will then move successively in the voting to consider each of the working group reports on the preamble. Again, as on last Friday, we will allow some short debate by contribution by the mover of the resolution and some response before each question is put during the voting this afternoon. After the voting is completed, we will move to general addresses.

On general addresses, you will recall that Professor Blainey gave notice of his intention to move an amendment that speakers be allowed 10 minutes instead of 15. Unless there is any dissent from the floor, so we can accommodate all those who have not spoken in the general addresses I will propose that we shorten the period from 15 minutes to 10 minutes rather than have a procedural debate on the subject. If anybody dissents, I will be happy to have a vote on it. Otherwise, it does allow more delegates to speak and we are all anxious that that should be so.

Let me just recap on today's Notice Paper, and an amended paper will be distributed shortly. The first item will be until 10 o'clock. There will be a general debate on the timing of the commencement of office of any new head of state. From 10 o'clock to 1 o'clock there will be a debate on the preamble. We will resume immediately after lunch at 2 o'clock when the resolutions group will make its report. At 3 o'clock we will commence our voting, first on the title of the new head of state and then on each of the three working groups' preamble resolutions. After that we will return to general addresses, and the time for those general addresses will be 10 minutes instead of 15.

I have a number of other matters that I need to deal with. I have several proxies—one from the Leader of the Opposition, the Hon. Kim Beazley, nominating Leo McLeay as his proxy from 10.30 this morning; one from Nick Bolkus nominating Mr Rob McClelland as his proxy for sessions on Monday, 9 February, and Tuesday, 10 February; and one from the Hon. John Anderson nominating

Tony Abbott as his proxy when he is absent from the Constitutional Convention.

I then have another advice from a delegate asking me to raise two matters, which I now do. The first is heckling. It has been suggested, as I remarked last Thursday, that a number of delegates feel intimidated by remarks made by others on the floor. This not being parliament and many delegates being inexperienced in public fora, might I suggest that interjections and heckling do not contribute to the debate and in fact inhibit the wellbeing that many feel in this chamber. I think it would be unfortunate, therefore, if interjections and heckling were to continue, certainly in circumstances where it prejudices not only those who are speaking but also those who are sitting in the chamber and feel in some way denigrated as a result. Given that we have only these five days left of the Convention, I think it would be appropriate if those who seek to interject do so only with discretion and recognising the person against whom they are doing so. In any event, as in parliament, I do not really regard heckling as being helpful.

There is also a problem with sound. Given the sound problems in the chamber and the difficulty some delegates are having in hearing speakers, I think it would be helpful not only if mobile phones were switched off but conversation inside the chamber were kept to a minimum. If you wish to pursue negotiations or protracted conversation, could I suggest you leave the chamber. I think those observations of a delegate are worth bringing to your attention.

On another facet, Hansard has advised—I thought you might be interested in this statistic—that in the five days of sitting last week 328,674 words were recorded in the 307 pages of the official *Hansard* transcript. I have been told by Bernie Harris that he knows because he counted them over the weekend. I thank Bernie and Hansard for their contribution. Before we move on, are there any general comments that anybody wishes to make?

The Most Reverend PETER HOLLINGWORTH—I have a question of clarification to do with the remaining speeches on the

general topic. I think tomorrow is the last day when that can happen. You have proposed, and I support the proposal, that speakers be contained to 10 minutes instead of 15 minutes. Can you assure us that there will be no speakers on the general topic who have already spoken? There are a number of people who have consciously held back—I am one of them—and have said nothing because we wanted to hear the debate. I think we will be penalised because of what has happened before.

CHAIRMAN—I can assure you that no speaker nor any proxy of any speaker who has already spoken will be allowed to speak twice until every other speaker has spoken. It will be my intention to suggest that on Wednesday evening, when I see we are scheduled to adjourn early, we might sit through till 7.30. If there is anybody who has not made a general address, I propose that we might pick up those two hours on Wednesday evening. We will pick up 15 minutes each lunchtime and I am proposing that each day this week that we resume at 2 o'clock instead of 2.15. I am proposing that Wednesday evening we sit through to 7.30, so we will pick up two hours then. But I can give you an assurance that, as far as I can ensure that it is so, nobody will speak twice until everybody has at least had an opportunity to speak and no proxy will be allowed to speak if the person whom they are representing has already spoken either on the general debate or on any issue.

Are there any other matters anyone wishes to raise before we proceed to the question of timing? On the list of speakers that I have had on timing, which I believe has now been distributed, I understand that the first name is wrong and first speaker is Mr Colin Barnett.

Mr BARNETT—I thank delegates for this opportunity to address this Convention. On Australia Day three years ago I publicly supported an Australian republic. As a deputy leader of the Liberal Party in Western Australia and as a senior state government minister at the time, that was met with a certain amount of shock and horror amongst my colleagues. I must say that today I feel far less lonely. I would never pretend to have

been or to be a passionate advocate for an Australian republic but, like so many Australians, I believe that the change is inevitable and is a worthy step in the evolution of our nation.

The issue today is timing. I think there are two broad contexts to think of that issue in. The first is the broader one itself. There is no doubt that the 1990s is proving to be a defining decade in Australia's history. Australia is a first world nation. We rank amongst the top 15 economies of the world. We have a multi-cultural community. We at last are coming to grips with our position in the Asia-Pacific region. Never before has the situation or conditions of Aboriginal people been such a centre of national debate. The world's spotlight will be on Australia with the approaching Sydney Olympics and in the lead-up to the centenary of Federation on 1 January 2001. Thus in that sense the setting is in place.

The second aspect of timing is in the context of the detail. From the proceedings that I have witnessed here, I am confident that this Convention will agree on an acceptable and minimalist model for an Australian republic to be put to the people at referendum. However, to achieve a majority of votes in a majority of states is another matter, as I think delegates well appreciate. It will take time for the Australian people to fully understand all of the implications and the significance of a change to an Australian republic. Indeed, this Convention and the extensive media coverage it has received has performed a great public service in terms of information and education for the Australian people on the many issues involved.

There are, of course, an enormous number of matters of detail that need to be addressed and many of those have already surfaced during the debate of last week. One such issue—and it relates to timing—is the position of the states. The states themselves are constitutional monarchies. It might be technically possible for Australia to become a republic and for one or more states to remain as a constitutional monarchy, but I would suggest to delegates that would be a nonsense.

It is also true that for Australia to become a republic and for states therefore to become a republic may require individual referenda at a state level in certain states. Hopefully, if that is necessary that referendum can be held concurrently with the national referendum. I think it would be a tragedy if issues of local nature, if extraneous matters or if exaggerated claims on state rights were to detract from what should be a single national vote on the issue of whether Australia becomes a republic, whatever the outcome of that vote might be.

To attend to all of those details and to allow the Australian people to fully understand the significance of the decision that they will face will take time. It will be a time consuming and exhaustive task to get there. At the earliest I would suggest a referendum should be held no earlier than late 1999. The appropriate date for Australia to become a republic is 1 January 2001, and I believe the majority of delegates hold that view. It is an appropriate and a historic date.

We will need every day between now and then to achieve a smooth, simple and successful transition to an Australian republic. I hope that Australia will make that change not in a grudging way but as a young, positive country confident in its future. To rush the issue of timing might be to risk it all.

Ms HOLMES a COURT—I am tempted to take three seconds and simply say, 'Ditto.' My position is almost precisely the same as Mr Barnett's. I could not agree more that this Convention has served a wonderful purpose. The Australian people are really realising what an important issue this is. We are realising the educative process which will have to go on after this Convention. There are many things which have to be considered, but there are also many things that just physically have to be done—drafting regulations, putting the referendum through the Commonwealth parliament, allowing the states to consider and make their own consequential changes, getting a new Constitution drafted; it takes a long time. I think we need to give the Australian people time to learn what is being suggested and understand it and give those supporting the republic time to deflect what will be

inevitably scare tactics from people who oppose this. I think it needs to be clear of any election. The republican referendum will need to be not associated with any election, and that will be quite an issue.

If the Prime Minister's cabinet is any indication, the Australian people are coming to accept not just the inevitability, which was a word I suppose I used on the first day, but also the desirability of us becoming a republic. We need many months to develop confidence completely in the model that is being suggested. I am hoping it would be towards the front end of 1999, but Mr Barnett may feel that the end of 1999 is a more timely date for this. It seems to me there is a wonderful symmetry in us becoming a republic on 1 January 2001. Not only is it the anniversary of Federation but also it is the start of a new millennium. I think a new millennium deserves a new nation.

Ms CHRISTINE FERGUSON—The cry from the Republican Movement that the republic is inevitable has been a continuing theme throughout this debate. If becoming a republic is inevitable, why do the republicans want to force the pace? In fact, republicanism is no more inevitable than Greg Norman winning the Australian Open. Those who assert that a republic is inevitable and that we should therefore sit back and accept it should refer to the words of John Maynard Keynes: 'The inevitable never happens. What happens is the unexpected.' Proclaiming inevitability is a way of bending to republican sentiment without embracing republican ideas.

The Republican Movement are telling us that until we have full independence by changing our Constitution the rest of the world will not see Australia as fully independent. Republicans claim that becoming a republic would enhance our image in Asia and with many other of our trading partners, implying that Australia is not fully independent and that we will never succeed until we become a republic.

If becoming a republic would solve urgent practical problems, Australians might be persuaded that it was time to change. But Australia's current constitutional status has not stopped one business deal from proceed-

ing or one migrant from coming. Those in the community who have responded to the polls in a positive way to the idea of a republic are simply expressing a feeling of patriotism. The underlying difficulty with such poll results is that they measure the support of the principles of a republic, but not for any particular republican practice. Polls can measure the quantity but not the quality of popular feeling.

Although a recent poll by AC Neilsen published in the *Sydney Morning Herald* showed a narrow majority of Australians now support Australia becoming a republic, it is far from certain that a referendum would be successful. Republican sentiment is at or below 50 per cent in Victoria, Queensland, South Australia, the Northern Territory and Western Australia. The only clear support was in New South Wales, with 57 per cent wanting a republic. Poll support for a republic has waxed and waned, only to remain stuck a little, more or less, at 50 per cent. This significant variation of a republic support means the passage of a referendum is not assured.

Many republicans think that becoming a republic is just a matter of time, and letting the over-55s die. In 1988 four apparently harmless questions were put to the Australian electors. They were four-year terms for both the House of Representatives and the Senate, fair and democratic elections, recognition of local government and the extension of rights and freedoms of the people. All four proposals were rejected. Many admit they don't know much about our Constitution. Maybe it is because of the education system, but maybe they don't know much because they feel they don't need to. They think our system works well.

Regardless of the size of opinion poll majorities for a republic, there are millions of Australians for whom a republic would involve a great sense of loss and they will support the retention of the current system. If becoming a republic is necessary for Australians to be unique and distinctive, does it follow that our earlier pioneers' achievements pre-republic will be deprived of value? Were those pioneer Australians who endured hardships such as droughts, fires, floods, depres-

sion and world wars not nation builders working for freedom and independence? In advocating for people to make change, republicans must not risk understating Australia's existing achievements. Republicans are ignoring Australia's history and unquestionably denigrating everything Australia has achieved until now. Republicans do not claim that they will improve the Constitution nor can they point to any real problem with the Queen, the Governor-General or the governors.

I say bring on the referendum and let the people of Australia have their say. It is the people of Australia who will have the final say—not the politicians, not the media, not the academics but all ordinary Australians. I have great faith in my fellow Australians; I know they will make the right decision. They are sensible people. They will not risk change if what they are getting is not a better system than what they already have. Once change has occurred there is no turning back.

Mr WEBSTER—Again I acknowledge that it is a great honour and privilege to be here this morning. On previous occasions when I have spoken in this House as a member my daughter has reminded me of the three 'b' speech: be upstanding, be brief and be seated. Having come here prepared with a 10-minute speech it will not be an easy task to now do it in five minutes. Today we are debating the timing of the referendum asking the people of Australia if they want a republic and when they want the change to occur. The constant cry is that 1 January 2001 be stamped on our calendars as the magical date and that it is inevitable that Australia will become a republic. I view such a call as little more than an over-anxious call from republicans trying to set the agenda.

The truth is that the critical nature of this issue must dictate that adequate time be given before making the right decision. Inevitability is not certain regarding a republic. Australians have traditionally been resistant to constitutional changes. It will take a strong, sustained bipartisan effort to see a republican referendum passed. Changing the Constitution cannot be a spur-of-the-moment thing. Even the fulfilment of election promises by the government should make way for further debate and

education allowing the Australian public to understand the proposed changes and their consequences. Things like codification of powers and reserve powers of the head of state are not easily understood by the average John Citizen—or even by us.

Another magic date suggested has been the year 2000. This may be a year which is synonymous with the millennium bug in computers and with the Olympic Games in Sydney but it is not the cut-off date for a decision on a republic. The holding of the Olympic Games in the year 2000 will see Australia as the stage of the world. People travelling here and tuning in through television and radio will show keen interest in our lifestyle and culture and not much interest in our political systems. Some say that there could not be a better time to showcase to the world our new head of state and constitutional system. I say that there cannot be a worse time.

The focus in 2000 should be on the people and the athletes who come together in a unifying spirit of competition and achievement. If we have a pre-Olympics referendum we can be guaranteed that we will experience social instability at the most inopportune time. The view from foreign eyes would be of a divided nation with some Australians set on rewriting Australia's political structure and dissociating themselves from its heritage. Is that how we want the world to see us? The Olympics need to be about national pride, not national division.

While preparing this talk one question kept coming into my mind: why do we have this rush? What on earth is the rush all about? As has been mentioned already at this Convention, Canada is experiencing mega challenge with Quebec after it rushed in some mega constitutional changes. Surely it is better that the right decision be made later than the wrong decision be made sooner.

What information do we need to make the right decision? Firstly, Australians must understand that they are not merely swapping the Queen for a president. A change of even the most minimal degree will result in removing the foundations of our system of government—namely, the heritage of *Bible* based

law and monarchical submission to God. Such foundations are not easily rebuilt and the aftershock will be felt by generations to come. I will say more about that later in my general talk.

Secondly, an estimate of the cost in dollars of becoming a republic should be publicised by the government. It is impossible for people to vote for a republic without knowing the price tag. I am sure that will be done by the time a referendum is called. I say shame on the republicans for blocking last week's motion that would have seen an estimate calculated by a Treasurer. I have heard that it is in excess of \$30,000 million. Australians have made the logical conclusion that republicans have something to hide—namely, the huge cost to the taxpayer. That is very significant.

A hasty decision on the republican issue has dire consequences. It has been said that advice after action is like rain after a harvest. I urge the government to shower Australians with facts and give them time to soak them into the roots of their understanding before they attempt to harvest the crop of the referendum.

Ms ANDREWS—The question before us here today is: when are ordinary Australians going to be able to consider the move to an Australian republic? My response is as soon as possible. When is Australia going to be an independent enough nation to ensure that any of its citizens can become its head of state? When are we going to ensure that we break our final formal ties with the monarchy and ensure that we are an independent nation?

Last week we saw the republican issue become one with considerable bipartisan support in this country. We now have a number of cabinet ministers and shadow ministers supporting this move. The huge considerable interest in this Convention—and I do believe there has been considerable interest in this Convention—indicates a healthy level of civic participation in this country.

I would like to take up a couple of issues raised by previous speakers. We have heard that republicans are apparently supporting this cause as some form of denigrating our history

and achievements. But it is because we are so proud of our history—because we are so proud of the development this country has made, because of the fact that in 100 years we have become a fully fledged nation—that we are able to make this move to independence. It is because of these achievements that we can take a final step.

I would also like to endorse the views of a number of previous speakers that this issue belongs to ordinary Australians. For that reason, we cannot sit here and make this decision; we need to take this issue to the people. Of course their views should matter. That is why we should take it to them to make the final decision. Let us take it to the people; let us let them decide.

You have heard that this Convention is going to provide an educative role. I absolutely agree that it has. By the end of this week I really hope that, with the nation's eyes on us for a fortnight, opinions will be formed and Australians will be ready to consider the question in some detail. Let us use this second week to ensure that we are able to work through some of the detailed issues with which we are faced. Let us move this issue along through 1998 and towards an Australian republic in 2001.

Mr PAUL—The time of this particular matter raises more issues than perhaps we have given much thought to. I have made something of a study of referendums. The figure that has been given to you time and time again is that of a total of 42 referendums to amend the Constitution which have been put to the Australian people—and this excludes proposed legislation for referendums which did not actually get passed by the Commonwealth parliament—only eight have so far passed.

One of the most significant of those eight successful proposals was the proposal to establish the Loan Council and coordinate the borrowing of Commonwealth and state governments. As a preparatory measure to putting that referendum there had to be complementary legislation passed through all state parliaments and the Commonwealth parliament itself. But the fact of the matter is that there had been an informal loan council flourishing

for a number of years. The fact that this informal loan council had been flourishing all that time meant that Australian people were not unduly scared at the prospect of putting it in as a permanent piece of constitutional machinery.

Reflect also on the passage of the Australia Act in 1986. This required legislation in the British parliament—and I am not sure, by the way, that some legislation even now might not be required through the British parliament in dealing with the covering clauses; that remains to be seen. It also required the Australia Act to be passed through all six state parliaments as well as the Commonwealth parliament. This was not as complicated a measure as the Loan Council because it did not require a referendum.

On the position of the states: Mr Barnett said that the Constitutions of the Australian states would have to be amended pretty much in tandem with the amendment to the Commonwealth Constitution. That famous figure of four out of six comes up again. A referendum has to be carried in four out of six states. Four out of the six state Constitutions to be amended require a referendum to confirm the legislation that has been put through parliament. If you want a referendum by 1999, our parliaments, both federal and states, are going to have a lot of time taken up in dealing with this. If a referendum to change the Commonwealth Constitution is to be held on the same day as referendums to be held in those states that require them to amend their Constitutions, it means that the legislative process at state level will already have had to have been undertaken and completed.

It reminds me of a proposal leading to the 1944 referendum when a convention very much like this except that it was composed entirely of parliamentary delegations agreed on 14 powers to be transferred to the Commonwealth by the transfer of powers which was permitted by under the Constitution. What seemed like agreement at that convention very quickly unravelled and in the end only two state parliaments actually passed the necessary legislation. In some cases governments were repudiated by their own backbenchers—that happened in South Aus-

tralia and I think South Australian state parliamentarians should remember that. In the end a referendum had to be put and it was resoundingly defeated. In what time is left to me to speak I advise that this is not an issue which can be rushed either by those who want to see it defeated or by those who want to see it carried.

Mr JOHNSTON—I rise to speak on the matter of the timing of a republic. First of all, the Prime Minister has already made a commitment about the referendum. Therefore, I do not think I need to repeat the statements already made. We will be having some form of referendum or plebiscite come 1999 which, I think, in this case is rather important. We need to have this issue sorted out and out of the way by the time we get to the Olympics so that that can be an unifying experience.

However, on the issue of the timing for the republic itself, I think we do need to look at the detail somewhat more. You will note from my own proposal, which I presented last week, that I did suggest a different arrangement for the timing; that was 'at the passing of the current Queen'. It is not intended in any way to be disrespectful to the current Queen. However, it relies upon the legal facts of how sovereignty passes from one monarch to another and from where we get the statement, 'The King is dead; long live the King!'

So what I am trying to engineer and what I am suggesting to this Convention is that there would be a smooth, fairly trouble-free transition from a Queen on her passing to a president or a Governor-General, or whatever you would like to call that person who will take up the powers of the former sovereign. I put this because I respect the Queen. I think she, in her role, has done a very good job, and I do not think we necessarily have to break ties while she is still on the throne.

If we are going to leave the monarchical system, let us rise with dignity and do so in combination and coordination with the British. Let us speak to them. I think we can do it with dignity whilst speaking to our historic friends in the Old Empire.

CHAIRMAN—Thank you very much indeed, Mr Johnston.

Dr COCCHIARO—Mr Chairman, to Mr Johnston's idea, I would say that you cannot organise such a big change on the expectation that our Queen is going to die. I hope that she lives a very long life, but we do not really know when that will happen. Even if we were to expect something like that, it just would not make any sense to me.

However, besides that, I can say this: I believe that the referendum has been fairly well set by our Prime Minister. He has said that we will have a referendum in 1999. Within the constraints of the due process, the referendum should be organised, in my opinion, so that we have a president elect in place by the time of the Olympics.

I say 'president elect'. By that I mean that I am very much in favour of having 1 January 2001 as the day the Commonwealth of Australia becomes a republic. It is such a significant date that I do not think we could possibly pass it up—1 January 2001: 100 years since Federation, the start of a new millennium, the start of a new century, the start of a new republic. I would like to see the president elect in place for the Olympics. The reason for this is simple. We can use the Olympics for the publicity that we need in Australia. We need as much publicity as possible—for the Olympics, for our system of government and for ourselves.

In direct contrast to Mr Webster's idea, I believe that having a republic and having a president elect will actually show the world that we are united—not at all divided, but united. This will inspire all of us. I am fairly sure that, once we have a republic, all of us, even the monarchists—and all credit to them for putting forward their point of view—will get behind the new system, the new president, because we all want this country to succeed.

Let us take the opportunity to do some more world marketing with the Olympics. The Olympics, I think, are a world exercise, and the time of their being held is also the time to show everybody that we have become a republic, that we have a president in waiting, as such, and that that president will be installed on 1 January 2001.

We did win the bid for the Olympics by emphasising multiculturalism and valuing

cultural diversity, so let us have a nominee ready. I would like to give you my personal opinion. I would like to see Ms Lois O'Donoghue as our first president. I mean no disrespect in any way to Sir William Deane. But imagine the positive effect, not only on our country but on the world, and the benefits to reconciliation. She is a female. It will wipe out the Hanson factor worldwide in one blow. It will clearly and unambiguously tell everyone, not only in Australia but worldwide, that we have evolved to full maturity.

CHAIRMAN—Thank you very much, Dr Cocchiaro.

Mr ABBOTT—Mr Chairman, lest there be any confusion in anyone's mind, I want to just stress at the outset of these few comments that I remain a supporter of the existing system. I have not become a republican, born-again or in any other shape or form.

Nevertheless, as a supporter of the existing system, that which deeply worries me is the line used so tellingly by a former President of the United States, Abraham Lincoln, that a house divided against itself cannot stand. So what we, I think, must all be doing as Australians is trying to bring this debate to a successful conclusion—a conclusion which does not leave any section of our society permanently alienated or left out. I think that means that we should bring on the referendum as soon as possible. But, nevertheless, I think the referendum should be pitched in such a way as to maximise chances, whatever the result, of bringing Australians together.

I think the point that republicans need to consider is that they are asking millions of Australians to give up something precious so that they can have something that they have always managed to live without. People are always more upset about losing things than they are to gain things. I think this is something that republicans need very much to recall, as they set about this week trying to formulate their model to go to a referendum.

I was interested to note Steve Vizard's comments in the *Financial Review* this morning. Steve Vizard spoke very tellingly about the sorts of compromises that could be made amongst republicans to try to bring them onto a particular republican cart. It was well done,

Steve. But remember that roughly 40 per cent of Australian are not republican; roughly 40 per cent of Australians like the way we are, like the system that we have. Any republic would have to be a republic for them as well as a republic for republicans.

So I ask this question of those republicans here: what sorts of compromises are you going to make to try to at least make it possible for some monarchists to feel some sense of ownership in any proposal that goes to the people?

I know that today we are debating the question of the flag. I think entrenchment of the Australian flag in the Australian Constitution would be a very positive thing. If republicans were to support that, I think it would be a gesture of good faith—an olive branch, if you like—to supporters of the Constitution. I think the title of the head of state should remain as Governor-General. If republicans were to support that, I think it would be an important sign of good faith.

Obviously we want to keep the title Commonwealth of Australia. Obviously we want to remain a member of the Commonwealth of Nations. Perhaps something that republicans ought to consider is entrenching in any new Constitution the position of Her Majesty the Queen as head of the Commonwealth—our recognition in the Constitution of Her Majesty the Queen as head of the Commonwealth.

These are the sorts of matters, Mr Chairman, which I think republicans ought to consider if this Convention is to be a sign of, if not complete unanimity amongst Australians, at least our broad agreement and our determination to try to bring a good outcome from this Convention for the benefit of all of us.

CHAIRMAN—Thank you, Mr Abbott.

Ms KING—To use those infamous words, made even more poignant being in Old Parliament House, 'It's time.' Many factors have come together that would make this change particularly appropriate on 1 January 2001—the centenary of our Federation, the Olympic Games and, of course, the new millennium.

We must ensure that the general public has a chance to digest and assess the issues adequately. This involves public education and discussion. However, we cannot let this go on for so long that it becomes divisive. It is also important that it be distant enough from an election to divorce this issue from partisan politics. It is too important to let it get hijacked into the adversarial nature of political campaigns.

All of us here agree on the importance of democracy so let us get democracy moving and put this question to the people. I think 1999 seems an appropriate time to take into account all the factors, both practical and political, to ensure this question is thoroughly thought through and adequately prepared.

From a personal point of view, I could think of no better way of facing the future than with a positive affirmation of our own independence and our confidence to face the new millennium as the sophisticated, dynamic nation that we are. This is not a move to deny our history; it is a move to confirm that we are now developed enough to look to one of our own citizens for guidance. The year 2000 will be very different from what I imagined when I was a younger girl. I thought of spaceships, trips to the moon and robots. All those things have not happened but what can happen is that Australia becomes a republic, and I want to see that happen by 2001.

Mr MELHAM—Don Bradman is one of the greatest of Australians. He is of course a home-grown institution. But even Don Bradman fell short of averaging 100 in test cricket. He averaged 99.94. The Constitution in its present form does not deserve to surpass Don Bradman's average and reach 100. In so far as it is home grown, it was born and bred in the belief that it had to embody values now foreign to what we have become. Just as Bradman took the English traditions and skills of cricket and changed them into something particularly Australian, we should take the traditions of the past and transform them to fit the values we have developed.

There are two ways of transforming our Constitution and we are at a crucial point in considering those two processes. Our High Court can turn the Constitution into some-

thing that is uniquely Australian. They have the constitutional obligation to interpret the Constitution. If it be a living, breathing document, their interpretation of it will reflect what we believe with our current value system, our current ideals, our current hopes and our current aspirations.

Just like Don Bradman turned the game of cricket into something particularly Australian, so too can our High Court legitimately turn the Constitution into something particularly Australian. Another way is through the people stamping their authority on the Constitution through referendum. We are at a defining moment in our nation's history. Unless and until we embrace change in our Constitution, we remain diminished as a nation not only in the world's eyes but, more importantly, in our own eyes.

The foundation stone of our nation is and is seen to be foreign. The Constitution combined colonies ruled from abroad by the monarch of the world's most imperial power into a federation. That monarch still rules. The Constitution was cobbled together on the colonial values.

The Most Reverend PETER HOLLINGWORTH—Mr Chairman, I raise a point of order. With great respect to Mr Melham, I draw attention to the fact that we are talking about timing. We heard this debate endlessly last week. I think we have to move on and deal with the question before us.

CHAIRMAN—I uphold your point of order. Mr Melham, could you try to be relevant. There are only a few minutes that are now available.

Mr MELHAM—Yes, Mr Chairman. I would submit this is relevant because I am bringing it in as to why the current value systems require the time to be now, not later. I will come to the appropriate time. This is structured in that regard.

CHAIRMAN—I put to you that you are wasting time by arguing the point of order. I would get on with talking.

Mr MELHAM—The world has changed; Australians have changed. We have come from all over the world to a part of the world far removed by distance and beliefs from the

Britain that exported convicts. We have come from all the nations of the world and from different beliefs to join the native peoples in one nation. We do not accept restrictions based on colour, race or creed. We do not accept discrimination against the native peoples.

In our nation we do not accept less than equality for all our peoples in all our institutions. Equality means accepting and respecting that we are all different and not trying to change us so that we are all the same. It requires different treatment for different people. Our differences are our strengths. Our willingness to accept the differences of others is one of our greatest strengths. That is what enriches us as a nation. Our nation embraces us all and all our differences.

CHAIRMAN—Draw your remarks to a close.

Mr MELHAM—Mr Chairman, whatever we do now we should do it so that we provide for a nation that brings us together. We will be at home to the world during the Olympics. The change to a republic should occur before then. I favour 1 January 2000. We should welcome the world represented by one of our own leading us under a constitution which represents the values we own—not those that have come to be foreign to us.

Mrs MILNE—Delegates and fellow Australians, the question is not if we become a republic but rather when. There is enormous symbolism to move to a republic on 1 January 2001, and that is certainly an ideal that I would like to strive for. But, if we have a choice between a minimalist republic and getting it done so that we can have a referendum and the republic take effect as of 2001, we may not get it right. If you want broad constitutional change, if you want the republic to actually mean an embodiment of the best ideals that we want to take forward into the next century and the millennium, then it may not be possible to achieve the 2001 time frame.

A maximalist position, if you like, is not getting it done in order to meet a time frame but rather getting it right to make sure that the foundation of our nation is correct going into the next millennium. By that I mean we

will not achieve a truly democratic republic of Australia unless we achieve a new preamble and unless we achieve a bill of rights which gives legal enforcement capacity for all of our citizens and also constitutional change to incorporate such things as proportional representation in order to give all sections of Australian society representation in the parliaments and improve the quality of our governance, and also constitutional change to give effect to new powers for the Commonwealth in terms of the environment as well as environmental rights in a bill of rights.

The models for the selection of the head of state are a point of contention here at the moment. What we do not want is a model that is cobbled together in haste and does not have the genuine support of the majority of Australian people. What I would like to think is that, when we do put models to the people, they are the best expression of what the majority of Australians want to say about where Australia goes into the next century. Look at what happened with native title: people were convinced that, if you took a minimalist position, that was at least something that could be achieved and it could be improved later. What has happened in Australia is that the minimalist position was accepted and since then there has been every effort to wind it back—not strengthen it, not improve it but wind it back.

Making the same comparison with the republic, my fear is that, if we race to a time frame that is symbolic but we do not get it right, having a bill of rights, or a new preamble, incorporated after the event will take us a very long time to achieve. My view is that we should rewrite the Constitution. We should frame in the preamble the ideals, hopes and aspirations that we have for a democratic republic of Australia. We should take that to the people in an indicative plebiscite so that they can look at the model and so there can be genuine community consultation on a bill of rights and on the preamble. Then the referendum should take place after people have had a chance to express their view on the alternative models—one being a direct election model, incorporating those principles; the other being an appointed model and the

status quo—plus the issue of the bill of rights and the issue of the new preamble. That will involve the Australian people in this discussion.

For every other nation that has moved to a new constitution, it has taken several years. Even with the enormous enthusiasm in South Africa, it took over two years to get it right. It is unrealistic for us in 10 days to come up with something which incorporates everything we want to say about our nation. Our new republic must be built on the highest principles and the highest ideals. To get it right, we must take the time.

We will see great success if we vote for the principle of the referendum at this Convention and then go beyond that to an indicative plebiscite and ultimately take the most popular model to the people, incorporating those broader issues of constitutional reform and getting the issue of a bill of rights and a completely new preamble on the Australian agenda for ordinary people wherever they live.

Mr McGuire—The Prime Minister has moved that if we are able to come to a consensus on a model for a republic we shall have a referendum by 1999. If voted by the people in the states of Australia, a republic by 2001, the centenary of federation, would be in place. The main point is that we move quickly but not with undue haste. There are many things that must be done by 2001. We do not underestimate the work that has to be done, but I believe we all work better to deadlines. I am sure the Chairman agrees.

The Olympics, no doubt—we should never underestimate this—provides Australia with a unique opportunity to showcase what we are all about. It is not just a sporting event, as it has been described in the past week by some delegates. Visit Sydney to find out that it is more than that. Ask the International Olympic Committee. Try to bid for the television rights if you really want to find out.

The very biggest companies in the world are spending record amounts of money to brand their products with the Olympic Games. Those who have missed out on being the official Olympic sponsors spend even more money in an ambush marketing attempt to at

least receive some reflected glory from the biggest cultural event in the world. It is far more than a sports event.

With that in mind, how ridiculous it is that, if the will of the people is for a republic, we miss out on our greatest window of opportunity to brand our country as vibrant, independent, politically stable and commercially viable, able to put on the biggest show on earth, able to be a leader in our region of the world and able to respond quickly and efficiently to the will of the people without uprising and rancour but instead with the *cando* attitude that we need to show the world in a more and more competitive environment as we head into the 21st century.

Our athletes represent Australia, not themselves. If you do not believe me, ask Nova Peris-Kneebone. Our athletes wear the colours of our country. Their individual moment of glory is crowned under the raising of our flag and the playing of our national anthem. What better time could there be in the history of our country to show not only what Australia is all about but the big picture Australia: that we can survive and embrace change, that we can move forward without weighty delays, that beyond 2000 we are a young country ready to play a role in world affairs?

January 1 2001 is the appropriate time to become a republic—the centenary of our federation. The Olympic Games is the perfect way to tell the world of our intention. Deadlines work. If it is the will of the people, then let's get on with it.

CHAIRMAN—I have no further speakers after Mr Burke. If anybody wishes to speak, I will ask them to indicate from their place.

Mr BURKE—I appreciate your indulgence in allowing me to speak at such short notice, but I have some words to say about the issue of timing and also the way that could occur. I intend to expand on that tomorrow, but I may not have the opportunity. So I will try to do a synopsis now.

There are two things about timing if it is an issue. One is for this Convention to make a decision by the end of the week and the second is that, if there is an urgency, something realistic needs to be put to the people so

that a decision could be made by the year 2000. Arguments were put over the last week. Perhaps at the beginning of this week we should be looking at something that we could all live with. I believe all of us here with our different positions could live with this model and this timing quite comfortably.

For example, if we talk about the election of a popular head of state, surely it logically follows that the same rights should extend to the selection of titular heads of each state? Let us then have the governors popularly elected in each state with their power codified according to each state's constitution. That election of governors could be a transitional thing occurring over possibly 10 years, but the principle would be embraced. This group of seven state governors could form a college of governors. You will note that I said 'seven state governors'. I am from the Northern Territory and I believe passionately that our territory must become a state and complete the federation.

It would be the task of the college of elected governors to appoint and dismiss the Governor-General, president or whatever nomenclature is chosen for our head of state. They would select this person from nominations put to them and this system allows for much compromise. The nominations could come from the Prime Minister, from a two-thirds majority of a joint sitting of the federal parliament or even from the Australian public. The list could be developed in various ways. However, I would favour the Prime Minister and cabinet putting forward a name or names to this college. In the case of one name being provided, the college would have the discretion to reject the recommendation and seek other nominations for the Prime Minister. The powers as currently enjoyed by our present Governor-General could remain unchanged, but the college would have the power to dismiss the head of state and call on the Prime Minister or parliament to submit a new nomination.

Delegates, I put to you that popular elections for governor at state level achieve a direct say for the people in choosing their head of state. It also provides a logic for retaining the name of Governor-General if

that be the wish of the Convention. It reinforce the federation. It ensures that the states have an equal say. It would make it less likely that only candidates from big states would be elected. Coming as I do from the Northern Territory, such a consideration is a very serious one. This system would ensure that the head of state was not a rival to the executive government or the Prime Minister. The person so chosen would truly be the head of state and, in the words of our present Constitution, one indissoluble federal Commonwealth.

On the issue of timing, that college of governors could be in place tomorrow. The college of governors could appoint a president or Governor-General by 1999 and that college of governors could transition—if the states agreed—to popular election over a period of time, perhaps 10 years. Here the will of the people is reinforced in terms of popular election and the safeguards to our Constitution and our present system is well and truly maintained. I would urge you to consider this model over the coming days.

CHAIRMAN—Are there any further speakers?

Senator LUNDY—I would like to take this opportunity to add a few comments to this debate about timing. I find reasons put forward relating to the Olympics in Australia in the year 2000 quite compelling in arguing for the timing to be brought forward from what otherwise seems a very sensible proposition to look forward to 1 January 2001.

The reason I find those arguments quite compelling is that, for all of the corporatist justification that we know comes with hosting the Olympics, it is about a global statement to the world. It is about an opportunity for Australia to show the rest of the world what we are about. It is quite unique. We know it is unique to have the Olympics in the year 2000. Why should we miss that opportunity to restate our identity in the way that the republic would offer us?

Sport in Australia is something that unites us. It is something that makes us proud and it is something that truly brings us together as a nation, regardless of what is happening politically. It is a positive thing and it can be

used quite effectively as a platform to once again unite us in coming behind a movement as we progress towards the republic. I would like to see the republic established prior to that event for those reasons. It is a positive element in our development; sport has always united us. It is more powerful than many people quite often realise in what constitutes our identity as a nation.

Mr BEANLAND—Any changes to the Constitution in relation to this nation becoming a republic will be significant. They will be major. It is quite clear that the referendum will not be held until some time next year. That is only the first stage. Should the referendum be carried we then have the issue of the constitutions of the various states. They cannot be trammelled upon; they have to be considered. We would then have the situation of having to deal with problems that would occur should four of the six states get up and there be two states that do not. What do the parliaments of those two states do? The third thing, most importantly, is the Australia Act, which one speaker touched on briefly before. There are major and significant hurdles to overcome in respect of that that cannot be done through a referendum but that must be done by the relevant state parliaments in unison.

What we have here are a number of significant changes to a model that has not yet even been decided upon. The devil is in the detail of this matter. It is all very well for us to say, 'Yes, we must rush in and do it for the Olympic Games,' or some other sporting event. But surely if we are going to make this change then we have to get it right. Or perhaps some of you want to come back here within a decade for a constitutional crisis, because we could easily have one if we do not get it right.

It took the founding fathers of federation a decade or more to get it to the stage of federation, and we are proposing to have another major change—in many respects just as significant—within a matter of 12 months or two years. I think it is a tall order indeed and I believe we need to approach it cautiously and properly. If the public wish to have a change, sure, let us have it—but let us get it

right. Let us get the detail right so that we do not have a constitutional crisis.

People talk of 1975 as a political crisis. They like to talk about a constitutional crisis. But we are very fortunate in this nation; we have never had a constitutional crisis. Let us hope to hell we never have one because if we do we could then well and truly end up with chaos throughout this great nation of ours.

Partisan politics will certainly enter into it, as it does in all of these issues. Yet there are those who stand and say, 'Let us keep partisan politics out of it.' The models I have heard proposed to date are all about partisan politics—an even greater reason why we need to ensure that, whatever changes are made and whichever model is chosen, we go carefully. And keep in mind that no model has been decided upon. This is a prime example of putting the cart before the horse, because we have not sorted out the model. The model has a lot to do with the timing and the processes that are going to be involved.

I notice that delegates seem to have forgotten about the role of the states and the importance of the states in bringing about change. I can assure you that no change will occur without the people in the states agreeing and without the state parliaments themselves agreeing to a significant range of changes, particularly those involving the Australia Act.

The Most Reverend PETER HOLLINGWORTH—Along with Professor Blainey and Professor Trang Thomas, I am a member of the Centenary of Federation Council. I have no doubt that if the Australian people concluded that the best thing to do was to achieve some form of democratic republic in the year 2001, this would make our task a much easier one because it would give us a clearer focus upon what we were to celebrate. So it is appealing that we should think in those terms.

The council has done a lot of work both in terms of publicity, promotion and strategic planning. One thing that we are fairly clear about is that the only value of the Olympics is that it can prove to be a springboard at the very end upon which we can focus our attention on the centenary of nationhood. I remind the delegates that we became a nation in

1901. There has been talk in this chamber that suggests that that is not the case. I refute it.

To come to the point, I believe that the question about the speed of change is related to the extent of change. There are some change models proposed, and they have a superficial appeal, but I am quite sure that it would take a great deal of time before the Australian people are persuaded that we should take radical departures from where we have been. Therefore, the more minimal the change proposed in the model, the greater the likelihood of success, and that will determine the speed with which that happens.

I am not taking a position on this one way or the other, but I am making a point. In case I do not have time later, I want to say that there has been research done by both the Catholic life survey and also the national church life survey, including half a million Christians throughout Australia. They can accept a minimal form of a republic over time, but the great majority do not want to be bulldozed into it and do not want to have it happen quickly. The further the matter is extended, say, 10 years, the more comfortable they will be. I do not want to say anything more than that, except that these are statistical facts. They are not polls taken by newspapers; these are carefully considered, researched findings that have come from people who have answered a whole range of questions on these and similar matters.

I would want to support Denver Beanland on this matter—that is, we have to proceed with care, we have to handle the detail and we have to make quite sure that whatever we do unites the Australian people and does not divide us.

CHAIRMAN—I now call on General Digger James, to be followed by Professor Peter Tannock. I would then propose that we move to the debate on the preamble. I remind all delegates that resolutions on timing—in other words, the matters on which we have just been talking—need to be lodged so that we can consider the resolutions this afternoon. If you lodge them not later than 12 noon, they can be considered later in the day.

Major General JAMES—I, like Archbishop Hollingworth, have held back in

speaking because I was not elected; I was appointed by the government to attend this Convention. But I feel compelled this morning to speak about this very point of timing. I do agree entirely with Denver Beanland and Archbishop Hollingworth that the rush to push this through for the most spurious reasons is extraordinary. The reason given is that we must get carried away by the Olympics, which everyone calls the Sydney Olympics, but after all I would have thought they are the Olympics for the world. The other point I would like to make is that the cost involved in doing this will be unbelievably high.

Getting back to the timing, the timing will mean, as pointed out very properly by Sir James Killen when he spoke about the states' situation, that there will be great need in the states for vast change before the occurrence of our country becoming a republic. To push this through with the sort of speed that has been indicated by so many speakers this morning I find astounding. I have lived quite a few years in this country and in various places, and one thing I have learnt is that, if you get carried away with something, put it in the bottom drawer of your office desk and pull it out the next day and have a look at it again. So often you find that the attitudes you take to do something so quickly are dreadfully wrong. I advise everyone strongly to make sure that, when we are looking at timing, first of all we get our principles right. It has not even been decided that we want to be a republic and here we are talking about being driven by the Olympics. I cannot understand it.

The Australia Act is one of the other concerns that we would have. Whilst I am not a lawyer, I have read it carefully and I am sure that there will be many implications. There are many other problems in our society that I would argue need a quick solution rather than pushing for a republic. I wish to speak very briefly on areas that I am sure all of you know. We have a country with very high unemployment. We have a country with the youth in disarray. We have a country that is absolutely in trouble with a whole variety of youth suicide, male suicide, broken homes,

divorce problems and so on. These surely are the things we ought to be putting our time into. Let us go back and slowly and carefully and properly and methodically argue and get a model. When we have a model, let us put it to the people in a timely manner. But I have to counsel you against doing it the way you are speaking of now. I think it is wrong, improper and unfair to the people of Australia.

Professor TANNOCK—It is nice for once to have the last word. The Australian Republican Movement supports the position of the Prime Minister and other senior ministers that this question of whether or not Australia should become a republic needs to be settled. It is not in the nation's interests for us to drag this out indefinitely. We strongly support the suggestion of the Prime Minister that this should be put to the people in 1999 and that if the people vote for a republic it should become a reality on 1 January 2001. I certainly think that it would be a good thing to give a clear message, a clear picture, to the many millions of people who will be focusing on Australia at the time of the Olympics late in 2000, but I think that is the only reason, associated with the Olympics, for making a decision in 1999. Much more important is it that the people of Australia be given the opportunity to understand what is being proposed, to reflect upon the various alternatives and to come to a considered decision. I think that a decision perhaps in the mid to latter part of 1999 is the appropriate time for that to occur.

The other point I would make is this: I support those who have said that the states need time to consider their own positions. We do not think that the states should be compelled to make any change to their constitutional arrangements, but I strongly concur with my colleague from Western Australia Mr Colin Barnett, who said this morning that it would be in the long term a nonsense for Australia to have a republican nation with monarchical states. I hope that in time the states will come to see the logic of conforming to the national republican model and will adapt their own Constitutions through the appropriate processes to this. The

states will need time to make their arrangements, to consider the issue and to sell it to their people. In this context, obviously a very important follow-up to this Convention, assuming we do vote for a republic and we do put in place the kind of timetable that we are suggesting, will be consultations between the Prime Minister and the state Premiers to ensure that all the consequential arrangements that are necessary are put in place.

In summary, the Australian Republican Movement strongly supports a referendum being put to the Australian people in 1999, with implementation of the republic on 1 January 2001. We think that timetable is satisfactory. We do not think it is rushing it. Indeed, we think the issue needs to be settled. It is not good for this country to be embarking on a further long period of uncertainty and instability in relation to our constitutional status.

CHAIRMAN—That concludes the debate at this stage on the timing. I point out to delegates that, at the time we move to voting at 3 o'clock this afternoon, when we come to the issue on timing those who move each motion will have a brief opportunity to speak on that motion and there will be very brief opportunities for responses across the floor. There has been a question put to me about the time given on the *Notice Paper* for the voting. The voting on the several matters before us will take the time that is needed. We have it identified as 3 p.m. to 4.45 p.m. If it takes less time, obviously we will move on to general addresses when the voting is concluded and, instead of adjourning between 4.45 and 5 p.m., we will of course continue.

We will now move to the debate on the preamble. You will recall that we have three working group reports. I invite delegates to speak on any one or all of those working group reports. I have quite a long list of speakers. If you do not have time to speak on all the issues you wish to in your five minutes, I am afraid you will have to go to the bottom of the list and it is therefore unlikely that you will be called again. Should you wish, you can put your name down there on the reserve list, but I doubt that we will be reaching it with the way the list is structured

at the moment. I strongly urge that you make your contribution on all the three committee reports when you reach that point.

There has also been on another matter a suggestion that we, in considering the qualifications of a head of state, have ignored the fact that there are qualifications applicable to senators and members in section 44 of the Constitution which at the moment are not to apply to the head of state, nor indeed, as somebody commented, do they apply to High Court judges. If it is felt that section 44 may need to be amended, that is another question. But it has been suggested that it might be appropriate that a working group be constituted on section 44 as being a basis for qualifications of the new head of state. If persons wish to lodge their name for such a working group or for the working group we announced this morning on the flag, they should do so with the secretariat. Those two working groups will be meeting with the other working groups on the ongoing constitutional reform and on the oath of allegiance later this afternoon. I move now to contributions on the preamble.

ISSUE: Preamble

Dr DAVID MITCHELL—Mr Chairman, while I see no reason for change to the present preamble, it is very important for the Convention to understand the place of the preamble in the Constitution. The preamble is not part of the Constitution. The preamble is a preamble to an act of parliament. It is a preamble to an act of the British parliament, an act which has become part of Australian law.

Amendments to the Constitution must be by referendum under section 128 of the Constitution. Section 128 of the Constitution does not apply to the preamble or to what are called the covering clauses or the sections of the act of the British parliament. So, as we are talking about the preamble, we need urgently to appreciate that any referendum that is held in relation to the preamble and the covering clauses will not be a referendum under section 128.

It was the people of all the states who agreed together to ask the United Kingdom parliament to pass the act of which our

Constitution is a schedule. It must be a majority of people of all the states—whatever might be the case with regard to amendments to the Constitution—who approve any change to the preamble or to what are called the covering clauses.

I personally see no need for change to any aspect. The covering clauses, many of you will say—and you may well be right—are purely historical and have no present application today. If we are recommending change to the preamble we must also recommend change to the covering clauses. It is in the covering clauses that we would find matters like the section 44 qualifications for members of parliament extended to the Governor-General. We could change the preamble and the covering clauses without in any way affecting the Constitution.

I will later in the day be drawing attention to an amendment that I have proposed to a resolution relating to the preamble. You have in your hands a copy of my proposed amendment. I ask you to note that there are two typographical errors. The word 'almighty' in the early part and the word 'almighty' further on should be with a capital 'A'. As you look at this proposed amendment, which I will be addressing you on later, please do not miss the acrostic. The acrostic, I believe, is an important part of it and should be included in the preamble.

My comment for this Convention is that the preamble is often thought of simply as referring to the blessing of Almighty God. While we must retain in the preamble a statement that this nation relies on the blessing of Almighty God, we need to understand also that there is much more in the preamble than simply a reference to that blessing of Almighty God.

You will see, as you look at the existing preamble and the existing covering clauses, that as a historical statement there is nothing wrong with them. I would urge every member of this Convention to become conversant with the present preamble and the covering clauses before considering any amendments this afternoon. After speaking to many members of the Convention, I have been surprised, indeed shocked, to learn that there are some

who do not understand the place of the preamble or the covering clauses.

Ms DELAHUNTY—Mr Chairman and fellow delegates. I thank Dr Mitchell for his contribution—his constitutional law lecture—but I would like to change the mood a little bit because we gather here this morning to discuss the preamble. I would like to describe it as the welcoming mat of the Constitution. If it is the welcoming mat of the Constitution, it is very important that we treat it not just as a quick spot to wipe our boots before we rush into the unwelcoming clauses of a legal document. Delegates, the preamble offers us an opportunity to tarry for a minute, to reflect on the story of Australia, the continuing narrative of our nation. It is a chance to look at the overarching values that unite us—and there are many that unite us, many more than could ever tear us apart—and a chance to look at the aspirations that we have for the future of our nation.

'We could not get agreement on all that,' the pessimists cry. Delegates, do not believe it. Do not believe that we will be defeated on this before we even start. Let me give you an example already of consensus in this area of the preamble. We should note the plain good sense and the sense of fairness that was exhibited in all four working groups on this preamble. All four working groups decided that they wished to include in any new preamble recognition of the occupancy and custodianship of Australia's indigenous people. All four agreed on that, yet some weeks ago there were dark mutterings hinting that such an inclusion would be a challenge for this Constitutional Convention.

Clearly delegates at this Convention believe in the notion of a fair go. Why then must this preamble to a republican Constitution produce a truly welcoming welcome mat? The answer lies in the damaged state of our civic culture. As I said days ago, citizens feel shut out from the political process and we heard eloquently from Christine Milne about the results of that. Civics is not a sexy subject in Australia today. The study of the rights and duties of citizenship has slipped off the syllabuses in our schools—a generation ago it slipped off—and we are all the poorer for its passing. This

will begin to change as civics is reintroduced into our school curriculums I believe next year.

But we do know that our Constitution has been—and probably still is—something of a mystery to many Australians, although I believe that the campaign for this Convention, the discussion and the interest shown in this Convention since it has got under way, have illuminated some of the dark corners of the document. It has certainly engaged many in the possibility of our task. I believe that an explicable preamble will be a very good start in inviting citizens back into this fairly dry document of government and then, hopefully, on with an interest in the way the political system actually works.

My sense today is of broad agreement around the corridors of this place on an explicable user-friendly preamble. The central schism lies between those who want to go for broke with the poetry of shared values and aspirations—and that is clearly my natural inclination—and those who caution us that trying to insert some form of civil rights values, if you like, into the preamble would invite the courts to use these values in Constitutional interpretation.

Both these views are valid and passionately held. Yet what both camps share is an absolute determination to make the preamble a plus in the referendum and not a way of scuttling the yes vote for a republic. The preamble must bring the disinterested on board, but it must not open the opportunity to the dark forces to mount a nasty anti-civil rights campaign against the republic vote in the referendum.

Mr Chairman, delegates can reach agreement on this. We have shown it already. Let the principles of a strong civic culture go forward to the enabling bill and let the principles and values we share be incorporated in a legally acceptable fashion. And then let the people vote yes for a republic. Let's not miss this chance to spell out what we value in Australian public life.

Professor CRAVEN—Mr Chairman, let me begin with a narrow but useful technical point. It makes no sense to amend the existing preamble because a preamble in law is a

statement of intention of the legislature that passed the relevant act when it was made. We can no more amend the intention of the founding fathers or the intention of the imperial statesmen of the time than we can fly to the moon. It would be inelegant to do so. What we can do is extend the preamble with, if you like, an added-on version of it, or put another preamble at the beginning of the Constitution proper. Both those causes would get around the problems in relation to the covering clauses mentioned by Dr Mitchell.

The crucial issue in relation to the preamble is not a technical one; it is a very substantive constitutional and political one, and that is the attitude of courts to preambles. Because that attitude is changing. Our courts traditionally have been fairly narrow in relation to preambles and generally have not been prone to extrapolate vast and vague doctrines out of constitutions in Australia. As we all know, it is a matter of public controversy that courts have so begun to do, with the result that the insertion of vague terms like 'equality', 'democracy' and 'freedom' in a preamble would almost certainly encourage the courts to take those values throughout the Constitution as if they were substantive and controlling values.

As I said, I think on the first day of this Convention, preambles are in that sense like lymph glands—they can pump values throughout constitutions. This is why some people are really very fond of preambles—because you can put vague statements in them without having to spell out what they mean and then they can sit ticking like time bombs until eventually they explode.

It is not a question of whether you like the values of equality or democracy. We all like the values of equality and democracy. The issue is: do you want matters concerning those issues to be decided by elected parliaments or by courts? You should have absolutely no illusions that even a harmless term like 'equality' could effect substantive, varied and unlooked-for changes in a Constitution and have effects on electoral laws, legislation dealing with courts, with legal aid, local government laws and laws dealing with resource allocation. All of these values that

we have seen have these problems. Perhaps the most fundamental point for the republicans in the chamber is this—that the political consequences of these abstract values for a republic are truly disastrous.

Some of us here remember the 1988 campaign on a Bill of Rights. An extravagant preamble, as some of the preambles proposed are, would in effect insert something that could be claimed to be a miniature Bill of Rights in the Constitution, and it would be opposed on precisely that basis by precisely those forces who defeated the Bill of Rights proposal in 1988 by a majority of 70 per cent. It would be a fatal 70 per cent course for republicans to adopt.

The general principle is that the preamble should recite statements of fact—euphonic, useful and uniting statements of fact. I agree with Ms Delahunty on that point—that the preamble should be a thing that is worth reading. It can recite our federal system of government, our parliamentary system of government, prior occupation by indigenous people. It can acknowledge a certain degree of gratitude for the Crown and it can recite our gladness, if we are glad and if we do convert to a republic, at that conversion. But it should not contain those statements of abstract values which will lead to grave difficulty later on.

I believe it is a fundamental point that this extravagance—this quite understandable idea to have a readable and euphonic preamble—could lead us into a course that would gravely compromise this Convention and the achievement of a republic. You will have seen an amendment in my name that tries to avoid these difficulties coming to pass. I commend that course to this Convention.

Ms DORAN—It is a great honour to speak to this Convention and to do so on behalf of the ACTU and its affiliated unions and the 2.5 million working men and women of Australia that we represent. The ACTU has had a formal policy of support for an Australian republic since our congress of 1993. In that context, we have also supported a revised preamble to our Constitution. We do so because we agree with the Republic Advisory Committee report's statement that the current

preamble lacks a comprehensive statement about the political and social values which underlie the political system. That committee noted that should we not change the preamble at the same time we move to republic, it could be seen as leaving an anachronistic and misleading introduction to the Constitution.

It is gratifying that in these circumstances each of the working groups, as Mary has said, dealing with this issue has supported a revised preamble. It is also gratifying that there appears to be a significant consensus between the different groups at this Convention as to what should be included in such a revised preamble. Working Groups (i), (ii), (iii) and (iv) and Professor Craven's proposed amendment support recognising in the preamble the prior occupancy by Australia's indigenous people. The ACTU has always strongly supported that principle being included in any constitutional change. In doing so, I think we reflect the views of our community.

As Paul Kelly said in the *Australian* in December 1996, this is a moral imperative given the historical record. That historical record includes inappropriate and demeaning references to Australia's indigenous Australians in our original Constitution and, of course, the historic 1969 referendum at which the Australian people endorsed a very different approach to our indigenous Australians. There also appears to be general consensus that there should be some reference to our representative parliamentary system of government. That is also in all of the working group reports and Professor Craven's proposed amendment.

The ACTU also strongly supports the inclusion of basic civil values in the preamble for the reasons outlined by Mary Delahunty in terms of attaching people to our Constitution and making our Constitution a more reflective document in terms of the community, which is expected to give adherence to it and support it. That inclusion of basic civil values is clearly supported by a majority of Working Group (i) and clearly supported by Working Group (iv).

We favour reference to the rule of law, to equality and encompassed in that the principle of non-discrimination. We support inclusion

of a reference to Australia's cultural diversity and respect for the land and the environment. We support the approach of Working Group (i) in terms of not seeking to have this Convention clearly articulating in particular detail how those principles should be set out.

I would suggest that this group of issues would command strong support in the Australian community. Professor Craven's amendment in his speech to delegates this morning seeks to ensure that any new preamble should not contain statements about abstract values for the reasons he has given. I would ask delegates to question why we, amongst all the nations of the world, cannot afford to do so. If we want the preamble to promote ownership of and attachment to our Constitution, we need to make it aspirational, inclusive and reflective of a community consensus. That was the view of delegates to a Constitutional Convention conducted by the Constitutional Centenary Foundation which I attended in Adelaide in 1997. I believe that that is the view of the majority of the members of our community.

Let me give three brief examples of preambles in countries that have drafted new constitutions relatively recently. Those countries had no difficulties with seeking to have an aspirational preamble and they did not seem to be frightened of the adverse consequences that have been raised by Professor Craven. The Czech Republic, which has moved to a new constitution, says in its preamble:

We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia, . . . resolved to build, protect and develop the Czech Republic in the spirit of the inviolable values of human dignity and freedom, as the home of equal and free citizens . . .

The Republic of South Africa's, which we have heard a lot about, says:

We, the people of South Africa, . . .

Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;

It also talks about improving the quality of life of its citizens. Delegates, I do not think it is beyond us to include in a revised Australian republican Constitution an aspirational and

inclusive preamble that attaches ordinary people to the document.

Ms THOMPSON—Delegates, as we discuss the preamble this morning I ask you to reflect upon what we are doing here. Is it denigrating our past, as Christine Ferguson said this morning? Is it diverting our attention from the more important matters which face the Australian community, as Major General James said this morning? No, it is not. This is about our future, our vision, our hopes, our dreams and our aspirations as Australian citizens.

The week before now, when I was travelling over here from Western Australia, I stopped off in Adelaide and had coffee with my parents. They gave me a book *1901: Our Future's Past* as a gift before I came to the Convention. I commend it to you all. My constitutional monarchist father wrote the following in the front:

May you build a brave New World
with Huxley—and make Australia
A land fit for Heroes—as Lloyd George
didn't.

But remember as the Irishmen said:

"where have you come from?—
I can't tell you how to get there if
I don't know where you came from."

As we stand here on the precipice of the new millennium debating our future on the traditional land of the Ngunnawal people, our challenge is to acknowledge accurately our past, affirm positively our present and build a future for all of our people. I love this sunburnt country, and I want a preamble that does all three of those things. I want a statement of our collective vision, our hopes, our aspirations and our unique and important history. This is a preamble that we can all aim for.

I challenge us all to agree with this. I challenge us all to agree on the fundamental parts of that preamble which, in my mind, include an acknowledgment of the Aboriginal and Torres Strait Islanders' contribution to our nationhood, equality, fairness, and our system of democracy. I challenge those who want no change to agree particularly with the acknowledgment of the Aboriginal and Torres Strait

Islander occupation of this land—no ifs, no buts, no maybes and no scare campaigns during the referendum. Let our preamble be an inspiration for future generations to look back upon our history, to learn from it, to build on it and to make Australia truly a land fit for heroines.

Mr GROGAN—Mr Chairman, delegates and our friends in the gallery, as the Governor-General reminded us last week, this Convention is a truly unique gathering made up of Australians who all want the best for our country, and the preamble is a topic which allows us to move away from the necessary technical legal debates into the field of who we are as Australians and who we want to be as a people. It is pleasing that since day one of this Convention the likelihood of this Convention reaching agreement on a new preamble has increased, largely due to the efforts of a number of monarchists who want to make clear their support for fairness in this area.

As delegates, we should take note of the concerns raised by Professor Craven and others about the possible legal consequences of some changes to the preamble. Like many delegates, I do not share that level of concern and I am against dealing with the concerns by inserting a phrase in the preamble directing the judiciary not to employ the preamble in constitutional interpretation. With respect, the Australian people will not look kindly on a suggestion that we should include in the preamble important values for our society only to say in the next breath that we do not really want to take those values seriously. And, with all due respect to Professor Craven, I do not agree that the proposed preambles are extravagant. How can it be extravagant to express our support in Australia today for basic human rights?

The concerns raised by Professor Craven can be met in other ways. The first is that we should not endeavour to resolve the final word by word make-up of the preamble here at the Convention. We as a Convention should name the matters we believe should be addressed in a modernised preamble. Like any referendum, the enabling bill must go through both houses of parliament. In the drafting

stage we can be confident that the bill and the proposed preamble amendments will receive thorough legal attention, particularly with regard to any issues regarding unintended legal consequences of the preamble amendment.

Further, have no doubt, friends, that there will be debate on this matter in the parliament and that elected representatives representing Australians with concerns like those of Professor Craven will put their case strongly after consideration of the matter by Parliamentary Counsel. Therefore, delegates, if we follow this approach there is no reason why all delegates should not be able to vote for the two other draft preambles going forward for further discussion by the Resolutions Group. Any outcome from that group will come back to the Convention floor.

Friends, a modern, fairer and uplifting preamble will help bring us together as a nation. We should not underestimate the importance of agreeing on a preamble which will help bring us together if the Australian people are to make a favourable judgment of our work here over these two weeks.

On the few occasions we have been able to agree in this chamber, such as the vote on retaining the name of Commonwealth of Australia, delegates experienced the genuine good feeling when a group who have different views on many things come together and agree on an issue that is important to us all. The Australian people saw that agreement on television and in the other media. Friends, if we can achieve the same result at this Convention in relation to the preamble, then it will be a substantial moment in the history of our nation and one of which we as delegates can be proud.

Dr COCCHIARO—Delegates, I think the preamble is very important. As Peter said, it can unite us all in the aspirations and presentation of our country. Obviously we will arrive at some hybrid, as we usually do, of the working groups. I would like to just go through the preamble.

I have broken down the different sections of the preamble. I agree that it should start with 'a higher power', an acknowledgment of the blessing of God and perhaps also spiritu-

ality and humanity. I am a Christian who would definitely like to see the blessing of God, but we have to recognise fully the diversity of our country. We do, after all, have an affirmation for higher positions. I think we should go on to something like 'We, the people of Australia, give ourselves this Constitution', acknowledging the sovereignty of the people of Australia in the new republic.

We should mention historical facts—something like 'We recognise the Aboriginal peoples and Torres Strait Islanders as our indigenous peoples'. I think that is a clear recognition and has received, as everybody has said, extremely wide support.

We should historically recognise the states—something like: 'We, the people of New South Wales, Victoria, South Australia, Queensland, Tasmania and Western Australia, together with all the territories, having united in one indissoluble federal Commonwealth of Australia under the Crown of the United Kingdom of Great Britain and Ireland'. That is a historical fact and is something that should be stated. Perhaps the Northern Territory could be established as a state before the referendum and then we could include it.

Then we must look in the preamble at the present situation, and the clear, outstanding thing is that we will have evolved into an independent federal republic. This is the crux of the matter and is self-explanatory. Another statement of the present situation: 'We are a culturally diverse, but united and cohesive nation of citizens who have come from every corner of the globe to join with the indigenous inhabitants.' This is a very important statement of today's reality and we must acknowledge it. We are culturally diverse and we did come to join the indigenous peoples inhabitants from every corner of the globe.

I believe that we should finish with an aspiring phrase—something that reflects core values. I have taken notice of Professor Craven and agree that the parliaments not the courts should decide these things, so I would certainly like some input on how to phrase it in a way that does not create any legal confusion. What I would like to see is something like: 'We recognise and value the rule of law, mutual respect and tolerance', and also some-

thing like: 'Our nation dedicates itself to a responsible and representative system of parliamentary democracy that is inclusive of all its peoples, upholds fundamental human rights, respects and cherishes cultural diversity and protects the land and indigenous heritage'. I think protection of the land and indigenous heritage is very important, as are all the other facets of this preamble. I expect that we will come to something that we all agree with and it will be something unifying.

Ms SCOTT—Delegates, fellow Australians, I am a member of Working Group (i). Professor Craven was in our group and, as he has told you, he argued for minimal change. I understand his position and do not ignore concerns about possible rulings by the High Court. Yet it is significant that, despite Professor Craven's articulate repetition of these concerns, he was unable to convince a clear majority of our group. Member after member spoke in favour of a new preamble, one that includes mention of values or, as the RAC report suggests, a preamble that embodies the fundamental sentiments which Australians of all origins hold common.

This was despite the fact that our group crossed the monarchist/republican elected appointed boundaries—something that I noticed also happened in group (iii). So it appears that this is one issue at the Convention that has attracted broad support—and so it should. If the peoples of countries like Germany, India, Ireland, the US and South Africa can work together to produce such preambles then so too can the people of Australia. I am attracted by South Africa's preamble which says:

We, the people of South Africa,

Recognise the injustices of our past;

Honour those who have suffered for justice and freedom in our land;

Respect those who have worked to build and develop our country; and

Believe that South Africa belongs to all who live in it, united in our diversity.

This preamble goes on to pledge to heal the divisions of the past, to lay the foundations for a democratic and open society, to improve the quality of life of all of its citizens and then calls on God to protect its people.

Yet I recognise that our preamble will be necessarily different, that our move to a republic is the result of a gradual transition from colonialism to unambiguous independence and not recent revolution and bloodshed. We have a different history and a very different preamble already in place. For that reason, I agree that any new preamble should build on the old, recognising the arrangements made in the move to federation. For that reason, I could not support omission of mention of the states, believing that to do so would deny our history and our reality.

We did not discuss the issue of Working Group (ii), that is, the retention of the words 'humbly relying on the blessing of Almighty God'. My personal preference is for words closer to those suggested by Christine Milne, but Archbishop Hollingworth's subsequent explanation persuades me to accept the recommendations from that group.

Similarly, we recognise that Working Group (iii) would provide recommendations regarding recognition of indigenous people as prior custodians of Australia. This idea gained wide support in our group. Although I recognise the legal implications of such a decision, we cannot walk away from it. I notice that the reports from all of the working groups on the preamble appear to have reached the same conclusion as ours: that is, that in two weeks it would be impossible for us to come up with an agreed final set of words. I believe that this Convention should, rather, forward a set of principles to the Prime Minister and government, relying on its drafters to develop a final preamble which meets those expectations.

For that reason, we place before this Convention an amended version of Professor Winterton's draft preamble. I recognise that some delegates will believe this type of preamble too cautious and unpoetic; one delegate considered the language daggy. I emphasise that I do not bestow any particular legitimacy on this draft but merely believe it gives a guide to what might work. It does build on the old preamble, it recognises prior custodianship by indigenous people and it strongly favours recognition of basic civil rights.

Each of the resolutions before us today has some merits and difficulties. For example, I have some concerns with the notion of a second referendum as raised by group (iii). Yet, for every difficulty, a broader preamble also provides some wonderful possibilities. Australians who fear that what we hold dear is in danger of being swamped by change can be reassured by a statement of our core values, just as new Australians and young people can look to these statements for guidance about the values of most importance to our people. Finally, a broader preamble goes some way towards reconciling us with our indigenous people. I therefore ask delegates to forward to the Resolutions Group the recommendations of all four working groups.

Mrs Annette KNIGHT—Whilst I broadly agree with Professor Craven's amendment, which includes such issues as the preamble building upon the existing preamble, recognition of the prior occupancy of Australia's indigenous peoples, acknowledging the past contribution of the Crown, with certain appropriate statements of acknowledged historic fact and the subsistence of parliamentary and federal government, I have to say that I believe that part 5, which reads 'the preamble should not contain statements of abstract values or rights such as equality or democracy' will strike significant opposition in this house, since many feel there should be a reference to democracy in the preamble, along with a statement of our commitment to certain principles that we hold dear as Australians.

Whilst acknowledging Professor Craven's warning of the dangers of too definitive a preamble that may be subject to the courts' interpretation and that could form the basis of endless legal argument, and subject to a proper legal assessment of the measures that may be incorporated into the Constitution to limit such action, I would like to advance the Australian Local Government Association's request that within the preamble, or in another appropriate section of the Constitution, there be a commitment to democratic principles at all levels of government. This should include local government.

The commitment would recognise the important role that local government plays in the good government of Australia at its most practical level—the level that determines those things that are essential to ensure the best possible quality of life for every Australian. Excessive concentration of power in the executive arms of government must be avoided. The Constitution must reflect this as it does in some other countries. For instance, the Swedish Constitution mentions Swedish democracy as founded on freedom of opinion and on universal and equal suffrage and that it shall be realised through a representative and parliamentary policy and through local government—local government has significant focus placed upon it, and this is its proper place.

Local democracy has currently no constitutional protection and that can have an adverse effect on the rights of local communities to participate with certainty in this sphere of government which most touches their daily lives. Should this conference vote to see the word ‘democracy’ included in the preamble I would urge an inclusion to reflect ‘at all levels of government’.

Ms ATKINSON—I am delighted to follow on from my friend Annette Knight, the Mayor of Albany, because it gives me a chance to correct in this place a mistake I made the other day when I said she was the Mayor of ‘Awlbany’. I very promptly received a letter from that place advising me of my error. I am also delighted to follow her because I am speaking to her theme.

All of us in this chamber would agree that the preamble is a very important part of the Constitution although some may argue that it is not part of the Constitution. But certainly it does set the scene, it says a lot about how we feel about the Constitution, which in a way is a sort of mission statement for this country. I believe strongly, as others have argued before me, that it should embody our hopes, our aspirations and our ideals and it should also state some truths about this country. Mary Delahunty very eloquently phrased it as a ‘welcome mat’ document.

I too would have liked to have seen some mention of local government in the preamble.

I know that that is not what this Convention is all about in practical terms and I am a practical person. I know we are here to answer three questions. I understand the legal implications. I have been spoken to, sometimes severely, by some of the learned jurists here present. But the Convention is all about providing a framework and a structure for the future. I believe very strongly that we should be making preparations for some changes at later stages; if those changes cannot be incorporated now we should be setting the scene for how this Constitution may evolve and certainly how this country will evolve.

I campaigned very strongly—often against my political colleagues—in 1988 for the referendum for the inclusion of local government in our Constitution. It seemed to me a fairly self-evident and simple premise but it was defeated at referendum. We all know the way things go at referendum.

I say very strongly and sincerely that if we believe in local government, and I am sure we all do, and that local government should exist then it should exist properly—it should be in our Constitution, which is the document of our government. Annette Knight very well described the importance and the role of local government. I will not be repetitious or compete with her—her eloquence is greater than mine because she is in it.

There are a lot of people in this chamber—for example, Joan Moloney from Longreach—who are involved in local government at the moment. There are others of us, such as Doug Sutherland, Clem Jones and myself, who have been in local government. All of us understand how it works. There are 700 or so councils in this country. There are more than 7,000 democratically elected people who represent constituents at what I happen to believe is the most important level of government.

It makes a nonsense of the democratic process if we elect people and they do not have any legitimacy, as it were, in the document of government and can be dismissed at the whim of another level of government. Quite often perhaps these councils should be dismissed. Many people feel that way about state governments and federal governments.

There is a mechanism for dismissal, and it is called election. We have now seen many examples where local councils have been dismissed and where those commissioners, put in place by another level of government, have performed actions and have carried out moves that were quite against the will of the people in that place.

This morning I am speaking to the preamble, saying that I would have liked it to have been formed in another way. I would hope there is still some way in which we can incorporate the will of the people at all levels of our democracy. Most importantly, I would like to give a very clear signal that local government feels very strongly about it. If we are all here in the interests of giving people a fair go and democracy, we should certainly give some thought to this matter.

Mr KILGARIFF—I would like to concur with the comments by Sallyanne Atkinson: the role of local government in the Australian Constitution should be recognised. I have long believed that the proposal that was put up many years ago, whereby we had stronger regional governments in Australia and perhaps did away with the second tier of government, was something that we should be considering. Indeed, I believe it is something that, if we do go towards a maximalist change in our Australian Constitution, we should reconsider. I foreshadow that this afternoon I will be moving the following amendment to the report of subgroup (i) in the preamble:

That, in relation to the preamble, the Northern Territory should be recognised as a geographical and legal entity, and it would be expedient to provide for statehood and thus full membership of the Commonwealth of Australia.

Again, while I leave myself open to allegations of parochialism, I was elected on a platform where I undertook to raise statehood at the Australian Constitutional Convention. I am using this opportunity to raise that issue. Thanks to Dr Tony Cocchiario for his earlier comments endorsing that principle.

While statehood for the Northern Territory is an issue of federation, recognition should be given to the special circumstances of the Northern Territory. The last time I looked at a map, it still clearly showed Darwin and

Alice Springs as being part of Australia. It seems a little incongruous that around 1.7 million square kilometres of Australia is somehow not classified as a full member of Australia. The last time I looked at a passport, it clearly showed that I was a citizen of Australia. The last time I voted in a federal election, I was voting for candidates that were to be elected to the Australian Parliament. The last time I filled out my census form, it was in the Australian census.

However, delegates, or Australians for that matter, would not be aware that territorians do not have the same rights that other Australians enjoy. The Territory is not counted in referendums when the majority of states are counted, as Territory votes are counted only in the overall majority of votes. Territory laws are also liable to be overturned by the national parliament, as evidenced by the recent Kevin Andrews bill, overturning the Territory law on the rights of the terminally ill. I am disappointed that he is not here at the present time. Whether you supported or did not support this bill, a situation where the Australian parliament can overturn laws legitimately debated, passed and enacted by the Territory parliament is one that should not be encouraged if we are to be a true federation.

Those who would argue that the population of the Territory does not justify statehood are ignoring the fact that this was not an issue pre federation only to the extent that the less popular states, such as Tasmania, were actually compensated for that fact. As to the number of senators the Territory may have, that is a point on which I and a number of other Territorians are more than willing to undertake negotiation.

The Territory is now funded as a state and attracts no more funding now than it would as a state. A move to a republic by the Australian people would provide an ideal time to progress the Northern Territory to statehood. Debate around the nation has focused on the inevitability of Australia becoming a republic. If that is true, it also follows that it is inevitable that the Northern Territory will become a state. It follows logically that, if delegates here believe that it is inevitable that Australia will become a republic, and that therefore we

should proceed down this path by or during the year 2001, it should also be good enough that the Northern Territory should proceed to statehood either prior to any constitutional change to move to a republic or at least at the same time.

I will therefore be seeking some commitment from this Convention that, regardless of whether Australia decides to move to a republic or not, the Northern Territory is given the right of statehood, allowing all Australians to have equal rights under the Australian Constitution.

DEPUTY CHAIRMAN—Wendy Machin has ceded her place to Karin Sowada, so I will give the call to Karin.

Ms SOWADA—Delegates, this morning we are considering what changes if any might be made to the preamble of the Constitution. I would like to add my support to the reports made by Working Groups (i), (ii) and (iii). The current preamble makes for very dry reading, dressed up in its legalese and its weighty words. It is in its own way an historical statement of its time, carefully framed by serious men. As we consider change, it is appropriate to assess the need for a more up-to-date proclamation of who we are and where we are as a nation.

Delegates, let us frame an historical statement of our time, of our time at the end of the 20th century and of a nation which has come of age. Working Group (i) rightly suggests that such change should not replace what is already there. Whether we like it or not, we cannot escape our colonial past, as much as we might like to shirk from the darker episodes of that history. But the move to a republic is an appropriate time to state our values as a nation—those of equality, the shared love of democratic values and the principle that sovereignty rests with the people rather than the Crown.

Some of the lawyers present have expressed concern about the possible legal effects of new words in the preamble that could be used by the High Court in the interpretation of the constitution. I am not a lawyer; I am an archaeologist. But, given that the High Court found that there was an implied right of free speech in the Constitution in the political

advertising case, what they might do with a more specific terminology is anybody's guess.

The question of the role of the preamble in constitutional interpretation is one that cannot be ignored. However, if this Convention supports change to the preamble along the lines suggested by Working Group (i), a form of words will need to be devised that is mindful of any possible legal impact. On the other hand, we may want these principles to have legal effect. I certainly do. Why need we be afraid of enshrining the principle of democratic government, respect for the rule of law and equality of all citizens as a statement of our national values? Why need we be afraid of that? Let's embrace change and let's embrace our vision of our national identity. A form of words embracing these principles can surely be added to the preamble without creating the legal minefield outlined by our constitutional experts.

A second most necessary amendment to the preamble involves the recognition of Aboriginal and Torres Strait Islander peoples as the original inhabitants of Australia. This was supported by Working Group (iii). I believe this issue is a basic one of fairness and justice and I hope that this Convention can make a significant contribution to the reconciliation process by unanimous support for this principle.

A third amendment, of course, should include reference to the state of Western Australia. The report from Working Group (i) satisfies all these requirements, with the addition of a short form of words embracing these concepts. I noted that a form had been appended to their report. This is a good start, in my view, but I would hesitate to construct a new preamble at this Convention as I believe it would be a many humped camel indeed.

I would also like to lend my support to the report of Working Group (ii), that we retain the words 'humbly relying on the blessing of almighty God' in our Constitution. I have listened with great interest to the contributions of others in this debate. I particularly thank Archbishop Hollingworth for his well chosen words the other day. Keeping God in our Constitution is ultimately an expression of the

fact that those who govern us are accountable for their actions to someone other than themselves. It is an expression of our dependence on God as creator and sustainer of all things and as the one under whom all authority is established.

The lead-up to the centenary of Federation is a wholly appropriate time to re-examine who we are as a nation and what values we share. In a move to a republic the preamble will require amendment anyway, so what better opportunity to embrace a wider statement of our national identity.

Dr O'SHANE—Last week I was saying on a number of occasions that, even if we make little or no progress on the form of a republic, we must make use of this occasion to change the preamble to our Constitution. I sit on the platform of 'A Just Republic—not just a republic' which included the planks that there be a change of the preamble; that there be written into our Constitution a charter of rights; and that there be a very clear statement of definition of the respective roles, functions and responsibilities of the head of state, Prime Minister and cabinet, and of the responsibility of government to parliament.

I have changed my position somewhat on the issue of the preamble. It seems to me that there is really no point in changing a preamble if we are not going to change the Constitution to make it a Constitution which serves a democratic republic of Australia.

The agreement on the wording of a new preamble is the least achievement we should show to our fellow citizens. However, the language and concepts embodied in our national documents should not be exempted from scrutiny. It is true that they have historical worth. I would not put it as high as a number of my fellow delegates have put it, but in any event those words as a preamble are not beyond review and renegotiation.

The two primary rebuttals mounted against any change to the preamble tend to be, 'If it ain't broke, don't fix it,' and, 'It's so perfect it doesn't need change.' Frankly, I see nothing approaching perfection about these words: Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania . . . have agreed to unite in one indissoluble Federal

Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland . . .

The words are dull and lacklustre. I put it to you that, in the Australia that is entering the second millennium, they are utterly meaningless. Instead of something that encapsulates our history they are words that point to one moment in time.

Australian history, let me remind you, is many tens of thousands of years older than that paltry, miserly reference allows. As Dr Lois O'Donoghue pointed out last week, there is much about our recent history that is not worthy of celebration. And the claims that the so-called perfection of the Constitution has given us a stable democracy tend to highlight the fact that a Constitution as colourless and as bureaucratic as ours will always be the plaything of the oligarchy rather than the instrument of the people. As a nation we must take the opportunity to reflect on our history and public institutions and to consider the benefits of change, especially if there are reasons to be less than proud about what they represent.

I am willing to agree that the existing Constitution has served a purpose, but that purpose was very specific and has long since been superseded. As it stands, the Constitution of the Commonwealth of Australia merely sets out the terms under which the British parliament confers its consent to the Australian colonies to form a federation. The only references to the people—you, me and all of our fellow Australian citizens—occurs in descriptions of our responsibilities as electors within the states and does not spell out what are the consequences of our responsibilities as electors within the states.

Much of the document is taken up with definitions of procedures between the states and Commonwealth. As I said a moment ago, in my view we have to spell out in the Constitution the respective roles, functions and powers of the Prime Minister and cabinet and government to parliament. Amongst the pages and pages of text about trade between the states, taxation and the powers of executive government, there is reference to only one specific personal right—the promise in section 116 that the Commonwealth will not make

any law prohibiting the free exercise of any religion. However, there is no reference to what the Commonwealth will do if any state attempts to prohibit free exercise of religion.

Otherwise the Constitution offers very little to individuals, other than promising the right to vote for federal parliamentarians and offering protection to irrigators from federal control of water supplies. Perhaps we are content to identify ourselves as a community of enthusiastic voters practising an unfettered array of cults whilst filling oversized swimming pools. But that is not what I am looking for as my national identity. (*Extension of time granted*)

There is nothing in the Constitution implied or otherwise about who we are as a nation and what our aspirations are. There is nothing in the Constitution that makes reference to the true history of Australia, including our indigenous heritage. I do not understand how people can argue against including in the preamble some words that establish achievable national goals; words that we might take pride in learning to recite in school and words that resonate with a power and a promise.

I want to read to you some of the words which I believe would give us a sense of identity and encapsulate our national vision. Why not say, 'Australians affirm their Constitution as the foundation for their commitment to and their aspiration for democratic government'? Why not say, 'Our nation dedicates itself to a responsible and representative system of government that is inclusive of all its peoples, upholds fundamental human rights, respects diversity and spiritual wealth and ensures full participation in its social, cultural and economic life'?

This encapsulates our national vision. This is something meaningful for young Australians to learn and respect. This preamble implies as much protection for the rest of us as it does for cult worshipping irrigators. Instead of having:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, . . .

why not have:

Australia recognises Aboriginal peoples and Torres Strait Islanders as its indigenous peoples with

continuing rights by virtue of that status. We seek a united Australia that respects and protects the land and the indigenous heritage values and cultures of its peoples and provides justice and equity for all. We, the peoples of Australia, give ourselves this Constitution.

In this way we take charge of our destiny. We can decide for ourselves what rights should be enshrined in our Constitution. This is something we can act on here and now and resolve by the end of this Convention.

I must say that I am very encouraged by the fact that the people opposing a republic have shown their willingness to consider a preamble that recognises indigenous Australians. We have to go further than that, as I said at the outset of this contribution. Delegates from A Just Republic have prepared a preamble that includes in a few concise sentences all of these points that I have been speaking about and I recommend them for your earnest consideration.

Mr CLEARY—What has been intriguing about this gathering over six days is the diversity of the people represented in this chamber. It is not like this in the federal parliament up the hill. Up the hill it is a branch stacked parliament. You could say a lot more about it, but there is no point talking about it right now. But here all sorts of people have found their way into the chamber to talk about Australia. There is a great irony in it as well, for behind the banner of republicanism what has been forgotten is that international forces are growing with such power that the very republic being proposed will be a republic in name.

The paradox is that the Bruce Ruxtons of the world represent and talk about a particular world, a particular Australia, and actually believe in it. But they think that hanging on to the past will protect them. The reality is that that past also is being threatened severely by these international factors. Just at the moment in the OECD there is a bit of legislation, the multilateral agreement on investment. It is being discussed at this present time by 29 OECD countries. For the people here who represent law and talk about the traditions of the past and value the Crown, how do you feel about handing over power to a group of

multinational companies which will not be beholden to the laws of the land?

That takes me to this very issue of the preamble. The preamble is a chance to say something about who we are and what we value. It is a chance to say what kind of traditions we want to embody as we move into this republic. It gives you a chance then to talk about whether you want to hand over power to multinational companies, as is being proposed at this time in the OECD. The people in the gallery should realise that, under the models being proposed at the moment and under the preamble suggested, you are not going to be talked about. Professor Craven is happy to affirm the role of the Crown in Australia's history. But he does not affirm the role of the people. He does not affirm the role of Professor Geoffrey Blainey's miners. He does not affirm the role of any workers—not the Kanakas, not immigrant peoples; they do not get a gig in Professor Craven's history.

Professor Craven, under the smokescreen of constitutional law, wants to rule out the contributions of real people. He wants to wipe out anyone's history that is not his own. There are expressions like 'appropriate statements of acknowledged historical fact'. What does that mean? Terra nullius. Yes, we will take Professor Craven's expressions; we will put them into the preamble. 'Appropriate statements of acknowledged historical fact'—yes, we will go via the High Court. What has the High Court said in *Mabo* and in *Wik*? It has said that the Aboriginal people have rights. Yes, we will put that into the Constitution; thank you, Professor Craven.

As for spiritual beliefs, Professor Craven says, 'No abstract values.' You do not get a more abstract value than the concept of god. I am not deriding the concept of god. That is its beauty, Archbishop. Its beauty is that it is an abstraction and we seek out abstractions in our life, because abstractions actually develop our imagination; they can inspire us. A boring little technical legal preamble will be a destructive force.

Right now we must grasp this challenge. Why is it so difficult to actually say things about who we are in a preamble? It is usually these older wise men over here—I use that

term advisedly; I will get to the women in a second—who are clinging to the past, and they keep telling us to suppress the young ideas. Yet, if I sit down on the bus with Don Chipp, I think, 'Isn't it intriguing that Don Chipp represents particular aspects of Australia that I would like to enshrine in a preamble.' I talk to Professor Geoffrey Blainey about the history of our workers, the contribution of miners and shearers and the like. I do not understand why we cannot grapple with these things.

I go back to that point I make about Professor Craven's suggested amendments to the preamble. They are nothing more than a technical ruse to suppress other people's view of history, and views of history that have been affirmed by the High Court. We worked on one of these preambles—subgroup (iv). It says many good things about who we are. It also says that we should seek mutually cooperative relations with our neighbours. I think we must put that in our preamble, especially given this legislation that could pass through the OECD which I am sure, Mr Deputy Chairman, you could not possibly endorse and nor could the royalists, loyalists, unionists or whatever you want to call yourselves to the left over there endorse it also.

Mrs MILNE—The preamble should be totally rewritten and a bill of rights and responsibilities should be incorporated into the Constitution at the same time so that the preamble states the principles and aspirations of the republic and the bill of rights and responsibilities spells out in very specific terms what is legally enforceable in a democratic republic of Australia. If people do not want a bill of rights, the preamble will be subject to the composition, discretion and scrutiny of the High Court. To have no bill of rights and to give the preamble no legal value as an interpretation document is the worst possible outcome for us since it leaves our citizens with no option but to go to the United Nations in Geneva to uphold human rights in Australia.

We have to face the fact that our existing preamble and Constitution do not protect human rights in Australia. I do not want to build on the existing preamble because its

language is meaningless to most Australians and it is alienating. Its sentiments, whilst reflecting the values of 1901, certainly do not represent the sentiments, hopes and aspirations of Australians today. It contains no inspirational flourishes or appeals to individual liberty. It is dry and measured and all it says as being the unifying features of federation are that we are loyal to the Crown, that we believe in God and that there was a shared need for unity for white Australia.

The existing preamble does not express the sovereignty of the Australian people as an independent nation and the words 'under the Crown' are obsolete in the move to a republic. As a statement, it is also historically wrong. I take Dr Mitchell to task in that regard. It is historically wrong because the preamble indicates the agreement of the people of Australia to federation yet, as we know, Aboriginal and Torres Strait Islander people were not consulted and did not give their consent to federation. Furthermore, except for the colonies of South Australia and Western Australia, women were unable to vote in federation referendum. Whilst racism and sexism reflected the spirit of the age at the time of Federation, they are unacceptable as a fundamental constitutional principle in the 21st century.

To try to cut and shut the existing words, which is being talked about here in the context of building on the existing preamble, will not inspire the nation and it will not be a source of national reflection and collective wisdom. There is a strong argument that a new preamble that is both poetic and pragmatic and a concise, lucid and memorable articulation of the democratic principles, aspirations and common values for which we stand, would also help to elevate the status of an Australian head of state who would embody for all Australians those ideals set out in the preamble for the Australian people.

Any new republic must also address the issue of Aboriginal reconciliation. It must acknowledge indigenous people as the first Australians, tell of their dispossession of traditional land, of their never having ceded ownership of it and recognition of their special cultural status. The preamble must

also equip Australia to go into the new millennium with a clear statement of their commitment to the protection of the environment. Respect for the land is a strong unifying force and a shared value for the next millennium, which will be the age of ecology.

But I must also raise the issue of the relationship between the preamble and the bill of rights. Why didn't we have a bill of rights in 1901? Theoretically because the founding fathers preferred to believe in the common law, the good sense of parliament, the convention and the gentlemanly traditions of utilitarian political culture as being sufficient to protect individual rights and freedoms in Australia. The truth is that the delegates at that time were aware that the acceptance of a bill of rights would threaten the legitimacy of existing colonial legislation which discriminated against the Chinese.

Federation was contingent upon racial discrimination in Australia. White Australia would not have voted for Federation if the Constitution had included a bill of rights. I dispute the legal argument about the preamble and the bill of rights. I believe it is not beyond our legal brains to overcome that. The critical thing is to link the two.

DEPUTY CHAIRMAN—We can just get through the speakers on the list if we do not have extensions of time. So the chair will not entertain any extensions of time.

Dr CLEM JONES—Delegates, I will be very brief. What has just been said by the three previous speakers very much outlines my personal views on this matter. I believe also that verbosity in a preamble is undesirable because it encourages misunderstandings and misinterpretations as the years go by. I believe we want a succinct statement which involves all people, all creeds and all wishes and desires.

To that end, I foreshadow an amendment which I will move in due course, and the aim is to incorporate the existing situation and the three fringe areas of the debate we have had during the last six days—local government, the place and rights of women in our community and our indigenous people. I believe the preamble should state:

The legislative power of the Commonwealth shall be vested in a Federal Parliament, which will consist of the President, a Senate, and a House of Representatives, and which is herein-after called "The Parliament", or "The Parliament of the Commonwealth". The three levels of Government shall be the Parliament of the Commonwealth of Australia, the Parliaments of the Sovereign States and internal Territories and Local Government.

It is very important, I believe, to note 'and local government'—something which we have been talking about for a long time and which we have never done anything about. I continue:

Australia recognises that gender equities shall be recognised in all processes of change, including constitutional changes—

and that provides to involve all of us in the future changes of the Constitution—

so as to promote woman's equality in society to ensure social cohesion, political stability and promotion of its democratic culture.

Australia recognises Aboriginal people and Torres Strait Islanders as its indigenous people and dedicates itself to a responsible and representative system of government that is inclusive of all its people, upholding fundamental human rights, and ensures participation of all its people in its social, cultural and economic life.

We believe that most of what has been said here today is included succinctly in that preamble. In due course, I will move that amendment.

Dr SHEIL—I am rather attracted to the warnings that were given to all four committees by the parliamentary and constitutional counsels that advised them, and that was not to have too diffuse a wording to the preamble of the Constitution. If you make it diffuse it could be confusing and then it could lend itself to interpretation by judges that could be unworldly. I see that as a big danger. I do not think we should have any racial minority enshrined in the Constitution because it could have an adverse effect on, for example, the reconciliation process that Aborigines and whites want. If you enshrine somebody in the Constitution it could drive a bigger wedge between us all than already exists.

As I pointed out the other day—for example, with the Aborigines—Aborigines were not left off the federal rolls at Federation through any sense that they were in any way

inferior. The federal government was the creation of the state governments and the only income that it was given was one-quarter of tariff collections. As Aborigines had nothing to do with tariff collections, it was thought that the federal government should not be able to pass restrictive laws about them. A section was put into the Constitution especially so that the federal government could pass restrictive legislation on certain racial minorities: the Afghans, the Japanese pearl and trochus shell divers, the Kanakas, the Chinese in the goldfields—all these people that were felt may need restrictions on their movements or occupations. So the federal government was given the opportunity to pass those laws, but the Aborigines were specifically excluded from that. So really it was a protection for Aborigines that they were left off the federal rolls and fully entitled, like the rest of us, to the state rolls.

Then in 1967 I think there was a greater rapprochement between the people and the Aborigines than a lot of people realise. In 1967 the people voted in a referendum for unity with the Aborigines, not for the splits that have occurred since. The splits, of course, have been caused by successive federal governments and successive High Courts. In fact, there is great enmity now not only between different sections of the Aborigines and Torres Strait Islanders but between them and the Australian people themselves. I think we should put more faith in the Australian people and the Aborigines and get us back together again, because now we are in court and fighting each other. All the Aborigines want to do is talk to us and come to some arrangement that is agreeable and accommodating, but they cannot because we have been forced into courts. I think we should get back and maybe even have a referendum on the matter so we can get back to the Aborigines and talk to them.

Concerning local government, local government is of course the instrument of the state governments. I can understand how they want to bypass the state governments and get their noses in the federal trough. It sounds very nice and very easy. I remember that the Whitlam government's plan was to get rid of

the states, bypass them, have areas of regional development with all the strings tied to Canberra. I think that would be a backward step.

In the matter of human rights, the men that wrote those undying words—that all men are created equal and endowed by their creator with certain inalienable rights and that among these are life, liberty and the pursuit of happiness—owned slaves. They did not count blacks or women, and the legacy has come back to haunt them. If you have a bill of rights, you immediately limit rights because everything that is not in the bill is no longer your right. This could happen in Australia if you persist with having a bill of rights. There are about three ways you can get rights. The Russian way says that you have the right to this, that and the other thing provided you do not break any law. Then they pass laws so that you are effectively robbed of the right. You might think you have the ability to think your own thoughts but you have not. They can tell from what you read or what theatre you go to and lots of ways whether you are thinking subversive thoughts. The American way is to say that you have the right to all these things and no law shall be passed to interfere with those rights, and they have the right to carry guns. They have a gun society that is sunk in litigation, and that is not the sort of thing we want here in Australia.

Reverend TIM COSTELLO—There have been a lot of very memorable metaphors for the preamble. Mary Delahunty spoke of its being a doormat and there have been a number of other images. I think the preamble is the door through which we as Australians enter into what is the most important moral charter between government and the people, which is our Constitution. Some, particularly and most notably Professor Craven, are worried about what goes in here, saying that if there are abstract values like equality, democracy and rights then we only have very vague statements, and vague statements become really dangerous, even poisonous—words that, according to his understanding of biology, and I defer to him on this, are a lymph gland pumping these poisons through the body of the Constitution will actually

cause all sorts of terrible problems to occur in the future—and therefore we should be aware of the idealists and their explicit values.

There is absolutely no way of escaping values in the preamble. Whether they are explicit or silent, they are there. In the present preamble that we are considering amending the values are very clear. They scream out loudly. The ones that scream most defiantly and loudly are the ones that have been omitted, particularly the omission of reference to the indigenous people. It is a statement of values of white Australia, a statement of history as it was understood—even though wrongly—in those times, but we want to move on from there and declare as not our times when this debate is taking place.

When you look at the present preamble, the statement of values starts with ‘Whereas the people . . .’ So it starts with a very strong notion of sovereignty and democracy sheeting home to people. Then it states the spiritual values with ‘. . . humbly relying on the blessing of Almighty God . . .’ There has been quite a lot of debate about that, but I think that is a very refreshing value, particularly if we find a way of wording it which means students can appeal to their spiritual resources. In the face of crass materialism, oppressive materialism and everyone talking about the bottom line—as if that only ever can mean an economic bottom line—the value of referring to God, to spiritual reality, says that as Australians we affirm there are things much more fundamental, that there is a dimension of life much more life-giving than simply the values that seem to be so dominant with the advertisers and mind benders today.

The present preamble says, ‘have agreed to unite’—that refers to the colonies uniting with a central government. That is an important value but not as significant today in 1998. We have values that say that what unites us is a common story. States and nation yes, but more particularly our story is European settlement in the midst of a culture that has existed for 40,000 years. Therefore, we feel proud to be living among one of the most ancient, enduring civilisations on earth. That value is our common story—European settlement in the midst of that ancient culture.

There is the value of being the only nation with a whole continent to care for environmentally; the value of stewardship which is critical in our times.

Our agreement to unite is not simply to get an administrative document, as our present Constitution is, and doing deals with the states and giving them certain powers, particularly in the Senate so that the states will come in. It is actually the union around values that are very deep with most of us. The value of a fair go is a very profound statement in a globalised society which says that we will continue rewarding winners and the same people will be winning and the same people will be losing. Our value of a fair go rejects that.

Finally, the values in our present preamble say that 'it is expedient to provide'. It goes on to talk about some pragmatic values which is rather like what we are doing over these two weeks. We have to practically arrive at a settlement, but it is the interplay between that expedience and those values which are our common story which is fundamental to a preamble setting up a moral charter—inviting people and their rights and concerns into the Constitution and not just the rights of a central government and the states which make up the bulk of our present Constitution. Therefore, I support the ATSIIC preamble, which I think does the best in involving environment, the indigenous people, human rights, our diversity and our common story of European settlement in this ancient country.

Senator STOTT DESPOJA—I will address as best I can the issues that have been raised in the working groups in relation to a new preamble. I belong to a political party that supports broader constitutional reform. We see this debate, the republican debate, as a wonderful opportunity to realistically and bravely appraise our current structures and our parliament. We have long supported a new preamble.

I think the republican debate enables us to craft a preamble that reflects modern Australia—one which, without denying our past, embodies our current, our present, aspirations for the future. With all due respect to Professor Craven, I was stunned when I saw point

5 of his amendment, which suggests the preamble should not contain statements of abstract values or rights such as equality and democracy. Since when are rights abstract? Surely democracy, equality and rights are the very things we should seek to prescribe, to enshrine, in our Constitution and indeed in our preamble.

With respect to an earlier speaker, this is not about enshrining the rights of minorities. This is about celebrating our uniquely multicultural and diverse nation. We must use this opportunity to consolidate our multicultural heritage and the generous diverse nation that we now are.

Of course, any new preamble must include recognition of prior ownership by indigenous Australians. Any meaningful republican debate has to discuss how we achieve reconciliation between indigenous and non-indigenous Australians.

I agree with other members who have spoken here today about a vision of a fairer society, and a new preamble must be a greener one as well. We must put into our preamble the fact that we cherish, that we love, the great sky and land and sea of this great nation. Let us put that in our preamble.

I notice that people have sought to enshrine the flag in our preamble. I make a point on behalf of my party that we strongly believe that our flag should not be changed without popular support, and that means a referendum. The Australian Democrats are committed to that position, but do you put it in the preamble? I throw that back to the movers of that amendment and leave it up to them and legal advice as to whether or not that is the best way to proceed.

I have no problem with recognising the role of our country in the Commonwealth. In fact, I think most people here share a desire that we act as a member of a family of nations with cultural make-ups as diverse as our own who are dedicated to the wellbeing of this planet.

Mary, I enjoyed your colourful language, too. I do agree with you. I would like a preamble in our Constitution to include concepts of active citizenship and involve-

ment. It should be a sexy issue. I think this Convention has invigorated debates around the pubs, clubs, school rooms and workplaces of people in Australia. I love Mark Warren's comments from *McFeast* when he said, 'Let's put the pub back in republic.' That is happening—I truly believe that.

On a more serious note, I recommend those marvellously modern constitutions from places like Namibia and South Africa, to which many members of this Convention have referred—the fact that they recognise past injustice, they celebrate their present diversity and they also put in their aspirations for unity and for peace. Professor Craven said that the difficulty in enshrining some of these aspirations was like flying to the moon. Well, Professor Craven, I want to fly to the moon. We can fly to the moon. It is difficult and we know that, but it is worth it. I want a preamble and a constitution that reflect the aspirations, the desires and the truths—all those feelings that we cherish, all those things that Australians hold dear.

Ms HANDSHIN—Former Chief Judge of the Family Court Elizabeth Evatt commented that it is hard to see that a document framed 100 years ago for the circumstances of the end of the last century could be making a statement that is valid for Australians in the 1990s. A Constitution which is valid for Australians must reflect the realities of our nation and people today.

If the Constitution is to become a more relevant document which fulfils the symbolic function of drawing the people together, then it must attend to two main issues. As the operating manual for our nation, the Constitution must enumerate the actualities of our present system, and it must do so in a language which makes it both comprehensible and accessible to the people for whom it is written. Secondly, and most importantly, it must redress the inequities it currently perpetuates.

The exclusivity of the group of citizens who founded the document is reflected in the narrow parameters of the preamble. If the Constitution is the technical document, then the preamble must be the vision statement. I believe that the preamble can and must play

a role in drawing the people to the Constitution.

Among recommendations emerging from the Adelaide Federation Centenary Convention of 1997, of which I was a member, is that a new preamble should reflect the core principles of our nation. It should be aspirational, inclusive and adopting a collective 'we, the people' approach. The preamble should support values of democracy, equality, cultural diversity, recognition of the prior occupation and rights of indigenous Australians, a commitment to environmental responsibility, and it should contain an assertion of our independence. It is important that the preamble acknowledge the past, articulate the present and display our intention to embrace the future.

Finally, the task of making the Constitution more accessible lies not only in its revised content but also in the projection of this document to the people. People must be educated about the Constitution and imbued with a sense of pride in and ownership for the document. The fact that the Constitution can be a more relevant and, hence, unifying document is exciting to me as a young person. Let us not squander this remarkable opportunity. We should accept this challenge and reinvigorate the national narrative.

CHAIRMAN—Thank you very much, Mia.

Ms SCHUBERT—One of the pieces of insider wisdom that I have listened to in the last six months of debate about constitutional reform particularly has run a little something like this: we shouldn't change our preamble because, if we tried to enshrine the values and the aspirations of today's community, we might fearfully enshrine the prejudices of an era. What would have happened, these commentators say, if those federators had enshrined their values in the Constitution?

Although the preamble of our existing Constitution does not specifically state their values, the rest of that document does, unequivocally. It does bespeak a nation racist in its outlook. It does bespeak a nation colonial in its practice. And it does bespeak a nation intent on preserving an Anglo heritage above the racial contributions and the cultural contributions of many other peoples who have

later come to this nation and made it the rich melting pot of cultural diversity that we own and cherish today.

I think we need and must make a statement in our new Constitution—because we will have one—about the kind of society in which we live and the kind of society we want to be. I think there are overarching perennial values, if you like, that can be safely enshrined: a commitment to those values of democracy, tolerance, the good old Australian fair go, which are not prescriptive or dangerous but which are actually the tools for unifying a nation and for building a sense of self in clearly articulated terms.

Inspirational preambles tell us something of ourselves. They are a place for history and a place for aspiration. They are a place to affirm our sovereignty and to articulate the broad aspirations of a community. A new preamble offers us the chance to strengthen ownership of our Constitution by enhancing its accessibility, its relevance and its resonance.

Also, I cannot agree with the suggestion by Professor Craven—and I fear that he has taken a pretty great beating this morning in the comments of many delegates—that a new preamble should build upon the existing one. Should Australians adopt a new statement, the older version would remain as a matter of historic record—it does not need a second coming. Its retention or that of its language lacks imagination. Instead, I argue that we must use clear, plain language to articulate the common ground of a contemporary community.

We should cite the aspirations which provide a framework for our federal republic: the pursuit of democratic, representative and responsible government in the context of participatory and inclusive political structures. We should cite the overarching, timeless principles of justice and equality and of the fundamental human rights of all of our citizens. We should cite the status of Aboriginal peoples and Torres Strait Islanders as those of Australia's first peoples, recognising their prior occupation, ownership and sovereignty. We should cite our cultural diversity as unique and valuable to our nationhood. We

should cite our commitment to the wise management of our natural environment. We should cite our responsibilities to future generations, conscious of the impact of day-to-day decision making in the broader big picture. And we must cite that the authority for constitutional government flows from the Australian people.

Mr ELLIOTT—There is no question that the preamble to the Constitution needs to be reformed. Some parts are quite easy: the historical updates for the inclusion of Western Australia and to make sure the Northern Territory is also acknowledged, and the need to make a correction, long overdue, in a recognition of the prior occupation of Australia. But it is also important that a statement be made of values and aspirations.

I am not fearful of the legal implications. It does not mean I treat them lightly; it simply means we should take care with the words that we choose, and we should clearly state what we intend and what we want. It has been put by others that courts should be explicitly instructed within the Constitution, though I suggest not within the preamble. The preamble should not be used for purposes of legal interpretation. For those who are nervous about legal interpretation, I suppose that offers a safe way out. But I do say: let us be proud of the Constitution and place within the preamble a statement that engenders pride.

I note that subgroup (iii) raise the question as to whether or not there should be one question put to people or two questions. Do we simply ask a question about the republic and include within that the question of changes to the preamble or do we ask one question about the republic and a second question about the preamble? I would tend to opt for the latter course.

We know that changes to the Constitution have failed because of opponents grabbing every opportunity to misinform and to strike fear into people's hearts. I think the sorts of arguments that we have heard from Professor Craven will be used to frighten people away from the question of the republic. In the process, we may lose the important changes that we lose in the preamble as well.

I do think that there is strong support for changes to the preamble. If we put the question separately, the likely outcome is that the chances of both getting changes to the preamble and getting the republic will be enhanced. For that reason I believe there should be two questions put and not one. Section 92 on interstate trade may be of value to people, but let us give them something that really excites them—and let us fix up the preamble.

Mr LI—Young Australians know, in general, very little if anything about our Constitution. It was only at constitutional law lectures at Sydney University that I began to take a real interest in this remarkable and fundamental document. I would like to see our Constitution taught to our school children in their classes. It is our basic document: it describes who we are, how our nation was formed, how it has developed and where we want to go with our nation in the next century. Yet the actual provisions of the Constitution are too complex and too legalistic to be taught in schools.

This is where the preamble has the potential to serve as an inspiring piece of writing, uniting all our young Australians under a common national purpose and common identity. In the United States of America young Americans may be united by the words 'We the people'. In France the hearts of the young are moved by fundamental principles of the French republic: liberty, equality, fraternity. In Australia let us allow our young Australians to be moved, inspired, educated and united by a preamble which is accessible to them.

A member of the public has sent me a preamble which strikes me as the sort of preamble which has the potential to do all of these things. Allow me to read selectively from it. Bear in mind the potential of these words to educate, to inspire and to unite school children. It reads:

Before the people of Australia was the land.

And the land was the Dreaming.

And we the indigenous people known as the Aboriginal and Torres Strait Islanders came to the land and it possessed us as its ancient power possesses all who live here.

And we, the Australians who came after, acknowledge our debt to the first inhabitants for teaching us that we do not, in spirit, own the land but are owned by it.

... ..

Together we declare that Australians are people of many races from around the world, that we celebrate our diversity and welcome all those who are prepared to live in peace and harmony with us, respecting the values of tolerance and equality and a 'fair go' for all, without discrimination against any person on the grounds of race, religion, sex or sexual orientation, age or disability.

... ..

We value achievement in the arts and sciences, in business and in sport and aspire to excellence in all our endeavours be they physical, spiritual, mental or intellectual, scientific or cultural.

Recognising the constitutional legacy derived from Great Britain through the successful establishment of a democratic nation in this continent, we recommit ourselves to the principles of universal suffrage based on one vote for each adult citizen and hereby assert that the rule of law and equal civil, legal and political rights and responsibilities are fundamental to Australian society.

... ..

... we the citizens of Australia humbly relying on Almighty God are united in one indissoluble federal Commonwealth which derives its power and value from our consent to such unity and from these fundamental beliefs that we share.

Mr WEBSTER—Thank you for the opportunity to speak on this very important working group report. I was on Working Group No. (ii), which was dealing with the whole concept of Almighty God in the preamble. It is very encouraging to hear, today and on previous days, people speaking in a commendable way to include the whole concept of 'humbly relying on the blessing of Almighty God' in our preamble.

I think it was Janet Holmes a Court who asked a question on Friday with regard to how this would sit with Buddhists and Muslims and other people. I had the opportunity during my life in the other parliament on the hill to speak to the Dalai Lama, for example. Somebody said that Buddhism is the fastest growing religion in Australia today. I asked the Dalai Lama about this concept of Almighty God and he said, 'At the end of the

day it is the same supreme being.' Those were his words.

Just a couple of weeks ago, somebody else said that the Islamic faith was the fastest growing faith in Australia. I was getting a suit dry-cleaned at the Springwood dry-cleaners where my dry-cleaner is Bill, a very strict Moslem. It was unusual for me to be getting my suits dry-cleaned again because I had not been doing that for a few years. Bill said, 'Are you off to Canberra again?' I said, 'Yes.' He said, 'What are you doing?' I said, 'I'm on the Constitutional Convention as a delegate.' He said, 'Oh, yes. What are you going to do down there?' I said, 'Well, one of the things that I am going to be advocating is that we make sure that humbly relying on the blessing of Almighty God remains in our preamble, because there are moves from some quarters to have it removed.'

What happened then was an explosion, as he jumped in the air, banged his ironing machine and steam went in all directions. He said, 'How dare they take Almighty God from the Constitution. You tell them from Bill the dry-cleaner—as he kept banging his steamer—'your Moslem friend in Springwood, that I will be down to see them.' Through the cloud of steam, I could see this name 'Salman Rushdie'. I do not know why that flashed into my mind. I said to him, just to calm him down, 'Look, Bill, don't get steamed up. I'll go down and press your point and iron out the problem.' So I am here to say that the members of the Islamic faith, I am sure, do not have any problems with the whole concept of Almighty God.

I have sat down in creek beds with Aboriginal leaders; I know many of them. I know that, when they talk of the great creator and the great spirit, they too equate in a measure—some varying degrees of measure, I suppose—with the Christian concept of Almighty God. The Jewish people expressed their view in the 1890s when it was proposed on the first occasion, and they agreed that the concept of Almighty God, humbly relying on the blessing of Almighty God, would be quite acceptable to them. Those who have atheistic views do not believe it whether it is in or out of there, so it does not make any difference.

So, Mr Chairman, I just thought I would bring these thoughts to the Convention with regard to perhaps alleviating some of the concerns that some people might have about including such a statement as 'humbly relying on the blessing of Almighty God' in our preamble. I commend to all delegates that we leave it there just as it is.

Mr DJERRKURA—Mr Chairman and delegates, I certainly do not want to confuse the House again with any outburst of my own language, since I have a mission to reach compromise and common ground with my Australian colleagues. We are looking to a new vision, a new direction, a new commitment that will bring out the spirit of the Australian nation united in reconciliation. It is time to reflect what we believe to be our new nation's values and give clear direction to governments.

A new preamble must recognise Australia's history—and Australia's indigenous people are part of that history. Recognition of basic human rights for all citizens and respect for cultural diversity are qualities that a good constitutional preamble must contain; the current preamble does not contain them. This is a very powerful opportunity for a new preamble to become a symbol of reconciliation.

Some people have argued that we should not specify individual groups. But, for Aboriginal and Torres Strait Islander peoples, being invisible in a document that defines our nation means being invisible in the political landscape of our nation. This has been our experience, and it is not something we want to continue. For us, the implications of no change are unacceptable.

The ATSIC proposal for a new preamble reflects ideals and includes truly representative and responsible government that is inclusive of all its peoples; upholds fundamental human rights, diversity and participation; recognises Aboriginal and Torres Strait Islander peoples and the rights due to indigenous peoples; respects this great land of ours and our cultural inheritance; commits us to justice and equity; and derives its authority from all Australians.

For these reasons I seek your support for the following text, which is only slightly different to the text that ATSIC circulated last week:

Australians affirm their Constitution as the foundation of their commitment to, and their aspirations for, constitutional government.

Our nation dedicates itself to a reasonable and representative system of government that is inclusive of all its peoples, upholds fundamental human rights, respects and cherishes diversity and ensures full participation in its social, cultural and economic life.

Australia recognises Aboriginal and Torres Strait Islander peoples as its indigenous peoples with continuing rights by virtue of that status.

We seek a united Australia that respects and protects the land and the environment, including the indigenous heritage and the values and cultures of its people, and provides justice and equity for all people.

We the people of Australia give ourselves this Constitution.

CHAIRMAN—Could I point out that if there are amendments such as that identified by Mr Djerrkura it might be advisable to table them as an amendment that can be considered during our voting process this afternoon.

Mr BEANLAND—Delegates, in looking at the preamble I think it is fair to say that in a republic a preamble needs to be inspirational, needs to be visionary, needs to give hope. But, having said that, we must be careful in the way we word that preamble because it is a most significant part of the Constitution. One of the former speakers, I think, said that perhaps we ought to include something in the Constitution to clearly spell out to our judicial officers in the courts of this land that the preamble is not to be used in making judicial decisions.

Unfortunately, whether we like it or not, our judicial officers these days more and more, in some courts at least, seem to want to be legislators, not just mere interpreters of the law laid down by the parliaments. So this is a very significant issue. I notice that Professor Craven has received some criticism for the comments he has made in relation to this. Nevertheless, some of the points he made I totally agree with. The fact is that it is happening more and more.

I appreciate that delegates might want to have a citizens' bill of rights. Sure, if we want it, we put it into the Constitution, and we spell it out in the Constitution so that, when we come to the citizens' bill of rights and people want to relate to it and refer to it, there it is spelt out in some detail. I think it would be quite unwise to have some vague, abstract term simply within the preamble and not go on to spell it out in detail.

I suppose what I am saying in relation to this and to other matters that I will refer to in a moment is that a great deal more work needs to be done on the preamble other than that which we are putting into the preamble over a few days at this Convention. There are months and months of work. Someone referred to the United States' preamble to its Constitution. Of course, that was done over many months indeed, as were the preambles to other nations' constitutions. It is not something to be arrived at in a few minutes. It must be succinct, it must be visionary, it must show hope and it must be long-term. I totally disagree with those who say that it must relate to contemporary society. It must be for the future. It must be all-encompassing. After all, we must not forget, as was said previously, that the current Constitution has lasted on nigh on 100 years. I am sure that the work we are doing here we expect to last in the long term—hopefully for another century, or maybe longer.

Aspirational? Sure, but let us be succinct about it. Let us say what we want to say. I totally agree we have to relate to, and put reference in the preamble to, the indigenous people and certainly to God, and I am pleased to see that is being put back in. There are other areas. Someone mentioned local government. I think we need to have more debate as to whether we should put local government in the preamble or whether it should be spelt out somewhere else. These are issues fundamental to the Constitution but they are receiving but a few moments of attention on the stage of history as people get up and discuss it today.

No doubt we will have a vote at some later stage in relation to it when we come to all of the amendments. Yet I put it to delegates that, having read through the amendments and

clauses I have seen to date, I find none of them—with respect—is that inspirational, none of them shows that hope and vision for the future, and none of them covers the aspects that we need to cover. They are all going to end up far too wordy; no-one will remember them or recite them. The great works of history show they do have to be succinct if they are going to be remembered, if they are going to be useful and if they are going to be inspirational and visionary.

So I believe that, if we are going to spell out details in the preamble, certainly we will have to spell out in the Constitution that the judiciary cannot be referring to the preamble and start using it in judicial decisions. As for the more important and detailed issues, particularly a Bill of Rights and a republic, people want them and I totally agree they should be spelt out. They need to be spelt out in the body of the Constitution itself.

There are no short cuts to preparing this nation for a republic. I am shocked to hear that some people around this room seem to think there is some short cut, who seem to think it can be done in five minutes and who seem to have the view that what is needed is some sort of minor touch-up job here and there. It requires a great deal of effort and energy on so many aspects, so many parts of our Constitution in areas that we do not already cover. I implore delegates to be very careful in this area and to send it off to a working party over coming weeks and months for the work and effort that needs to be put into it.

Brigadier GARLAND—Legal advice given to me is that, whilst section 128 of the Constitution most certainly can be used to amend the Constitution as such, it cannot be used to amend or delete the covering clauses, that is, clauses one to eight, nor the preamble. This is the proposal which was put to you by Dr David Mitchell this morning. My advice is separate to his.

It seems to me that, at this stage of the game, trying to amend the preamble to our current Constitution would be akin to a parliament trying to amend a minister's second reading speech on any bill or act that was eventually enacted into law which was 20

years old. It seems to me that we are at cross-purposes when we start talking about changing the preamble.

I personally believe that the rights of Aboriginals ought to be included in the Constitution. Indeed, over my years of service I have had many Aboriginals and also members from the Torres Strait islands serve with me and for me, and I can say without a shadow of a doubt that they have been magnificent soldiers and, what is more, even greater Australians. But I do not believe that any preamble will cover the sorts of things which the Aboriginal community wants.

Most certainly, put it into the Constitution but do not let us worry about putting it into the preamble. Let us make it a section of the Constitution and then there can be no doubt exactly what we are talking about. As for what is in the preamble, do judges take any notice of it or don't they? Mr Beanland has covered that and I will not go into that, but if it is in the Constitution they most certainly have to take notice of what is there.

I am also of the opinion that national symbols—things like the flag, the coat of arms, et cetera—are not going to be preserved if they are included in the preamble. The only way that they can in fact be preserved and the only way the Australian people can have a say if somebody wants to change them is if they are included in the main body of the Constitution. It is not beyond the wit of anybody to put forward a referendum to the people of Australia saying that we wish to change the Constitution to include things like Aboriginal rights, retention of the flag, retention of our coat of arms and a dozen other matters relating to the environment, et cetera. If it is put in the preamble, you might as well flush it down the toilet.

Mr RAMSAY—On this issue of a new preamble for our Constitution, I wanted to offer just one word of warning. In fact, what we are doing is not replacing the existing preamble, because the Constitution as such has no preamble. The existing preamble that has been referred to quite often in this debate is, in fact, the preamble to the act in which the Constitution has been included.

If we are to proceed to the point of supporting a new preamble for the Constitution, it will be something completely new. I will be leaving it to the experts to tell us where in the Constitution it should sit, but one would presume it would be at the very beginning—not the beginning of the act, but at the beginning of the Constitution itself. In that position the preamble will become part of the Constitution, subject to clause 128, and that means the preamble can be altered by referendum in the future. It also means the preamble can become subject to interpretation by the High Court from time to time. Through those interpretations its meaning, which we might feel quite clear about today, may take on a completely different meaning at some time in the future.

Therefore, if a new preamble is to go into the Australian Constitution, certainly we can put forward ideas from this Convention, but those ideas need to be examined very closely. The wording of them needs to be very precise. To add a preamble which is going to include a whole range of rights for every last conceivable Australian, expressed in general or in particular, may be opening up a can of worms. This will cause Australia more difficulty in the future than the encouragement and help that so many people are genuinely looking to introduce into the Constitution today.

With those words, I would advise any result of this current debate to go forward to further working groups. I do not see it as being something that could be rushed in order to get a referendum up within an a matter of months. It may take much longer than that to get the balance truly correct.

Major General JAMES—I wish to speak briefly again and on this occasion it is in regard to the preamble. I support the previous speaker Jim Ramsay. When we refer to the preamble at this Constitutional Convention we should really be referring to principles if we are looking for change, rather than come up with precise words.

Earlier this morning a statement was made by a previous speaker who suggested that I did not want to include our Aboriginal and Torres Strait Islander people in the preamble.

Let me state quite clearly that that is not so. In fact, I was on television a couple of days ago saying precisely the opposite. I want that to be absolutely clear. As Alf Garland said when he spoke previously, I have served in the Australian army over the years. I served in both the Korean and Vietnam wars and in both conflicts some of my soldiers were Aboriginals and are friends to this day.

Ladies and gentlemen, Aboriginal and Torres Strait Islanders served in World War I, World War II, Korea and Vietnam—indeed, in every campaign of this century. Their service was recognised in the army as being normal, ordinary, equal people. That is what we are talking about. I think our Constitution should be written to deal with all its people and all Australians, and not to suggest any other way. I would like to support the inclusion in the preamble of relying on the blessing of Almighty God, because I see that as being terribly important.

The third point I want to make relates to the flag. I just simply signal that I believe that in the preamble perhaps, or if we follow Jim Ramsay's suggestion, somehow our flag should be included in our Constitution and thereby only be able to be changed by referendum.

Ms MOORE—Thank you for the opportunity to speak briefly and specifically on the issue of the acknowledgment of indigenous peoples' original occupation in the preamble. A previous speaker, Dr Glen Sheil, said that we should talk to Aboriginal people rather than carry out the debate in the courts. I have just been down at the tent embassy. Aboriginal people are outside—they are here in the chamber as well—waiting to talk to us. I urge delegates to hear what they have to say. They are very approachable.

Indigenous peoples, whether they be from ATSIC or from the grassroots community outside, want acknowledgment of their occupation—not their prior occupation but their original and ongoing occupation—in the preamble to the Constitution, and so do the Greens and the other people I represent, as well as many people in the broad community. Indigenous peoples are not merely a racial minority; they are the original inhabitants of

this land. Of course this must be acknowledged and celebrated. I suggest that the unwillingness that has been expressed that we do this is born more out of fear and ignorance—fear and ignorance which we must do away with by becoming informed if we are to move to a united nation in our move towards a republic.

Mr SUTHERLAND—I rise to support the group (iii) recommendation in relation to the recognition of the indigenous people in the Constitution. I do not think the point has been made that when our Constitution was adopted 100 years ago our knowledge of the history of this great land was far diminished from that which it is today. We had no idea, for example, that this continent had been occupied for something like 50,000 years. I think it would be remiss of us all if we did not pick up in the preamble the recognition of that fact and the prior occupancy of the indigenous people.

I would like to now take up the question of recognition of local government, mentioned by the former Mayor of Albany and also the former Lord Mayor Emeritus of Brisbane, Sallyanne Atkinson, who I think mentioned both former Lord Mayor Clem Jones and me. I think the fact that local government is not given security in tenure in the various states where it is a creature of the states diminishes the quality and the value of our Constitution as a whole. I think it can be easily adjusted and remedied by simply a statement. I take the preamble that is on the back of group (i) where it refers to democratic government. There should be a statement or term referring to universal democratic government.

I will give you an example from New South Wales. Many years ago a former Premier of that state who is a delegate to this conference gave an undertaking to amend the state constitution to give due recognition to local government. When it emerged—it is done in that state by legislation, not by referendum—it was put forward with the terms ‘appointed and democratic local government’. When the Local Government Association, of which I was president at the time, queried the reference to the words ‘elected or appointed local government’ the explanation was given,

‘That’s to accommodate Lord Howe Island.’ It has been used to accommodate everything but Lord Howe Land in the many cases since where duly elected local government bodies have been dismissed or dissolved in that state.

I am not one who would say that councils always act in such a way that there does not need to be some course of remedy. But, by introducing those words ‘universal democratic government’, it would give the option—as they have in Papua New Guinea—of procedures for the suspension of the elected officials, those who have been chosen by the people, until some remedy is needed to resolve some impasse with a local body.

Also it would mean, in the way it occurs with the states and the Commonwealth government, that if a local body is dismissed an election would flow automatically. Local government feels very much second rate, demeaned and constantly under the threat of dismissal potentially where that power exists with the state government to dismiss local government, and the resolution of that is to entrench it with the term ‘universal democratic government’. I repeat: if there needs to be a remedy and a council is dismissed, let an election automatically flow on.

Mr MOLLER—Let us be quite clear of what we speak when we speak of amending the preamble and the covering clauses to the Australian Constitution. In effect, we are repatriating the Constitution. Rather than it being an imperial act passed by a foreign parliament just under 100 years ago, we the people of Australia would be repatriating our Constitution pursuant to our own sovereignty as an independent nation. Let us hear no arguments about covering clauses and it being an act and the Constitution being found in only section 9 and what we do with the preamble. Compare our Constitution with that great constitution of the free world, that of the United States, which opens with the words ‘We the people’. That reference will be found in Australia only in the words of a Hunters and Collectors song. It is nowhere found in the Australian Constitution; it is nowhere found in the document that constitutes this nation.

The direction of repatriation in that regard is one which the High Court has pursued in recent years. Rather than interpret the Constitution as an enactment of a foreign parliament, the court has gradually reached the conclusion that its adoption in 1900 by the Australian people was an exercise of the sovereign will of those people. I think that in amending the Constitution we should reflect that fact. So let us not limit ourselves to simply the preamble; let us ditch the rest of the covering clauses as well. They do very little and that which they do can be quite easily, quite effectively and quite appropriately included in other sections of the Constitution.

I will not go through all the covering clauses with you now, but it seems to me that, in the advice of the acting Solicitor-General which can be found in the volume of the appendices to the RAC report, it is quite clear that many of the clauses are spent and their repatriation or their omission would be quite simple. Amendment of the covering clauses could be done quite simply by the mechanism outlined in section 128, even if it is done pursuant to the Australia Act, of which our friends on this side of the chamber are so fond of reminding us.

Finally, as to the issue of interpretation, I do not think that the inclusion of the preamble in the Australian Constitution is going to give rise to much in the issue of interpretation. The one case in which the High Court has had some difficulties, or in which it has at least referred to the preamble in interpreting the Constitution, is the case of *Leith and the Commonwealth*. There Justice Brennan and Justices Deane and Toohey in their joint judgment relied upon the preamble in founding an argument that the Constitution enshrined equality of the Australian people. The court retreated from that argument in the stolen children case, *Kruger*. I am not going to comment on the merits of the decision in *Kruger*; it is beyond my brief. But there will be no problem. It seems to me that if we phrase those glorious, broad enactments, those freedoms and those ideals which we consider so important in Australia, who cares if they are used in interpretation of the Constitution?

So what? They are values we all hold true, we all hold dearly, and if they are used in interpretation of the document so be it.

Councillor LEESER—The preamble presents us with a unique opportunity in this Convention because what the preamble does, unlike many of the other issues that we are going to be discussing and have discussed over the fortnight that we are here, is give us an opportunity to work together across the divide of the debate of the republic. The one committee that I have been on that has been truly bipartisan in its approach was the committee on the preamble. I had the distinguished pleasure of being able to work with Peter Grogan from the Australian Republican Movement and have lots of his very positive input, and the positive input of people from the ARM, on the question of recognition of indigenous people in the Constitution in our preamble.

I think that there is broad based support in this place for the fact that recognition of the existence of indigenous people is long overdue in our Constitution. It has been long overdue in our legal system. It was a great shame and a great black mark on Australian history that it was only in 1992, with the *Mabo* judgment, that the notion of *terra nullius* was finally put to bed. Even now we do not see it completely put to bed with the question over the Wik legislation and the Wik decision. But, that aside, I think we have to take positive steps at this Convention and show that on certain issues we as an Australian community can unite. I believe that on recognition of indigenous people in the Constitution we can unite.

There were questions the other day from both Professor Winterton and Professor Craven about the wisdom of putting indigenous people in the Constitution, in the preamble and what the High Court might read into that in the future. I am going to disagree with the previous speaker, Mr Moller, and say we cannot blindly say that yes, the High Court will never read anything into this and yes, there is a total guarantee that the High Court will never look at the preamble and say that it just means what it says there on the paper, because that is clearly not the case in

terms of High Court amendments and interpretation of the Constitution. We cannot predict what the High Court will do in 50, 60 or 100 years time. As Justice Murphy said at one stage, the Constitution is not a Dog Act; it is something that is fundamental law and it has got to last us for that 50 or 60 years of time.

That aside, the recognition of indigenous people is something that is so important that we should put it in the preamble. As Mr Moller said, the Leith decision was overturned in the Kruger case, but also we should look at the judges who were in the majority in the Leith decision or who were thinking that the preamble should be looked at for interpretative purposes. They were Justices Brennan, Dean and Toohey, all of whom except Justice Brennan are no longer on the High Court and Justice Brennan is about to go. Justice Gaudron is the only person whose position remained unclear on that. She will stay on the High Court for a little longer.

We cannot predict the future of what the High Court will do. We have to say that we are not a drafting committee here. That particular working party did not put up specifics of what they wanted in the preamble; they said they wanted some recognition of indigenous people in the preamble. That was the principle. It is up to the parliament to do the drafting on this particular proposal. It is up to the parliament to have the debates about what should or should not be in the preamble. I think this is the one issue and the one point in this debate where we can come together and present a unified approach and say, 'Yes, indigenous recognition in the Constitution is important, indigenous recognition is long overdue,' so let us work together and support that working group's recommendations.

Dame LEONIE KRAMER—My comment is simply a footnote, as it turns out, to the previous speakers. I was a member of group (iii) which discussed the question of the inclusion in the preamble of the Aboriginal people and Torres Strait Islanders. I want to appeal to all the delegates in this Convention to treat this in the way the other day they treated the concept of the Commonwealth of Australia.

Everyone here by now knows I am anti-republican, but we all agreed that the Commonwealth of Australia should be the name of a republic, should there be one. I want to appeal for you all to agree unanimously, as we did the other day, to the inclusion of Aboriginal people and Torres Strait Islanders in the preamble.

CHAIRMAN—At the request of Mr Clem Jones, I table a paper headed 'Codification of Proposed Powers and Functions of the President of the Commonwealth of Australia'. At the request of Mr Jason Li, I table a document headed 'Proposed New Preamble to the Constitution', drafted by Ms Babette Smith.

**Proceedings suspended from 1 p.m. to
2 p.m.**

CHAIRMAN—I declare the proceedings resumed. Before I call on the report from the Resolutions Group I remind delegates that at 3 o'clock today, instead of at 4 o'clock, we are going to start voting. Our initial resolutions will be on the name of the new head of state, if Australia should change.

I have a proxy appointing Dr. Wendy Craik instead of Mr Donald McGauchie, which I table.

I also have a note about microphones in the chamber and am asked to make the following statement: it is imperative that delegates speaking from their seat wait until they have the microphone before commencing. As I have tried to explain, the use of the microphone is for the purposes of Hansard, and it is essential that people have the microphone before they speak. When I have identified who the speaker might be, the microphone will be handed to you. I remind you that delegates may speak only when given the call. I have asked the chamber attendants not to give any delegate a microphone until the Deputy Chairman or I have given that particular delegate the call.

The working groups designated on a range of issues will be meeting after the voting this afternoon. When we resume after the voting this afternoon, the working groups for the several subjects relating to section 44, on the question of a future constitutional change and on the question of the oath of any future head

of state, will commence deliberations at that stage. Delegates will find, when they put their name on the list, where that particular working group is to meet.

I invite all delegates to sign the visitors book in the old Speaker's suite, putting in their names and addresses. That will go into the record of the Convention so that there is an actual signature. We are talking about having another statement so that we can be sure there are several opportunities for delegates' names to be put into the records of this Convention.

Some delegates have not yet advised whether or not they will be attending the reception that the Deputy Chairman and I are giving at the dinner on Thursday night. Would those delegates who have not yet responded do so at the registration desk as soon as possible. I now call on Mr Daryl Williams to make the report on behalf of the Resolutions Group.

Mr WILLIAMS—I report on behalf of myself and my co-rapporteur, Mr Gareth Evans, on the outcome of a meeting of the Resolutions Group this morning. There has been circulated, on green paper, a set of recommendations which arise out of that meeting. The objective of the meeting was to identify the method of progressing the ultimate debate on republican models. The decision of the group is to invite individual delegates or groups of delegates to identify their models and to present them to the Chairman for circulation to all Convention delegates. We envisage that they will all be in by 2 p.m. tomorrow.

In order that there be some uniformity in the presentation, it is desired that each model address the matters listed on the sheet. The specific matters are:

- A. Nomination procedure;
- B. Appointment or election procedure;
- C. Dismissal procedure;
- D. Definition of powers (including extent as compared with status quo, and whether any codification proposed);
- E. Qualifications for office; and
- F. Term of office.

It is not intended to exclude delegates from including other material, but they seem to be the basic items in each of the models that have been discussed until now.

Following the preparation and lodging of those models, it is envisaged that by 2 p.m. on Wednesday another set of models will be prepared and circulated on the basis, in this case, of having the support of 10 delegates. Those models may be those referred to as being required to be lodged by 2 p.m. tomorrow. It might be a revised version of them or it might be completely new. No doubt, with further preparation of the first set of models and discussion of those there will be an opportunity for delegates to form groups, if they do not have groups already formed, or for groups already formed to refine their thinking.

It is envisaged that the second round will involve signature by the supporting delegates, and it is intended that each delegate should subscribe to only one model in this process. They will be circulated as soon as possible after 2 p.m. on Wednesday with a view to debate the following day in the final plenary session on day 9.

There has been quite a variety of formulations of resolutions by working groups. In order that we can introduce consistency and uniformity and achieve appropriate drafting standards, all delegates proposing to have their models circulated are invited to utilise the services of the Attorney-General Department's officers, who can be contacted through the Secretary of the Resolutions Group, himself an AG's officer, in room M65 on telephone No. 4008.

That is as far as the agreement within the Resolutions Group has gone to this point. Further deliberations are going on in relation to what happens to the debate of the models and other matters on days 9 and 10. The Convention can note that the Resolutions Group intends to bring forward as soon as possible a detailed proposal for the conduct of debate on Thursday and Friday. I move:

That the report of the Resolutions Group be adopted.

Mr GARETH EVANS—I second the motion.

DEPUTY CHAIRMAN—Is there to be any discussion about the proposition—otherwise I will put it?

Mr HAYDEN—As I understood the arrangements outlined to us last week by Senator Evans, we were going to go in a different direction. Weren't we going to get a compendium resolution? Can I take it that this has proved a bit too difficult? I could understand why that would be so. We would probably need another month to work our way through it. This is replacing that, is it?

Mr GARETH EVANS—It is not so much that it proved too difficult, because the drafting job has in fact been done over the weekend, bringing forward draft proposals for the three main models with a number of amendments associated with each that ring the changes on the various refinements. The reason was not that it was impossible, although it certainly makes life a lot easier for the Resolutions Group if we do not have to play gods in terms of anticipating what everybody feels and bringing it forward. The feeling was, rather, that it was better to give the individual proponents and groups of proponents of positions the opportunity to retain ownership of those for as long as possible during the debate, and to have their particular models directly voted upon by the Convention as a whole rather than being diluted through some other process.

The intention is to come back to you with a proposal by which we can reduce these numbers of models to a single preferred model at the end of some preliminary process and then move to a detailed debate of that preferred model to emerge from this process and bring the Convention's results to a conclusion. But that will not happen until day 9, whereas there might have been delegates who might reasonably have felt that they were being a bit short-changed to have their particular preferred form of words and so on lopped at an earlier stage.

The other rationale for it has been simply in order to encourage delegates to work very hard to find consensus as between like-minded other delegates around the room. The requirement of having a minimum threshold support base of 10, while not intended to

disqualify anything that has any reasonable support at all, is intended to encourage people to come together and coalesce as far as possible. For example, the direct elections people have just made a public announcement that they have been able to reach a substantial measure of agreement in bringing together all the different versions of that into a single model. This is designed to further encourage that process and make life a bit easier for us all as a result.

Mr CHIPP—I ask a question. Clearly, the moment of truth is approaching rapidly. There are many of us here who would like to have some indication from the resolutions committee about the system of voting which is going to be proposed. Is it to be an earlier suggestion by Mr Evans of an exhaustive ballot method? Which models will be included in the exhaustive ballot? Will the status quo position be included as one of the options? That sort of thing would require a great deal of consideration and debate by this Convention.

DEPUTY CHAIRMAN—I can perhaps intervene to say that that is the next matter that we hope to reach agreement on. The Resolutions Group is meeting at 6 p.m. tonight. We will try to get that resolution back as soon as we can. If we can get it back tonight, that will be splendid. The worst-case scenario will be first thing in the morning.

Professor SLOAN—I wanted the two rapporteurs to confirm that the status quo is one of the models that would require the 10 signatures.

DEPUTY CHAIRMAN—No, I think not. It is the republican models in this context. You can always move from the floor. If there are no other speakers, I propose to put the question that the report be adopted. It has been moved and seconded.

Resolution carried.

DEPUTY CHAIRMAN—We will now resume the debate on whether Australia should become a republic.

Senator STOTT DESPOJA—I begin by acknowledging the traditional owners of this land, the Ngunnawal people. Their land was taken by force and we do well to remember

that at this time. I also would like to acknowledge the founders of our Commonwealth. The best thing about this Convention is that it is not the loudest voices, but more the more reasoned voices prevailing. The next best thing is that women—more often the reasoned voices—are being seen and heard. Those who have been so often rendered invisible by prejudice and gender blindness are both a formidable presence and a respected influence.

I think an unforgettable moment occurred in this debate last week when Stella Axarlis told us all to put our differences aside and cooperate. That then timely advice was the best possible advice from a woman who then apologised to us for being emotional, being of Greek origin. Stella has no reason, and indeed none of us has reason to apologise for speaking our feelings. This great nation is now characterised by cultural diversity and a peaceable disposition. These are truly wonderful characteristics which we are only just beginning to treasure as the threat to them is being personified in politics. Stella has nothing to apologise for and a great deal to be proud of. She can be proud of her origin in this rich, inclusive, generous nation and we can be proud that she is free to be here to celebrate what she is and what we are.

This is a great Convention which reflects, as no other meeting in our history, the richness of the nation that we have become. We are black and white, men and women, young and old, eccentric and moderate, ratbag, conservative, passionate, cool and conservative. We could not be more Australian at this time if we met under a coolibah tree.

Thinking of *Waltzing Matilda*, it is not our anthem but it is our song. Those first six simple notes—only two notes repeated, no doubt, as our opera singer on Friday would have reminded us—have tugged at the hearts of diggers, suffragists, workers and immigrants: ‘And his ghost may be heard as you pass by that billabong, who’ll come a-waltzing Matilda with me?’ That it has come so close to our national psyche is in itself a mystery. That it is 100 per cent dinky-di Australian is beyond doubt. Our song is as eccentric as you can get. Australians are

different and proud of it. Why then should we be any less adventurous? Why should we come over all meek and mild and want to be Englishmen, Canadians, Irish or French when it comes to making our republic? Although we can draw on other models, our republic has to fit us—no-one else—like a slouch hat or a comfortable swag.

This debate offers us the opportunity to design a comfortable Constitution and to debate what kind of a nation we want to become. We now have a nation that the framers of our Constitution never dreamt of—a nation that has changed under the impact of two world wars, Korea and Vietnam; a nation that has grown and developed with immigration from all parts; a nation that, despite many pressures, has achieved peace and cohesion on its content; a nation which looks after the needy and which has enshrined the rights of women and traditionally disadvantaged groups.

But I think it is time, without denying the past, to close the door on a period of colonial history and look forward into the next century as a mature, strong and independent nation. This debate is about democracy. Australia, as a democratic nation, should not have as its head of state a person who lives in another country and whose legal and constitutional position in relation to us is through inheritance.

We have one of the longest continuous democracies in the world, but that does not mean that we should seek to continuously update our system of government. Under section 59 of the Constitution, the Queen has the right to annul any law that has been passed by the parliament. True, that power has never been used but it should not remain. If it ain’t broke don’t fix it. Most Australians have a more practical approach than that to home maintenance let alone the maintenance of the nation’s Constitution and its symbols.

But I think it is broke: our Constitution, our electoral system, some of the ways our federation and our parliament work. These things are out of date. They are flawed and are potentially a major hindrance to our ability to find our place in this new era of globalisation.

If we are to move into the next century as a modern working democracy, we need some major parliamentary and constitutional changes. I already outlined in my speech on Wednesday the Democrats' position in relation to the head of state. But I do believe—and I state again—that we must be careful not to create a republic which, instead of enshrining popular democracy, ends up simply enshrining the power of the executive.

Let us use this debate to address other structural problems with our Constitution, such as the power of the head of state and the power of the Senate to block supply. We should consider a Bill of Rights, the need for electoral and voting reform, the role of the states and, indeed, the need for parliamentary approval of all treaties, troop deployments and declarations of war. I hope the cabinet bears this in mind in their deliberations on Tuesday.

The republican discourse offers us the chance to consolidate our uniquely multicultural society just as reconciliation must play a key role in any republican debate providing all Australians with the opportunity to negotiate a shared history. This includes recognition in our Constitution that Australia's indigenous people are the traditional owners of this land.

Any vision for a society that is fairer must be greener. Our Constitution does not refer to—does not even mention—the environment. While I would like to visualise an extension of Commonwealth power over the health of the environment, at least our Constitution and our Commonwealth should ensure that governments take into account the environment when making laws.

In one of my first public defences of republicanism I was bombarded with comments like, 'I lived in a republic once and it never did me any good.' I naively said, 'Sir, do you mean the United States?' He replied, 'No, the Weimar Republic.'

No young person today has dreams of empire. We embrace our own culture and we take pride in today's nation. We bring a mixture of idealism and a natural urge to feel a part of a truly independent nation to the republic debate. And it is this sense of national identity that makes a British head of state no longer relevant.

If young people have a shared dream it may well be about being a part of something greater than a single nation—being a member of a family of nations as diverse in their cultural make up as ours, dedicated to the peace and the wellbeing of the planet. Both this individualism and a desire to cooperate with other nations on an equal footing are given expression in republicanism. It is not something to be despised or trivialised. It is the new confidence of Australians that we are hearing from the many young republicans. And in these times it is a voice we should rejoice to hear.

Young people treasure our history as much as you do, Bruce Ruxton. You would be surprised by how much history we carry in our swags, some of it a heavy and sorrowful burden because we do embrace the sadness of the Aboriginal people as well as of the white people, of migrants and, of course, the native born. You and closer generations carry the burden and injuries of war and we are grateful that most of us do not have to have first-hand knowledge of war. But we do have a collective, sharp and painful consciousness of many things that previous generations were not aware of.

It is a great thing that this Convention has called on young people to be present, to witness and to speak, but I know that sometimes things that younger people say may disconcert their elders. But the future is closer to us than the stars. It is our tomorrow, after a little light, night and day. We who are younger and here today, whether we are republicans or monarchists, think and speak about what we will live by as well as how we will live. Some of us want new symbols and new ideas because things change constantly and we want to help make our world, not only our country. We want to make something good for our country and to bring a new age into being so that the future is better and easier for those who come after us to be citizens. That includes the wellbeing of the planet, the peaceful coexistence of nations, the total banishment, as if it never was, of prejudice and bigotry of any kind. We want this so that our ghosts may be heard when one day our descendants, the people of the

future republic, pass by this meeting place—heard and greeted with respect for what we have done together these past few days.

DEPUTY CHAIRMAN—It has been suggested that I make this observation to you: so far only one resolution, moved by Alf Garland and Bruce Ruxton, has been put about timing. Only one resolution is on offer. If there are any resolutions from people who have a view on timing then those resolutions will need to be handed in very quickly so that we will be in a position to deal with them when we get to the voting stages.

Father JOHN FLEMING—Last week Mike Elliott suggested, I think correctly, that many people had made up their minds on the subject of the republic one way or another and then looked around for the reasons to support their view. I believe that to be true, to a greater or lesser extent, of all of us. That is human nature; we have our personal commitments, some of which we find difficult even to articulate. So we have to take that on board.

However, I think some of us are more at fault than others. There is a major defect in the entire debate thus far and I think it is a defect more in evidence on the republican side than on the side of constitutional monarchists, for reasons I will give in a moment.

I believe that insufficient attention has been paid to the realities of human nature. I believe that we are to some extent being naive in the apocalyptic visions that we see for ourselves at the turn of the century. I see no point in Australians going in for the self-congratulations I have too often heard in this chamber that we are all good blokes and that we are all fair, decent and tolerant people. Of course we are capable of great good and have achieved many great things, but honesty should compel us to admit that we have also been capable of great evil.

Ask any Aboriginal person or Torres Strait Islander about the arrogance and intolerance frequently shown them in their own country by Europeans. Ask Italian migrants of the 1950s when I grew up as a boy how they felt about intolerances shown them or Australians who have recently come here from one of the Asian countries. So let us have enough of the

self-congratulation and much more of the realism.

Extravagant claims are being made by republicans—both before this convention and certainly throughout it—for the benefit of a republican system of government. I believe that there is a risk of raising community expectations which cannot possibly be fulfilled. For example, there is a form of millennial madness that, if we become a republic now, in the year 2000 or the year 2001, we will usher in the new age, the promised land, the utopia in which all justice and oppression will be overcome, in which the nations in the region will be so awe-struck by our new republic that they will be genuflecting or falling over backwards, whichever comes first, to trade with us to our great material advantage.

Sexism, racism and all the other nasties will be vanquished and people will just be nice to each other. Monarchy they associate by implication with injustice, racism, oppression and national inadequacy. What rubbish! Is the United States—that paradigm republic—less racist, less oppressive or less sexist than monarchist Australia? Is anti-semitism more obvious in Australia, New Zealand, Canada, the United Kingdom and the rest than it is in republics like Germany, Russia, Italy, the US, Latvia, Estonia or Lithuania?

I believe neighbouring nations do not care a fig about the details of our system of government. Does it matter that we do not understand the constitutions of Indonesia, Singapore, China or the Philippines? Does it affect trade? Will any serious economist argue that these sorts of issues affect the drive to make money? In any case, countries like Malaysia and Indonesia are in no real position to be critical of our system, which has a far better record of democratic achievement than they have ever had.

Charles Darwin once said that the evolution of the human race will not be accomplished in the 10,000 years of tame animals but in the million years of wild animals because man is and always will be a wild animal. Everything is good when it leaves the creator's hands. Everything degenerates in the hands of man, according to Jean-Jacques Rousseau from the

Enlightenment. From Plato and Aristotle, to Augustine and Aquinas, to Machiavelli and Hobbes, most great political philosophies have to deal with the realities of human nature—that is, the capacity of human beings to aspire to the good and the noble and the true, compromised by the impulse to pursue self-interest to seek power after power, to use the words of Hobbes. The more power available to a person, the more necessary it is that we check that power with other powers. James Madison knew perfectly well that people are not angels, that they must be held in check or they will tyrannise each other.

Anti-republicans are not so much pro monarchy as anti-republic because the history of republicanism is a chequered one. The genius of constitutional monarchy as it has developed over the many centuries is that it does take full account of human hubris and corruptibility. No system is perfect, but constitutional monarchy is certainly excellent. To imagine that heads of state can be elected, either by popular vote or by votes of parliaments, and to then suggest that we have not created a politician in doing so, is to evade the reality of human nature.

You can take the man out of politics but you cannot take politics out of the man, which is why we need to take great care when we give real power to elected persons, however so elected. Mr McGarvie has given us warnings of this matter—warnings which we would do well to heed.

It has been commonly said in this debate that the monarchy is an anachronism. I presume that means it is out of tune with the times. It is stated as if this is objective fact when it is no more than a subjective reference to a person's opinion or feeling. It indicates the frame of mind of the one who uses it.

Who says it is an anachronism? And what is it that is anachronistic? Peter Costello says the monarchy is running out of believability. Whose fault is that? The monarchy has been subjected to constant denigration. It has been satirised and ridiculed in season and out of season. Any instrument of government is vulnerable to that. I would have thought the politicians who have suffered very unfairly at the hands of satirists and of their critics, vocal

in the media, would know that their institute of parliament is in serious danger of losing credibility and believability in the community as a whole. If we can understand that out of unfair criticism of politicians then we can understand it in relation to the ridicule and satire that has been persistently heaped upon the institution of the monarchy. Republic or whatever we are, we do ourselves a disservice when we turn in on our institutions of government, parry to them and make them items of ridicule and laughter.

We are also told that the hereditary principle is really nasty. Is it really? Here is a country that has no difficulty with the hereditary principle where there is real power and money. For example, the monarchy has no real power but the fourth estate certainly does. The power that is exercised—that is, the power of the Governor-General—is not hereditary. But what about Murdoch major and Murdoch minor or Packers primus, secundus and tertius, who have real money and real power? Do we see an avalanche of people ready to push for wealth taxes, hereditary taxes and death duties in this country? We attack the one institution that has practically no power on the basis of the hereditary principle while we swallow the camel of hereditary principle when it applies to real power, real money and real influence. In any case, the advantages of the hereditary principle in this case are many. Since the monarchy is non-elected, it is non-party political. It transmits the culture of the past and the present into the future. It is not so easily manipulated and manipulable.

This curious idea that we will all be able to aspire to be head of state is nonsensical: eight Governors-General Australian and only two from outside Victoria and New South Wales. I will guarantee you that, if there is a popularly elected president or even one elected by the New South Wales-Victoria dominated House of Representatives and Senate, you will not see too many people coming from anywhere else in Australia being the president. I would suggest that, if anybody here aspires to being the president of a republic, change your address and make your reputation somewhere other than in South Australia, Western Aus-

tralia, Queensland, Tasmania or the Northern Territory. It is interesting that on that very matter republicans have not been very forthcoming in defending the rights of states.

Some say that a monarchy is anachronistic because it suggests dependence. When I was a child I was dependent. I looked to mummy and daddy for everything. When I was growing up and became an adolescent I wanted to define myself in my own terms—independence. When I reached full maturity I realised that the key was interdependence: dependence, one upon another, as in marriage; and in the Commonwealth, with a shared Queen. Here is a wonderful symbol of peace that six or so nations of the world enjoy—a single head of state. I would have thought this was not a chronicle of childish dependence but one of independence.

Let us not dissemble. Let us have the cost of what a republic means. Let us call the Governor-General, when he goes, a president of a republic, because that is what he is. Let us be honest about it—no dissembling. No republican model on offer so far has got over any of the hurdles which my colleagues in the Australians for a Constitutional Monarchy have drawn to your attention. No republic; Australians for a Constitutional Monarchy—that is the way we should go.

DEPUTY CHAIRMAN—I remind everyone that flashes should not be used inside this chamber. Kirsten Andrews will be followed by Ben Myers and, if Ben Myers is not in, by Professor Peter Tannock.

Ms ANDREWS—I stand before you today a proud republican and a proud Australian. I would like to start by restating some of the reasons for my position. I am proud of the fact that Australia is a country which supports equality. I am also proud of the fact that we like to judge people on who they are and by the worth of their contribution and not on who their parents happen to be. And so I find it hard to come to terms with the fact that our head of state gets to be there not because of anything she has done but because she was born into the right family, attends the right church and has the apparent good fortune not to have any brothers.

The move to a republic represents the reality of Australia today as an independent nation. It is a change to a system which reflects the values of fairness and tolerance on which we pride ourselves, a change to a truly Australian democracy. Some opponents of an Australian republic, and we have heard quite a bit from them this week, argue that those of us who are young republicans are somehow disrespectful to older Australians or to those who fought in wars for this nation. However, those Australians fought for our right to determine our own futures, for us to have a say. We are extremely grateful for that opportunity and will grab it with both hands.

In acknowledging the history of our nation I would like to pay particular tribute to suffragist and social reformer Catherine Helen Spence. Spence stood for election to the Constitutional Convention of 100 years ago in South Australia. I understand she was the only woman candidate for that election in 1897. Her friends had to delay the nomination to avoid the possibility it would be ruled out of order and rejected by the returning officer. Unfortunately, despite a number of organisations endorsing her candidacy as one of the apparently best 10 men running for election, she was not successful. The nomination, however, made her the first female candidate in Australia's political history. South Australian women are well represented here today both as elected and appointed delegates, and most of us are here to finish what Catherine Helen Spence, now finally recognised as one of our nation's great social reformers, began 100 years ago. We are here to support the move to an independent Australia as a nation where any of its citizens can become its head of state.

In many ways this debate is a classic example of what our generation stands for. It is a simple and logical move to correct the fact that our current Constitution does not reflect who we are as a nation. The Australian Republican Movement campaigned strongly in last year's elections for delegates to this Constitution by arguing that any Australian should be able to aspire to be head of state. This strikes a chord with many Australians, reflected in part by our success in having

delegates elected to this Constitution. Young people continue to be amazed—I do a lot of work with very young people—that not one of them, regardless of their contribution to the nation, will ever get to be our head of state. Under a republican system any of us could aspire to the position but under the current system none of us will ever get to try. It may be that we are recruiting a generation of young people who want to be president, but as far as I am concerned that is okay.

This Constitutional Convention is, of course, only the beginning. The move towards an Australian head of state creates opportunities for further reform. I believe we need to use this debate—and we have another week left to do it—to empower and inform our fellow Australians. By the end of the week I am sure we will be able to support the move to a republic. I also hope that we are able to create some mechanisms for Australians to contribute to further constitutional reform. The most important task we have is to get a result.

Those who feel alienated or bored by talk of constitutional change believe that these things are too hard, that we will never get agreement and that things will continue in the same old way. On saying that, I would like to say how enormously pleased and proud I am to be part of a group and part of a Convention where we are working together to develop consensus, and I think that is fantastic. The obligation is on all of us to prove the cynics wrong. If we blow this chance, the cause of constitutional change may be derailed for years. Support for an Australian republic is support for our future. Young people desperately need to know, and be given an opportunity to influence, the kind of nation we should become.

This debate is particularly topical at the moment because of the issues of identity with which we are grappling as a nation. Unlike previous generations, we grew up in an era in which we learnt that Australia is a multicultural, egalitarian country and that we are building on our past—elements of which we are not particularly proud of—to create a better and stronger nation. I hope that the move to an Australian republic will, in some

small way, allow us to acknowledge our history and to correct past wrongs by recognising the contribution of indigenous Australians in our Constitution. I am delighted that the speakers we heard earlier today have indicated that we may be able to get some broad support across the board this afternoon.

My work with other young Australians gives me great hope for how our nation will be governed in the future. Working with the civics education programs in South Australia, I have found that high school students are able to discuss these issues in a way which suggests that perhaps we should have had some of them here at this convention. The constructive, committed, articulate and passionate manner in which they contribute to these debates when given the opportunity makes me enormously proud.

As an example, at the state schools convention hosted by the Constitutional Centenary Foundation late last year in Adelaide nearly 100 students spent two days discussing a range of constitutional reforms. They managed these complex and potentially divisive issues in a way which allowed all participants to have a fair say with particular regard for ensuring that the outcomes were fair to all of them. The convention overwhelmingly supported the move to an Australian republic and also the recognition of Australia's indigenous people in our constitution, but after careful consideration of the options and considerable debate about the ramifications of each the convention also agreed that the new head of state should be appointed by the parliament.

As delegates to this convention, we should use our opportunity to debate these issues in a similarly constructive manner. We should be able to manage these issues in a way which allows all participants to have a fair say and with regard to ensuring that the outcomes are definitely fair to all of us. We need to find a way to ensure our new Constitution is redrafted in a way which will make it more accessible to all Australians, free of that colonial language of our past.

The challenge we have been given is to arrive at some agreement. We need to find the particular model which best meets all of the demands for a republic but which retains our

respected and extremely successful system of government, and we must all be prepared to find that compromise model. We have acknowledged, and we are very proud of, our past but now we are ready to create our future.

Professor TANNOCK—Our brief at this Convention is to answer three questions. Should Australia become a republic? If so, what model should it adopt? When should the republic commence? These are questions of enormous importance for the future of Australia and, notwithstanding much that has been said publicly, I believe they warrant the amount of time, effort and resources that have been put into answering them.

I was elected to this convention as an Australian Republican Movement delegate from Western Australia. I am proud to be associated with the ARM and I acknowledge the great efforts of the Western Australian ARM team, led by Garry Mitchell, to ensure strong public support for the republic and for ARM delegates to this Convention. As a very dedicated West Australian, let me say I have been amazed at the extent to which that traditionally conservative state has swung strongly behind the idea of Australia becoming a republic.

Australia should convert from a constitutional monarchy to a republic as soon as possible. Our present system of government and its underlying constitutional base have served us extremely well. We should be proud of our British heritage and treasure the many wonderful institutions that that heritage has given to our society, including the parliamentary system of government, our laws and conventions, our language, our freedoms and our stability. However, it is time for us to take the next step in our constitutional evolution. There is no doubt in my mind that it is anachronistic for Australia to continue to share its head of state with other countries, for that head of state not to be an Australian citizen and for us to derive our head of state from the British royal family. It is simply an idea whose use-by date has come and gone.

It is both logical and fundamentally right that Australia should have an Australian head of state. It is illogical and wrong that the

Queen of Great Britain and Northern Ireland, excellent woman though she is, should continue to be our head of state. I believe that the overwhelming majority of Australians accept these propositions and, indeed, I believe that almost every Australian would accept them given the opportunity to gain access to all of the facts related to this issue.

The second question in our brief is: if and when we become a republic, what model of republican government should we adopt? By way of backdrop to answering this question, let me say that it seems to me simply absurd to suggest that we Australians are incapable of developing a republican model which will provide all reasonable safeguards and protections for our existing system of government. To argue this defeatist position is in many ways to repudiate our history, which is one of meeting challenges and adapting to new circumstances and opportunities.

This defeatist attitude, manifested so strongly by, I believe, the monarchist delegates to this Convention, is almost an insult to the practical commonsense and wisdom of the Australian people. I urge the monarchist group at this Convention to grasp the opportunity which is before us all, to have faith and confidence in the Australian people and their ability to manage their own affairs, preserve their wonderful democratic heritage from Britain and successfully install and maintain an Australian head of state.

Broadly speaking, three republican models have been put before this Convention: the prime ministerial appointment model, the popular election model and the parliamentary appointment model. I should like to comment on each.

The prime ministerial appointment model, otherwise known as the McGarvie model, is in many ways the simplest to put into effect and the one which most resembles the existing constitutional arrangements. Under this proposal, a three-person council of elders, drawn from the ranks of former Governors-General, state Governors, High Court judges and the like—all of whom must be retired—is appointed according to their seniority. A council of elders has the function of endorsing prime ministerial proposals for appoint-

ment and removal of the head of state. In effect, this council of elders replaces the Queen in the performance of her present duties in relation to our Governor-General.

While it is true that adopting this model would achieve the republican's core goal, leaving intact the essential elements of our present parliamentary system of government, it is unacceptable. It smacks of the same secrecy and elitism that is one of the basic faults of the present system. The idea of a council of old or elderly, unelected but mostly anointed men, most of whom come from a fairly narrow range of backgrounds—and I heard a very interesting description last week that called it the 'lawyer's monarchy'—remote from the Australian people and perhaps with one foot in the grave, having responsibility for appointing our head of state seems to me just silly. It certainly will collapse when it is exposed to the full weight of public analysis. It is interesting the way the wheels have fallen off the McGarvie cart the longer this Convention has had the opportunity to focus on it.

I could not imagine such a model having anything other than distaste for the great majority of Australian people. I could not imagine it holding the slightest interest for young people in this country, whose enthusiasm for the new republic and its Australian head of state we are trying to capture. It has the other disadvantage of retaining the present idiosyncratic role of the Prime Minister of the day in the appointment of our head of state. I would commend delegates to read the very interesting article by Paul Kelly in today's *Australian* which addresses just that issue.

There is a great wish on the part of the Australian people for there to be less secrecy, not more, and less of a closed shop in the filling of this vital position of head of state. The closed shop might have been appropriate in days gone by when we were talking about the appointment of a person who was, in essence, the Queen's viceroy. Moving to the state of republic and an Australian head of state changes all that. The people will not accept that the appointment of our president should be a private prime ministerial initiative, notwithstanding the fact so often in the

past Prime Ministers have done the right thing and have appointed outstanding Governors-General. It worked in the past for the viceroy model; it will not work in the future for the republican head of state.

The second model we have been looking at in this Convention is the popular election model. Let me say a few brief words about this. I do not think there is any doubt that in an ideal world the popular election model is the way to go. What could be fairer or more democratic than to give all of the Australian people the opportunity to have a direct say in the appointment of our head of state.

To me there are two principal disadvantages of the popular election model. One is it will tend to politicise the appointment. We are a very political country. We have 18½ million politicians in this country and they will all take an acute interest in who is to be elected our head of state—no groups more so than our major political parties. I think the office will be politicised. The second problem with it is I see it as having no chance of passing a constitutional referendum. There would be so much controversy about it, so much opposition to it from our major political leaders, that we might win the battle and lose the war—at least those of us who are republicans. So I urge against that.

The third model, the parliamentary method of appointment, seems to me on balance to be the best one that is before us. It involves the appointment of an Australian president by a two-thirds majority of a joint sitting of the Commonwealth parliament. The person to be appointed would be nominated by the Prime Minister, and the person would derive their authority, their standing, in the community from the fact that they have been appointed by our representatives, our parliamentarians. We have heard the word 'politician' abused a lot at this Convention. I do not share that negative view of our politicians. These people are parliamentarians and they represent us. Why shouldn't they have the final role on our behalf in determining who will be our head of state?

The parliamentary model has great merits. It reinforces the supremacy of parliament and parliamentary government in Australia, it

involves the people as a whole in the nominating process and it provides an opportunity to our state and territory governments—such a critical part of the Federation—to be involved in advising the Prime Minister and the parliament on what they should do.

Let me conclude by saying that I believe we are extremely fortunate to have the opportunity to participate in what may be a decisive event in Australia's modern history. Please take Australia forward into the future and let us not consign ourselves to the dustbin of history.

Mrs Annette KNIGHT—I rise to speak as an ordinary, average Australian, typical of millions of other Australians. I am no constitutional lawyer or academic but, like all gathered here, I love my country and what it stands for and I care about its future and the legacy that this generation will leave my children and grandchildren. I love Australia because, among a thousand other good reasons, I am offered a very precious opportunity, regardless of my ethnic background, social status and political persuasion: the freedom to speak freely and openly without fear or recrimination about the governance of this country. While sometimes we are prone to forget, it is a privilege not shared by countless other countries where death and imprisonment would be the likely expectation of anyone who dared to even think about taking such action.

Because this opportunity exists for Australians, it is testament to the system of government that we enjoy in this country based on a solid foundation laid 100 years ago: the Australian Constitution. This document, put together by Australians meeting together just as we are now, not only served the people of the day but has maintained a remarkable measure of relevance to succeeding generations. It is both healthy and warranted that Australians today should be seeking a review of their Constitution in a world that is changing technologically and philosophically at breakneck speed and along with that, for better or worse, the value systems and priorities of our nation. That we can freely do this is yet again testament to our democratic system.

The important issue for this convention in my view is not whether we elect to remain a monarchy or become a republic; it is simply that we ensure the maintenance for the future of the best system of government that we can achieve for Australia. It is essential that we are not sidetracked by arguments that are spurious or have no substance in relation to the core question of a monarchy or republic, such as notions that we as a nation are anything less than independent, free and sovereign.

It is untrue to broadcast that we are tied to the Queen of England's apron strings. Our relationship with the monarch as head of state is something that we as Australians found to be useful to us, to have a truly impartial umpire capable of dealing with certain critical issues relating to the effective operation of the Constitution through her representatives acting on the advice of the Australian Prime Minister and occasionally on their own discretion. If we want to change that, we can.

It is misleading and false to suggest that Australia is today racist and intolerant of people of other cultures who have made their homes here. That there are some people of low intelligence and understanding about who are racist in attitude is a sad reflection of human nature but that should not detract from the fact that this nation has taken very deliberate steps over the years, legislating to protect the rights of all Australians, regardless of ethnic origin. Despite the fact that I do not have brown skin, I do know a little about that, being of Chinese extraction.

There would be few, if any, other countries in the world that would offer Australians the chance to achieve the reciprocal right to citizenship or the same right to practice their cultural or religious beliefs as we do here. There are some at this convention who have advanced the notion that if Australia was to become a republic, there would be a greater chance of someone of different ethnic origin or gender attaining the office of Governor-General or president. One might ask why it is that the United States, one of the great republics, has yet to see an American Indian, a black, a Greek or a woman as president.

The monarchist cause too might ask the question: if Australia were to become a republic, would Australians value less their heritage? Would they not still be proud of their heritage, of those who fought and died to protect their freedom, of those who have achieved great things in science, medicine or sport or their flag? I think not. The reasons for change from a monarchy to a republic, if that is what the people of Australia want, must be real and not imagined so that judgments made to support such a change are firmly based on reality and truth. We must be diligent in identifying not only the changes that would need to be implemented to achieve a republic but, more importantly, the implications of those changes. There can be no doubt in the minds of all of us here that the achievement of even the simplest change replacing the Queen as head of state with an Australian is a hugely complex matter which must be addressed and resolved.

If the people of Australia are to go to a referendum on the question, it is essential that they understand the implications and consequences of any simple yes or no vote. Historically, Australians have had little exposure to the content of a smooth working Constitution and therefore generally have little knowledge or understanding of it. It must therefore be a priority to inform and educate the electorate prior to any referendum so they know what their vote may bring about.

The media has an enormous responsibility in the matter of impartially informing the people of Australia. It is critical that the issue is presented in a balanced way, casting aside political or personal prejudice. The issue is too important to this nation and its future to be hijacked by partisan interest or for the sake of a good confrontational story that may hit the headlines for a day or two.

Australians will have to live with any decision they make for generations to come, decisions which will be largely based on information gleaned from the media. A useful model to follow in a civic education program, I might suggest, would be the 1994-95 Western Australian investigation into the implications of a republic for our state undertaken by a specially appointed constitutional commit-

tee. Each of you here has a copy of the document that explains the process undertaken and provides samples of the informative material made available to the public.

If the necessary time taken to achieve this education process means that the proclamation of a changed historical status is not possible in time for the Olympic Games or the centenary of Federation, so be it. The matter is too important for any rush to judgment simply to enhance a sporting event or festival.

Listening to some who have voiced their opinions over the related issues of changing from monarchy to republic, I must confess to being amazed at some attitudes. We can wonder why these people want to live in Australia; they seem to consider that everything to do with our Constitution is wrong. It would be a grave mistake to rewrite the preamble to our Constitution to accord with these extreme agendas, risking the poisoning of our whole Constitution.

Surely, this is a time to thank God for what we have been fortunate enough to enjoy in the past and for the opportunity to examine and review the system to make it even better in the future. Whether we are supporters of monarchy, republic or political parties, we must work together to reach consensus that will improve or refine our Constitution. We should remember that we are Australians first and that we owe it to our fellow Australians with their diverse interests, priorities and expectations. Our Constitution is a living document and, like each one of us, is not perfect. But it has the capacity to embrace gradually and incrementally a broader agenda to include and define a range of additional matters that are of importance to us.

Many issues will need to be examined—for example, proper recognition within the Constitution of the critical role played by local government in the interests of all Australians and careful consideration of the states' ability to function properly as effective partners in the federation. This was the overriding concern of the many Western Australians who attended meetings or who made submissions to the West Australian constitutional committee. Although not at this Convention, time must be found to properly examine these

issues as a matter of urgency, with an ongoing commitment to a regular review of that important document upon which our democracy rests.

Our founding fathers must have been wise, indeed, to have enunciated a Constitution that has worked and has been relevant and useful to the people of this nation for 100 years. We, in making a decision as to whether we should become a republic or remain a monarchy, will need to carefully evaluate the issues raised, having considered the debate. It will be a test of all of us who are honoured to be a part of this Convention to produce a blueprint for the future of this nation, whether it will be as a monarchy or a republic, and to see if we will be judged in the future to have been as wise as they.

CHAIRMAN—Thank you very much. It being after 3 o'clock and having decided that we should have the voting at 3 o'clock, we will now adjourn the debate on the general issue and commence our voting procedures. Before we do so, I have received a proxy from the Hon. Peter Costello nominating Senator the Hon. Ian Campbell as his proxy from 3 o'clock for about two hours this afternoon. I propose that we move through the sequence of voting. We will commence with the timing, which was the issue that we began this mornings proceedings with. We will then move to the name of the new head of state. We will then proceed to the preamble and we will come back to a final notice on costing.

I propose that we do as we did on Friday and that is to allow the mover of each motion a brief opportunity to speak. If anybody wishes to respond they may do so. But I stress to you all that it would be helpful if you spoke for as little time as possible, unless you feel an overwhelming urge that you have really got to say something. We have quite a number of votes to take and it will be helpful for the whole Convention if we do not spend too much time repeating arguments which you have been given the opportunity to raise throughout the day.

There will be a number of questions on which I would suggest it would also be helpful if we were to take a tally. We will be proceeding on the same basis when we call

for a show of hands, with there being four tellers and two people behind the chair who will be taking the count. They will then amalgamate. I will declare the result of the ayes, then the result of the noes and then whether the motion is won or lost.

Then there is the question of time. The first issue I have is: when would it be appropriate for Australians to vote on a possible change to a republic; and when should any change take place? We have four resolutions. I think we had better start with that which is at the top of the sheet, identifying Professor Peter Tannock as the mover and Mr Barnett as the seconder.

Before I call Professor Tannock, I ask the Convention secretariat please to ensure that all those resolutions are circulated as soon as possible. Could we also have Professor Tannock's resolution displayed on the screen please. In the meantime, I will call on Professor Tannock to read his resolution and then speak to it. We will allow you three minutes to do so, Professor Tannock.

Professor TANNOCK—I move:

That a referendum for change to a republic be held in 1999 and if passed that the new republic come into effect on or before 1 January 2001.

Mr BARNETT—I second the motion.

Professor TANNOCK—This resolution reflects what I think is the consensus of the Convention. It does not assume that the constitutional referendum, which is scheduled for 1999, will be passed—although all true republicans hope that it will be—and it focuses on 1 January 2001, but it does not leave out the possibility of this happening earlier, if that is the will of the people and if it can be found to be practical.

There is great symbolic significance in the first day of the 21st century, and this has already been mentioned by people at the Convention. Also it will be necessary to have the referendum in 1999 in order for there to be a reasonable amount of time for the consequential matters to be taken into consideration by Commonwealth and state governments. I think it is a sensible proposal, and I commend it to the Convention.

CHAIRMAN—I have just been told that one of these resolutions was only received a few moments ago and that is why it has taken a little time. Because there are four proposed resolutions on timing, we will call on the other three to be moved as amendments. Unlike normal meeting procedure, I will allow all of the resolutions to be moved as foreshadowed amendments, and then we will go back through and vote on them in the order that I will identify in a moment. The first amendment, which was from Ms Wendy Machin, has been withdrawn. The second amendment is from Brigadier Garland.

Brigadier GARLAND—I move:

That no referendum be put before the people of Australia until a comprehensive education program to inform the Australian people on the detail of the current Constitution is undertaken.

Mr RUXTON—I second the motion.

Brigadier GARLAND—At this stage of the game in this Convention no decision has yet been taken by the Convention on a republic to replace the constitutional monarchy. Indeed, at this stage of the game we do not even know what sort of republican model is going to be put forward to the government from this Constitutional Convention.

In all matters which have an effect on their future, the Australian people need to be made fully aware before they vote for a system to replace our current system of government. We must not be put in the position of making decisions on the run—decisions which will affect the children and grandchildren of even the youngest of us here today. The public must be fully aware of our current Constitution before they can make a valid and proper value judgment on whether the current Constitution should be replaced. Indeed, one of the ARM delegates elected to this Convention said, on being elected, ‘Now I suppose I will have to read the Constitution.’ We cannot put a referendum to the people until they are made fully aware of the contents of our present Constitution and all of its checks and balances against the government and tricky, manipulating politicians.

Finally, let me add to what I said this morning. Those Aboriginal and Torres Strait Islanders who served in the defence forces

over the years have stood tall and they have never demanded status. They have accepted that all Australians are equal, irrespective of whether they were black, yellow or white.

Dame LEONIE KRAMER—I refer to the first resolution moved by Professor Tannock. It seems to me that that should be two sentences and not one. It should read: ‘That a referendum for change to a republic or for the maintenance of the status quo be held in 1999’.

Professor TANNOCK—I accept that amendment.

Dr CLEM JONES—I move:

If no resolution is passed by this Convention providing for the direct election of a President no referendum shall be put before the people until a plebiscite is held to determine the wishes of the Australian people on this issue.

Mr HABER—I second the motion.

Dr CLEM JONES—I believe that, over the last week or more, the people of Australia have in one way or another told us what they want. They want an election of a president by the people. That has come through loud and clear. That is all I wish to do—make sure that that is done. If it cannot be done at the end of this Convention we should go to the people and give them the opportunity to have their say. Surely their eventual wish is not to have something done that we think is the right thing to be done, but that; we should be trying to meet the wishes of the people.

The wishes of the people have been made very clear to us and I do not think that anybody can really get away from that fact. Opinion polls, people writing letters, people talking, and newspapers—wherever you go it is quite clear that the majority of Australians want a say in the election and I believe we should ensure that they do have a say. We must come up with an answer here which includes the wishes of the people and give the people the opportunity to exercise their rights and express their views by way of a plebiscite.

CHAIRMAN—I have just received notice of an amendment in the name of Ms Catherine Moore. Do you wish to proceed with this amendment, Ms Moore?

Ms MOORE—Yes. I thank Alf Garland and Bruce Ruxton for their proposal, which is the basis for inspiring this motion. I move:

That no referendum be put to the people of Australia until a comprehensive education and consultation program of approximately 12 months duration is undertaken to inform the Australian people on:

- (i) the detail of the current constitution
- (ii) the detail of the proposed models for a republic (including those advocating wider constitutional reform)

and that this education and consultation program, which should be publicly funded, be followed by a series of indicative plebiscites to determine which model should be taken to the Australian people at a referendum on or about the year 2001.

If we are committed to true democracy—and I hope everyone in this chamber is—I do not see how we can move ahead at the end of this week other than in a way that involves the Australian people. If we do not do this, we are heading for disaster and for a model which no-one is going to like. If we are all part of it—monarchists and republicans—we will end up with something that we want and that everyone owns. That is why I am moving this motion.

Mrs MILNE—I second the motion.

CHAIRMAN—Until we get this motion up on the screen or circulate it, I know delegates are placed at a disadvantage. Before I start the voting procedure, does any delegate wish to make any comment on the resolution or those proposed amendments to the resolution?

Mr WADDY—I have just handed over a proposed amendment to the first of the resolutions. The amendment is very simple; it concerns the states. At the moment the motion says that Australia should become a republic by 1 January 2001. I move:

Add to end of resolution:

"or when all states have altered their Constitutions to change to republics on a date to be agreed amongst the states and the Commonwealth, whichever is the sooner".

I know that this is to be debated tomorrow, but it seems to be crucial, in view of the Premiers' statements, to the timing of the move to a republic. It is a matter of federation: they are self-governing states.

Mrs KERRY JONES—I second that amendment.

Mr MUIR—I hesitate to support my monarchist friends, but I would like to support Brigadier Garland and Bruce Ruxton—so they have some bipartisan support. I firmly believe that it is a national scandal in this country that we have such a low understanding of our Constitution. Figures indicate that in 1988 only half the people of this country knew we had a Constitution. In 1994, a poll indicated that 80 per cent of the people of Australia had no knowledge of the content of the Constitution. It behoves the Australian government and the educators in all the states and territories of Australia to, from this Convention onwards, start a campaign of educating Australians about our history and about our Constitution. Australians probably know more about the United States Constitution than they do of our own. I urge all Australians to take this path of education. This Convention itself has been part of the education process, but we should take it further.

Dr TEAGUE—I urge all delegates to support only the Peter Tannock motion that is before us. Let me briefly say why I personally will be voting against the other matters that are before us. The motion put by Brigadier Alf Garland and seconded by Mr Bruce Ruxton is vague and indefinite. Although all of us support public education and awareness by the public of our current Constitution and the detail of change, these matters will be addressed in the intervening year between now and the putting of a referendum in 1999. Under the Constitution alteration arrangements in the parliament, there must be a case put in a referendum—yes and no. We would all urge the government of the day to make sure there are resources for a massive public education campaign—not only to students in primary and secondary schools and our universities but also to the public at large.

With all due respect to Clem Jones, I would argue that his motion is the take my bat and ball home if I do not win motion. He is saying that, if his particular preference for direct election does not get up, we should discount any success of a clear conclusion of

this Convention by calling for a plebiscite. It would be a mark of failure for us to go to a plebiscite. I believe that would not be necessary.

Finally, with regard to the states and Lloyd Waddy's motion, I think that begs the question of our discussion about the implications for the states. There have been weighty inquiries already. I believe the Peter Tannock motion, by talking directly about the clear conclusion that comes from this Constitution, will include any matters that relate to the states as a matter of form. Therefore, it is unnecessary and begs the question for us to be in any way supporting that. In conclusion, Mr Chairman, thank you for giving me the time to address the delegates. I urge that only one of these resolutions be adopted by us as delegates, and that is the Peter Tannock one.

Dr O'SHANE—I take this opportunity to point out that the proposed amendment by Dame Leonie Kramer reading 'or for the maintenance of the status quo' is inherently tautological or redundant because a referendum is against the status quo.

Dr SHEIL—It doesn't matter.

Mr RUXTON—It wasn't me who interjected—not me.

Brigadier GARLAND—It wasn't me.

Dr O'SHANE—Are you raising your voice again?

CHAIRMAN—Please give the floor to Ms O'Shane.

Dr O'SHANE—The fact is that if a particular question or issue is put to a referendum it is always being tested against the status quo. With all respect to you, Mr Chairman, I have to say that I am rather surprised that you and Professor Tannock accepted that resolution. It certainly does not take the matter any further and, in my view, could even serve to confuse the electorate. It is without a doubt tautological.

Mr TURNBULL—Firstly, on the matter of public education, it is very common for people who are concerned that the electorate does not agree with them to call on the electorate to be further educated. It reminds me that the title of the minister for education

in New South Wales in the early part of this century was the minister for public instruction. Janet Holmes a Court and I will move a motion—which could be set as an amendment here but I think it is easier if it is done as a separate motion—which simply says—it is a motherhood statement really:

That, prior to the referendum being put to the people, the Government undertake a public education programme directed to the constitutional and other issues relevant to the referendum.

I do not doubt that any of us would expect anything other than that the government would do that.

CHAIRMAN—As I understand it, the government is under no obligation to do that when they distribute the referendum papers. Having said that, I will take that as a foreshadowed amendment which, having passed the series of amendments, we will then consider. I am not going to allow many more speakers—I have two more: Christine Milne and Michael Kilgariff—and I propose then to move to the voting.

Mrs MILNE—I would like to speak in favour of at least an ongoing 12-month education campaign. I happen to disagree with Malcolm Turnbull that people want education only if their position is the one that is not taken up. We all know that the Australian community is not fully informed about our existing Constitution, let alone the issues that are involved in moving to a republic.

As a republican, I certainly want to see Australia move to a republic by 2001, but I do think that the public want to know whether there is a viable model for direct election, what it is and how it compares with an appointed model. They have not had that opportunity. Now people are beginning to be really focused on the choices that they have rather than something cobbled together here that is not as good as it might be.

We should not be basing our future on number crunching and frustrating other people and making remarks like 'consulting the people is not necessary'. The people are involved. If they are to own the new republic, they have to have input into it, and that includes being able to make a decision about a direct election or about appointment. That

is why we have moved the amendment that we have to support a 12-month process, an indicative plebiscite and then the result of that going to an election.

Mr KILGARIFF—I rise to support the first motion moved and also the amendment moved by Malcolm Turnbull. I believe that an education process can be held actually before a referendum and it is not contingent on any constitutional change. I also believe that there is a symbolic gesture in moving to a republic on the centenary of federation. So I would say that any day in 2001 would be quite all right in my view. The final thing I would like to say is that the day that we do finally become a republic, if that is the choice this Convention makes and the referendum endorses it, should henceforth become Australia Day.

CHAIRMAN—I now propose to move to the voting. I thought we should start with that motion moved by Mr Clem Jones.

Mr GIFFORD—Mr Chairman, I raise a point of order. This afternoon whilst debating these amendments at least two of us have been seeking to be heard and you have bypassed us and you have given the call to—

CHAIRMAN—I assure you I have not done so. I have looked around the House and, where I have seen people raise their heads, I have directed the call. I set a list and I am sorry if I have missed you.

Mr GIFFORD—I have—

CHAIRMAN—I certainly did not deliberately pass you by. Please speak but do not take too long.

Mr GIFFORD—How long do I have?

CHAIRMAN—If you start now, not very long at all. Please start speaking, Mr Gifford.

Mr GIFFORD—I asked that deliberately because, if that is the situation—not very long at all—it is—

CHAIRMAN—It is the same as for everybody else. Everybody has had a little time. It is about two to three minutes, but please start speaking.

Mr GIFFORD—Look at the education side. You could not get the necessary education across before 2001. I would fully support the idea of education before this goes to the

public. The possibility of a good education system should not be thrown away.

The first thing is—and I am involved with two major schools—that you would have no possibility of starting it this year. The schools are already there. The educational requirements are full. It has to start next year, and one year would not be sufficient.

CHAIRMAN—There is not enough time for everybody to speak again. That is why I am trying to allow some reasonable analysis of what the proposed amendments are. We are not reopening the whole debate. We will move, then, to what appears to be one proposed resolution that stands on its own. I propose we deal with it first by voting on the amendment moved by Mr Clem Jones and seconded by Mr Ed Haber. That amendment is up there on the board before you. I declare the motion lost, but I suspect that, because of the necessity to know where we are, it would be better if we took a tally. The motion is:

If no resolution is passed by this Convention providing for the direct election of a President, no referendum shall be put before the people until a plebiscite is held to determine the wishes of the Australian people on this issue.

There being 21 in favour and 115 against I declare the motion lost. The next motion I intend to put will be that moved by Ms Catherine Moore and seconded by Ms Christine Milne. The motion is:

That no referendum be put to the people of Australia until a comprehensive education and consultation program of approximately 12 months in duration is undertaken to inform the Australian people on:

- (i) the detail of the current constitution
- (ii) the detail of the proposed models for a republic (including those advocating wider constitutional reform)

and that this education and consultation program, which should be publicly funded, be followed by a series of indicative plebiscites to determine which model should be taken to the Australian people at a referendum on or about the year 2001.

There being 14 in favour and 101 against I declare the motion lost.

The next motion I intend to put will be that moved by Brigadier Alf Garland and seconded by Mr Bruce Ruxton. You would understand that everybody has a vote on every

occasion, so do not feel that because you voted on whatever occasion you cannot vote again. The motion is:

That no referendum be put before the people of Australia until a comprehensive education program to inform the Australian people on the detail of the current Constitution is undertaken.

There being 50 in favour and 82 against, I declare the motion lost. The next motion I intend to put will be that moved by Mr Lloyd Waddy which, as you recall, was an amendment to the Peter Tannock motion. The question is that the following words be added:

"or when all states have altered their constitutions to change to republics on a date to be agreed amongst all states and the Commonwealth, whichever is the later."

Mr TURNBULL—Mr Chairman, there is a motion moved by me and seconded by Mrs Holmes a Court relating to public information which probably should be put at the same time as this one.

CHAIRMAN—I intend to put Mr Waddy's amendment—for it to become part of the main motion—and to put yours next. We will go through a process of identifying the main resolution and then put yours.

Mr TURNBULL—I thought it would make more sense to do it all together.

Dr SHEIL—I wonder whether Mr Waddy might accept the addition of four words—'should they so wish' after 'altered their constitutions to republics'—because it sounds as though the Convention is asking—

CHAIRMAN—Do you wish those words to be added, Mr Waddy?

Mr WADDY—Yes.

CHAIRMAN—Mr Waddy has included 'should they so wish' after the word 'republics'. The question is that Mr Waddy's amendment, as amended, be agreed to. There being 48 in favour and 85 against, I declare the motion lost.

We then have one additional amendment that I intend to put—that moved by Mr Turnbull and seconded by Janet Holmes a Court. Let me explain what my dialogue with the Deputy Chairman has been about. We are trying hard to get a final motion. As I took it, we took the Tannock motion as the original

motion, we have successfully looked at every amendment, we are now looking at the further amendment, which is Mr Turnbull's amendment, and if it is passed it will be added to the motion—otherwise we are going back to the motion. Whatever happens, Professor Tannock's motion will be put, either in whole or in part. We therefore now move to the amendment moved by Mr Turnbull. The motion is:

That, prior to the referendum being put to the people, the Government undertake a public education program directed to the constitutional and other issues relevant to the referendum.

Ms HOLMES a COURT—I second the motion.

Mr RUXTON—Is this amendment by Mr Turnbull in addition to the usual explanations that go to the electorate prior to a referendum? Is this an addition, or is he just saying what usually goes out prior to any referendum in this country—the pros and cons?

CHAIRMAN—I believe it was to be supplemental because there is already an obligation that both the case for and the case against be included in the papers.

Mr RUXTON—So your ruling is that this is in addition?

CHAIRMAN—It is in addition. I put the question that Mr Turnbull's motion be agreed to.

Mr RUXTON—I never thought I would vote with Ms O'Shane and Mr Cleary again.

CHAIRMAN—It just goes to show that you are a day older, and look at the difference it has made. There being 126 in favour and 3 against, I declare the motion carried.

The motion moved by Professor Tannock has added to it the words included in the motion by Mr Turnbull:

That a referendum for change to a republic or for the maintenance of the status quo be held in 1999 and, if the referendum is in favour of a republic, that the new republic come into effect by 1 January 2001.

Mr TIM FISCHER—I move as an amendment:

That the word 'by' be deleted and replaced with the word 'on'.

This will give the Convention the opportunity to sort out this issue once and for all. Do we dance to the tune of the Lord of the Rings or do we dance to the tune of Australian dates involved, including the 100th anniversary of the Federation of this country?

Professor WINTERTON—I second the motion.

CHAIRMAN—I think we will vote on Mr Fischer's amendment first. The question is that the word 'on' be inserted and the word 'by' be deleted. There being 40 in favour and 62 against, I declare the motion lost.

I therefore put Professor Tannock's motion, as amended, with the Turnbull addendum. Just so everybody is clear before we vote, the motion is the words in the top part there plus the Turnbull addendum:

That, prior to the referendum being put to the people, the Government undertake a public education program directed to the constitutional and other issues relevant to the referendum.

There being 85 in favour and 57 against, I declare the motion carried.

We will now move to motions in respect of the naming of any head of state.

Dame ROMA MITCHELL—I move:

That the title of the head of state in the event of Australia becoming a republic be 'Governor-General'.

Mr McGARVIE—I second the motion.

Dame ROMA MITCHELL—This meeting had no problem in retaining the words 'Commonwealth of Australia' notwithstanding the fact that there is a proposal to move to a republic, even if the republic does come about. I am concerned with the fact that Governor-General and Governor sit well in juxtaposition. There will be many references to the fact that the Australia acts have preserved the independence of the states. I think each state will have to have a head of state. In my mind, it will be misleading if the head of state for the Commonwealth is a president and the head of state for a state is a governor. I know they have existed in one or two constitutions but they are not where the state head is completely independent, as here. In a wish to preserve that independence, I prefer that that term be 'Governor-General' and the

states would then retain 'governor'. It is possible, of course, that if in due course we have a republic and move to president then we will have to have a president for each state too. I do not like that.

Mr BEANLAND—On a point of order, a copy of this material does not seem to have been circulated. Is there a written copy?

CHAIRMAN—It has been circulated, I am advised, on the back of the paper from the Resolutions Group for Friday. I think it is a bit difficult for delegates to have that today. If possible, can I ensure that all the other motions that are in this pack are circulated so that everybody has a copy.

Mr RANN—With the greatest of respect to Dame Roma Mitchell, I would like to oppose this motion. I think it just adds to confusion and ambiguity. The simple fact is that within the old British Commonwealth, now the Commonwealth of Nations, there are roughly 29 or 30 republics. All but one have a president; as I understand it, one has a head of state. Also, 15 current members of the Commonwealth of Nations are monarchies under the British Queen; all have a Governor-General representing the Queen.

It just seems to me entirely illogical that, if we move to a republic and we still have a Governor-General, with the confusion and ambiguity that people have been complaining of—such as, who is our head of state; is it an Australian head of state—people will simply believe that we have not changed and that we have some kind of colonial cringe. So I think it would make no sense, given that the actual legal definition of 'Governor-General' is 'the representative of the Crown'. So in a republic it would be a nonsense, in my view.

Ms PANOPOULOS—I speak against this motion. It is a joke, a total joke! In a campaign which has been running for months we have been told that a republic is inevitable. We have been told by one of the major republican groups that they want a resident for president. And now they are trying to hide—they are trying to hide and tell the Australian people, 'No, we really don't want a republic; no, we really don't want to change much; we want to keep the title.' Do not try to fool the Australian people. If you are so

proud of wanting a republic, if you think it is so wonderful, call it a president, go for the real thing and forget about keeping the title 'Governor-General'.

Mr MUIR—I have heard of taking a bipartisan approach, but that was a good one! With the greatest of respect to the present office of the Governor-General, I would comment that the term 'Governor-General' sounds a little like something from Gilbert and Sullivan. It is a colonial throwback. I think that under a republic of Australia—albeit the Commonwealth of Australia—this term would further alienate the people of Australia.

Mr GIFFORD—I strongly support Dame Roma Mitchell's motion. It wipes out the problem of 'head of state', which would not be understood by a large number of people in the voting range. Also, it is a term which would attract attention from overseas.

Mr TURNBULL—I do not want anyone to think that what I am about to say is in response to the flaying we have just received from Sophie Panopoulos. The Republican Movement has considered this over the weekend, as you know, and there is a lot of affection in Australia for the title of Governor-General. But the fact remains that 'Governor-General' is a term that today is only used in self-governing parts of the Commonwealth of Nations for representatives of Her Majesty the Queen. So it is clearly calculated to create confusion.

I recognise the force of Dame Roma's remarks, and we have taken them on board over the weekend. But we do believe that having regard to commonsense, general usage and what people will think everywhere else in the world—because, after all, our head of state has to represent us to the rest of the world—and given that we have not thought of a novel title, nobody having come up with anything compelling which is neither 'Governor-General' nor 'President', the only alternative is to support 'President'. So, with a little reluctance, we will nonetheless vote against this resolution.

CHAIRMAN—Thank you, Mr Turnbull. I will now call Councillor Tully and then we

might wrap it up. I want to get the alternative case presented.

Councillor TULLY—I certainly support comrade Turnbull on this issue. We must get rid of the last vestiges of colonial rule in Australia. I accept and understand the views on both sides. There has been some discussion, certainly not emanating from me, of a possible compromise. If I really knew how this vote was going to go I would say that we should adjourn or defer it until later in the week when the particular model is voted on. But there is the possibility of the neutral term 'head of state' so that the person would hold the title of 'head of state'. But I support the term 'president' for the reasons that have been espoused today. I think we would be crazy to keep the name Governor-General.

CHAIRMAN—We have another motion, notice of which was given by Matt Foley, who does not seem to be with us today. I have been hanging on to see whether he would arrive. I need somebody to move the motion.

Mr GROGAN—I move:

That in the event that a republican form of government is established, the title of the head of state should be "President".

Dr CLEM JONES—I second the motion.

CHAIRMAN—Mr Clem Jones, because your name is on the notice of motion we will invite you to speak.

Dr CLEM JONES—I do not think we need to waste time talking about this. I depend on the eloquence of Mr Rann, in support of the name of president, which I think is appropriate. I do not second this with any reluctance, as Mr Turnbull did when speaking in favour of it. I believe it is the only way to go. I support it entirely as I believe will the majority of delegates.

Mr RUXTON—I would just like to speak against the naming of our head of state as president. Our friend from South Australia said that we are going back to the colonial days when we had dominions. But, I tell you what, if we are going to be a bit different in this country—and I have been listening to it for a week—Australia is going to have a different sort of republic. For goodness sake,

why do we have to attach the name president? You could go to the 200 republics in this world and there would be only three or four that are any good, including those in the British Commonwealth—from Idi Amin to Hussein to Gaddafi, you could keep rattling them off. It is about time we got away from it and had something a little more Australian than president. I think the Sydney chardonnay set met on the weekend. That is what did it.

Professor PATRICK O'BRIEN—My position on all these procedural motions is that they are pretty trivial. We have spent two days discussing largely trivial matters. We should have been discussing in workshops the substantial question of the actual form of government under republican detail. Therefore, I think what we are doing—and I would like the public to know this—is merely discussing outward symbols. People treat flags like voodoo sticks. They think if they wave them the good and evil will disappear. Whether we have Governor-General or president will not make a great difference to the form of government. It will not make one iota of difference what we call the head of state.

Logically, I can see the point of maintaining continuity. But if we become a republic we are not maintaining continuity with the previous system. Therefore, people who support the present system, logically, should support the motion that the president should be the title in a new order—and we are getting a new order. Because I favour a democratic republic, I shall vote for the title president, though I understand the reasons why people want Governor-General. But let us be absolutely certain that this has nothing whatsoever to do with the content of the future form of government in Australia.

CHAIRMAN—What I propose to do is to put this motion as those in favour of the term 'Governor-General' and then those in favour of the term 'president', if there should be a change to the head of state. There being 37 in favour of the term 'Governor-General' and 83 in favour of the term 'president', the motion moved by Mr Grogan and seconded by Mr Clem Jones 'That the title of the head of state in the event of Australia becoming a republic be 'President' is carried.

CHAIRMAN—We will move to voting on the working group reports and we will come back then to the notice of motion of which Mr Hourn has given notice.

REPORT OF WORKING GROUP ON THE PREAMBLE

Subgroup (i)—Preamble and transitional covering clauses

CHAIRMAN—The first motion is from the first working group. Can I have the spokesman for working group (i) please.

Dr COCCHIARO—I move:

- (i1) In relation to the preamble to the Constitution there was agreement that a new preamble should:
 1. build upon the existing preamble
 2. recognise prior occupancy/custodianship by Australia's indigenous peoples
 3. acknowledge the positive contribution of the crown
 4. acknowledge the establishment of an Australian republic
 5. conclude with an enactment clause recognising the sovereignty of the Australian people.
- (i2) The Committee was divided on the issue on whether basic civil values should be acknowledged in the preamble. A clear majority of the Committee strongly favoured recognition in the preamble of basic civic values including:
 - representative Parliamentary democracy
 - rule of law
 - equality
 - Australia's cultural diversity
 - respect for the land/environment
- (i3) The Committee considered the attached draft preamble an example of the type of preamble that could embody its proposals.
- (i4) There was a strongly held minority view that there should be no recognition of basic civil values in the preamble. There was concern that the judiciary could employ such values in Constitutional interpretation.
- (i5) Some members of the Committee suggested that this could be avoided by including a clause in Chapter 3 of the Constitution directing the judiciary not to employ the preamble in Constitutional interpretation.

Professor WINTERTON—I second the motion.

CHAIRMAN—Does anyone wish to speak to that first preamble motion? If not, we will go through each of the preamble matters before we vote.

Mr GROGAN—Just to repeat the comments that I made this morning, joined by Dame Leonie Kramer: it would be truly a great thing if this afternoon we could all join in sending these preambles forward. That will be on the basis that they go forward for further consideration at the Convention and on the basis that those legal issues and concerns can be dealt with in the drafting stage.

CHAIRMAN—Can we move on to sub-group (ii)?

Mr RUXTON—Have we got a copy, sir?

CHAIRMAN—Haven't we got these papers either? They were circulated. We were discussing them this morning so they are probably in your papers. We have a series of amendments to that preamble. In order that people are aware of where we are going, we had better look at each of these. We will try to run through it all, then we will go back and go through the amendments and back to the motion. I would like to go through them all.

Mr LEO McLEAY—On a point of procedure, Mr Chairman: obviously this afternoon it is too late, but could you ensure that tomorrow and for the rest of the Convention, of an afternoon when we are all here for the voting, that the secretariat circulate to people in the chamber the matters that are before us for a vote. Putting proposals up on a screen is reasonable but it is not good enough if we are actually going to be making decisions on matters of some importance. Surely it is not beyond the wit of the secretariat to provide this material before we begin the voting of an afternoon. We vote at a particular time. Could you give that undertaking to the Convention, Mr Chairman?

CHAIRMAN—I understand they were all distributed this morning, Mr McLeay. The trouble is it sounds as though we have got to distribute them in the afternoon as well.

Mr LEO McLEAY—With all due respect, that is the point: half the people in here have not got it.

CHAIRMAN—That is precisely right.

Mr LEO McLEAY—The secretariat should be able to do that for us. That is what they are paid for.

CHAIRMAN—I call on Professor Craven, who has the first amendment, to speak to the motion. We will put Professor Craven's amendment on the board. We will run through each of these so we know what these amendments are.

Professor CRAVEN—I move:

Add to the resolutions of sub-group 1 the following words:

"Alternatively, that in relation to the preamble, the following principles should be applied:

1. any preamble should build upon the existing preamble;
2. the preamble should recognise prior occupancy of Australia's indigenous peoples;
3. the preamble should acknowledge the past contribution of the Crown;
4. the preamble should contain appropriate statements of acknowledged historical fact: principally, the conversion of Australia to a republic, and the subsistence of parliamentary and federal government;
5. the preamble should not contain statements of abstract values or rights such as equality or democracy.

The Most Reverend PETER HOLLINGWORTH—I second the amendment.

CHAIRMAN—Do you wish to speak to it, Professor Craven?

Professor CRAVEN—Very briefly. This amendment is designed to put into the Constitution—or at least to set a framework for putting into the Constitution—a preamble that does nothing more than to reflect the realities of a republic Constitution, to provide an appropriate opening to that Constitution, to recognise the position of Aboriginal people, not to insert inappropriately vague values that could be the subject of inappropriately vague judicial determination and, in particular, to prevent any chance of a political scare campaign based upon a suicidal preamble as part of a republican amendment.

Mr BRUMBY—This is a key issue, and it is one which the committee spent a great deal of time discussing last Friday morning. The committee was overwhelming of the view that there should be some basic but fairly non-

contentious values inserted in the preamble. As the committee has reported, those basic civic values should include representative parliamentary democracy, the rule of law, equality, a reference to Australia's cultural diversity and a reference to respect for the land. These were basic values. We were not proposing a wide charter of citizens' rights or things which could be called a bill of rights or issues which could be challenged in the courts. But we do believe that the preamble should refer to some of those historical civic values which we hold strong in Australia.

Professor Craven has said that this opens up the prospects for a High Court challenge; that it would be an unusual thing to do. If you look at the constitutions of the world, you find that there are basic civic values entrenched in most constitutions. If you look at the Indian constitution, you find justice, liberty, equality and fraternity. If you look at the South African constitution, you find unity, democracy, equality and social justice. If you look at the Irish constitution, you find prudence, justice, charity, dignity and freedom. If you look at the German constitution, it refers to self-determination, to being free and united. The United States constitution embedded well and truly the values of justice, peace and liberty.

We are not after a fight with the High Court. We are not after a bill of rights, but I think it is absolutely crucial that in the preamble we include some basic reference to civic values that are important to us as Australians, that we have developed over hundreds and hundreds of years, and that they be written in a way which is not contentious but in a way that reflects appropriately our support for representative parliamentary democracy and the rule of law, our belief in the equality of all citizens, our understanding of cultural diversity and our respect for the land in which we live. I do not believe they are contentious, and I believe they are crucial to any reasonable preamble we put before the Australian people.

Ms O'SHANE—I have a question for Professor Craven. I note that paragraph 4 reads:

... the preamble should contain appropriate statements of acknowledged historical fact . . .

And it goes on to give an illustration. The question that I want to put to Professor Craven is: do statements of acknowledged historical fact include the brutal murder and dispossession of the indigenous peoples of this country; the stealing of their children; the breakdown of their communities; the dispersal of their communities and then the institutionalisation of indigenous communities in reserves? These are acknowledged historical facts. Do I take it that we will include these in the preamble that Mr Craven is proposing?

CHAIRMAN—I will ask Professor Craven to respond when the debate is finished.

Dame LEONIE KRAMER—I am taking issue with the phrase 'the conversion of Australia to a republic'. I think it is inappropriate to invite us to vote on that when we do not have the result of a referendum. I do not think in any case, to make a more general point, that the preamble should include such statements. That is not a statement of principle at all.

CHAIRMAN—Can I point out that these working group proposals are within the embrace of the resolution we passed the other day. Therefore, when we have been through them this afternoon, if there is more than 25 per cent in favour they will be referred to the Resolutions Group. We will have another opportunity to revisit them after the Resolutions group has considered them.

Professor WINTERTON—I support the principal resolution and all of Greg Craven's amendment, except for point No. 5. Perhaps I could suggest to delegates a way of evaluating what ought to be in the preamble. Logically, one ought to begin by asking: what is the purpose of a preamble?

It seems to me that there are three basic purposes, if you look at world constitutions. The first is to state what is the purpose of the Constitution. Our Constitution was adopted by the people before enactment at Westminster, so it ought to say that it is based upon popular sovereignty, which is a fact and which the High Court and many others have recognised. If we do change to a republic, it ought to say that. The second is a statement of who we

are. That ought to indicate the people who constitute the Australian community, including the indigenous people and, if one wishes to state it, the fact we are a multicultural or diverse nation. There should be some reference to that. The third and most important, in this context, is how we would wish others to see us and how we see ourselves. Here, I think values that unite us and help to give a picture at the beginning of our national constituting document are appropriate.

I fully understand Greg Craven's concerns. Those concerns have been expressed by many people who support the values that are in the Constitution. Sir Anthony Mason, for example, the former chief justice, has expressed the same concerns as Greg Craven—and they are serious considerations. The reality is that the High Court will take the preamble into account. Nevertheless, it is essential that we not be dominated by the fact of constitutional interpretation. If we believe these values are central to the Australian ethos, we should state them.

The important thing to bear in mind is that the High Court can derive these values from elsewhere. Take the rule of law: the High Court recognised this in the Communist Party case, without any statement in the preamble. With regard to democracy, the High Court has recognised this from other constitutional provisions providing for election of the Commonwealth parliament. They do not need the preamble. As all the critics of the High Court will note, they can rely on international instruments and other constitutions of the world. The reality is that whether or not they are in the preamble will make little difference to constitutional interpretation.

Dame LEONIE KRAMER—Could I request that you take each of these five proposals separately?

CHAIRMAN—Yes, I shall.

Professor PATRICK O'BRIEN—I am absolutely dumbfounded when I look up at that screen. There it says, in No. 5, that 'the preamble should not contain statements of abstract values or rights such as equality or democracy.' Goodness me—we must not talk about democracy! That is the dirty word. That is the 'Boo' word. Democracy an abstract

value? Good God—do the authors of that phrase understand what they are saying? Have they read no history? Do not they understand that we have just witnessed the collapse of totalitarian regimes—the attempts to institute very practical things called democracy? Do not they understand what the Glorious Revolution of 1688-89 was at least partly about? Do not they know that people were hung, drawn and quartered because they advocated the sovereignty of the people? How ridiculous that a Constitutional Convention in a democracy says that we must not put the word 'democracy' in a preamble to the Constitution. That is disgraceful.

Dr O'DONOGHUE—I want to draw attention to what many speakers this morning referred to as 'prior occupancy'. I rise to my feet because I want to make it quite clear to the assembly here that we were not the prior occupants; we were the original occupants. I would like that to be clear once and for all in the assembly. I would want a change to 'prior occupancy'. It would be better if we took out the words 'prior occupancy' and 'custodian' to recognise Australia's indigenous peoples.

CHAIRMAN—I would point out that we are only dealing with these provisionally. I think we will take on board your recommendations without making a formal recommendation. We can refer that to the Resolutions Group if it is passed.

Mr BRADLEY—I understand entirely the sentiment expressed by the movers of these amendments. Their concern is that by putting words like 'democracy' and 'equality' into the preamble, we may deny our parliaments the ability to enact the laws that we elect them to enact and place the responsibility for limiting their action and interpreting their words in the hands of courts who are not elected. I would have thought that those who sit on those benches and purport to support the popular election of positions and abhor the appointment of people to offices should not sit well with the proposition that they would transfer power from the parliaments of this nation to the courts and leave to them the rights to decide what is or is not democratic. That is the sentiment behind these amendments, and I support that sentiment.

On the other hand, I must say that I do not think it is beyond the wit of this nation to compose some words to sit as a preamble not to the act but to the Constitution, which would adequately meet the requirements of 95 per cent of the people in Australia, including the very legitimate requirements of the indigenous people of this nation and in a way which would not effect a massive transfer of scrutiny and power from our parliaments to our courts.

In the hope that the message might go from this Convention to the government, who is listening to its report, I would support the sentiments behind this amendment because I think it would be unwise for us as a body to suggest a further transfer of power out of our parliaments into our courts.

CHAIRMAN—I want to try to keep this to a minimum because we have a large number of amendments, and time is running out. I call Mr Wilcox and then Mr Rann.

Mr WILCOX—I get a bit astounded here at the rush, rush, rush, as if there is some magic in the year 2000 or anything else. I am not against probably recognising nearly all of what is in that preamble. I might say at the outset that I do not have a copy. I have a copy of the amendment proposed by Professor Craven. I do not have the original. It is very difficult to read it up there. There is no No. 1 on that screen. No. 5 is nearly cut off at the bottom. It talks about abstract values or rights and equality and democracy—all great words. Let me remind you that the present preamble has one, two, three, four, five, six, seven, eight lines. That is all it has—eight lines. We think that we can work magic here and bring about an entirely new preamble within two weeks.

The founders of the Constitution were very erudite men. They took two decades—20 years. We are trying to do all sorts of things in two weeks. It is an instant coffee syndrome today. Everything has to be instant. I just sound a warning. Somebody said, ‘Do the courts take preambles into account?’ It is pretty hard to keep up with what the courts do today. You never know what they do. As a lawyer from way back, I used to have a pretty fair idea what the courts did, but today you

never know what they do. They decide to have judgments on what they believe to be international expressions of opinion.

I just sound a warning. I am not speaking about anything particular in the preamble and the many things that were mentioned, some of which I heard this morning. Some of them were excellent statements of principle of what this country is about. But we just want to be careful. No. 5 has disappeared, so I cannot even look at that. I have to rely on my head, and that is not too good sometimes at this stage of the afternoon after a few days of this.

I just sound a warning: you change one word in a legal document—and that is what the Constitution is and I include the preamble—you change a clause and the litigation is just tremendous. In a country which goes for litigation like the Americans have, goodness knows where we would finish up. I sound the warning. I am not against it, but there should be a lot more work put into it. I do not think this Convention has time to do it. If it goes away, and the government sees it, well and good.

CHAIRMAN—I point out that these are going to be considered provisionally. Mr Rann wants to make a brief intervention and then I want to call Mr Turnbull. Then we will take it on that provisional basis.

Mr RANN—I think there is some confusion about this. We are not talking about a Bill of Rights—that would take us months to determine—we are talking about a statement of Australian values which should not be beyond our wit. Hopefully, that statement of Australian values says what we stand for as a nation: things like the rule of law; things like the sovereignty of the people, diverse as they may be; things like representative parliamentary democracy in a federation of Commonwealth and states; things about equal justice under the law; equality of men and women under the law and equality of opportunity. Those basic things that we, as Australians, hold dear should not be beyond our wit in a brief preamble to a Constitution.

Mr TURNBULL—As far as the preamble is concerned, I think it is quite plain that there are three things that delegates overall seek to achieve. First is a recognition of the Aborigi-

nal people of this country, the first Australians, who are excluded from the preamble and ought to be included in it. Secondly, the preamble should be an uplifting document; it should say something inspiring about Australia's values. Thirdly, there is a legitimate concern expressed by Professor Craven that those two first objectives should not be effected in a manner that creates all sorts of unforeseen consequences and unforeseen change.

This is not a particularly easy thing to put together. We are not going to be able to do it. The best we can do is tell the Australian parliament what our concerns are and what we want to be in there. I have no doubt that over time, in consultations with ATSIC who, with great respect to other interested parties, I think have the primary status in terms of speaking about this preamble because they were here first and have been left out of it longest, a preamble will be developed that meets all of those objectives. So I would urge delegates to remember we are not drafting the preamble; we are talking about simply some drafting guidelines which parliament can take into account.

CHAIRMAN—Professor Craven, do you wish to respond?

Professor CRAVEN—No.

CHAIRMAN—All right, I will put each of these seriatim; in other words, we will put 1, 2, 3, 4 and 5 as Professor Dame Leonie Kramer suggested. I remind you that this is one of those recommendations that will be referred and not passed. We have the amendment to the proposition from Working Group 1 for consideration by the Resolutions Group. I put proposition 1. Yes, Mr Moller?

Mr MOLLER—Mr Chairman, on a point of order, point 1 in the original Working Group report is that the preamble should build upon the existing preamble. The only point which is different in Professor Craven's amendment is point 5. With respect, Mr Chairman, I would suggest it is a waste of time. All of the other points are included in the committee's report. The only one at difference is point 5, which is about the statement of values. With respect, I would suggest that you deal with point 5 or deal

with the whole thing and dispatch it that way, but this will be contradictory, if it goes through, and repetitive.

CHAIRMAN—The words are not exactly the same. Because we are only taking a 25 per cent reference, perhaps we could proceed on that basis. There are some changed words though, as I read it; I could not quite check their exact implications. If that is so, we had better deal with the first points, 1 to 4, which are the points of the reference. I still think it is better dealing with them one by one otherwise you do not know where you are. We will take it as I suggested, and as Professor Kramer identified. We will put point 1 to a vote. Those in favour? Those against? It will be referred.

We come to point 2, taking into account the remarks of Lois O'Donoghue regarding the words 'prior occupancy'. Those in favour of referring it to the Resolutions Group? Those against? I declare that motion referred with significant support. Point 3: those in favour of reference? Those against? I declare that motion referred with significant support. Point 4: those in favour? Those against? I declare that motion referred.

We will now turn to point 5. Would those in favour of reference please raise their hands; and those against please raise their hands. I declare that motion not referred. So point 5 has dropped out and points 1 to 4 are referred. I am dealing with these not necessarily in the way that logic would suggest but according to the amendments. We have an amendment by Mr Michael Kilgariff. Do you wish to move that?

Mr KILGARIFF—Yes, I do. I move:

In relation to the preamble, the Northern Territory should be recognised as a geographical and legal entity and it would be expedient to provide for statehood and thus full membership of the Commonwealth of Australia.

Mr BARTLETT—I second the motion.

Mr KILGARIFF—Before I start, I wonder if I could make an amendment to that. The motion should now read:

In relation to the preamble, it would be expedient to provide for statehood for the Northern Territory and thus full membership as a state in the Commonwealth of Australia.

It removes the words 'should be recognised as a geographical and legal entity'. The intent of this motion is really to provide for the Northern Territory the same sort of status that Western Australia had at the beginning of the century with Federation, where Western Australia had not yet voted to join the Federation but I guess the capacity was left in the Constitution to allow them to join. All I am asking for at this stage is that this Convention forward this motion on to the committee. I am quite prepared to deal with the committee at that stage to try to work out a satisfactory method in which we can have something like this included in the preamble.

CHAIRMAN—Would you be prepared to subordinate your amendment to that of which notice has been provided by Mr Denis Burke, which talks about equal recognition of all territories? It is the next motion on the list, which suggested that with regard to the preamble.

Mr KILGARIFF—Given that they are both going to the drafting committee, I do not see why we cannot send both.

Councillor TULLY—On a point of order: as I understood it, the suggestion was that the preamble in some way might create the Northern Territory as a state. On the same basis as with the flag issue, I cannot see that that would be in order.

CHAIRMAN—I think at this stage we are not going to determine the outcome of the Resolutions Group. What I intend is to refer it to it, if it is so decided.

Professor WINTERTON—I was going to raise those points, that first of all it would be appropriate to recognise all the territories. I see that as the subject of another draft resolution. Also I was going to support the other speaker. This is totally inappropriate in the preamble.

Mr LEO McLEAY—What about New England?

CHAIRMAN—I must admit that might be my personal view but I do not think I am in a position to express it.

Ms THOMPSON—I have a question for Michael Kilgariff. I think the amendment that he has moved makes the motion actually

nonsensical because it does not refer anymore to the Northern Territory. So I would suggest he might like to have a look at the wording he is suggesting. What he is saying is that in relation to the preamble it would be expedient to provide for statehood and thus full membership of the Commonwealth of Australia, but he does not say statehood for what.

Mr KILGARIFF—Look at the motion that is up on the board.

Mr RUXTON—Last week, perhaps it was day 2, we discussed the extraneous issues. What I have been saying all along is that the republic issue is just a vehicle to get stuck into the Constitution. I have not come here to talk about granting statehood to various territories. We came here to talk about the republic. These sorts of things are intruding all the time now with Paddy's passionate remarks about a democracy and all these things. I tell you what, every country has got in its name democratic republic or people's democratic republic. You have a big question mark over the lot of them.

Ms RAYNER—You were trying to do exactly the same thing.

Mr RUXTON—If you were my mother I would petition to become unconceived, I am telling you.

CHAIRMAN—Would you mind addressing the issue, Mr Ruxton.

Mr RUXTON—I do not believe that we should be discussing granting new states when we have come here to discuss the republic issue.

CHAIRMAN—I am going to allow one more speaker, who is the seconder. I think we should take on board the advice of Mr Ruxton.

Mr BURKE—Mr Ruxton and maybe some other delegates may not have come here to talk about statehood but that is certainly the issue being raised by a Territorian and Territorians listening to this broadcast. With my sitting here as a Territorian you can be damn sure I am going to say something in support of it, otherwise I would possibly get lynched because this does reflect the sentiments of Territorians. It may be too rash for this Convention at this time. If that is the case, I

would ask delegates to refer to the second amendment, which I think encapsulates not only Mr Kilgariff's wishes, but also the wishes of the states and Territories.

CHAIRMAN—I suggest that we proceed to the vote. This is, as Mr Ruxton identified, way off in the left field of the main purposes of this Convention. There is an amendment that we have before us. If it receives 25 per cent support, it will be referred. The question is that the amendment be referred.

Motion lost.

CHAIRMAN—There is another amendment by Mr Burke. I do not think there is a need to speak to it. Mr Burke, do you wish to move it?

Mr BURKE—Yes. I move:

If the preamble refers explicitly to the States, then there must be equal recognition of all the Territories.

Ms WEBB—I second the motion.

CHAIRMAN—The question is that the amendment be referred.

Motion carried.

CHAIRMAN—I then have an amendment by Mr Clem Jones. Do you wish to move your amendment, Mr Jones?

Dr CLEM JONES—Yes, Mr Chairman. I move:

The Preamble shall read:

"The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the President, a Senate, and a House of Representatives, and which is herein-after called "The Parliament", or "The Parliament of the Commonwealth". The three levels of Government shall be the Parliament of the Commonwealth of Australia, the Parliaments of the Sovereign States and internal Territories and Local Government.

Australia recognises that gender equities shall be recognised in all processes of change including constitutional changes so as to promote woman's equality in society to ensure cohesion, political stability and promotion of its democratic culture.

Australia recognises Aboriginal people and Torres Strait Islanders as

its indigenous people and dedicates itself to a responsible and representative system of Government that is inclusive of all its people, upholding fundamental human rights, and ensures participation

of all its people in its social cultural and economic life.

Mr CURTIS—I second the motion.

Dr CLEM JONES—When I moved this amendment, it was as if it were to be a motion because I was not aware that it was going to be simply carried forward. I still believe that we should proceed because there are several things in it, as I said earlier this morning, which are of importance and which should be considered by the committee. People might prefer to put before the words 'local government' the word 'elected', but the main point involved is that we should include 'local government' in a preamble. That I think should be considered by the committee.

The second thing is that that first paragraph does perhaps provide for some of the things that Mr Kilgariff said. In paragraph 2, again, gender equities has been mentioned there. It has been discussed very often; this is another way of putting it and perhaps the committee should look at that. Similarly, with the recognition of the Aboriginal people and Torres Strait Islanders. In that context, setting out things succinctly is perhaps better than having a lengthy exposition, and I refer it on that basis to the resolutions committee.

CHAIRMAN—The motion before the Convention is that this amendment, with particular reference to the issues that have been identified by Mr Jones, should be referred to the Resolutions Group for consideration and possible reference back to the Convention. Put another way, we are referring the amendment that Mr Jones has identified, which is not in its final form but contains two additional points that he has identified, as I understand it—representative local government and gender equity. If the motion is referred, it will go to the Resolutions Group who will consider what resolution they will bring back to us when we will consider the matter on a final basis. Those in favour of Mr Jones's proposition? Those against? I declare the motion not referred.

Mr BRUMBY—I raise a point of order. I know we have had a vote, but there are—and I think this is the point Mr Leo McLeay was trying to make—a number of different issues in that the motion.

CHAIRMAN—Would you like to deal with it clause by clause?

Mr BRUMBY—The first paragraph deals with local government—

CHAIRMAN—All right, we will deal with it clause by clause. The first clause deals with local government. Those in favour of the representative of local government being referred? Those against? Again, I do not think you have the numbers.

Councillor TULLY—I seek a count.

Professor WINTERTON—I raise a point of order. I was hoping you would raise the point that this is completely inappropriate. In a preamble, the actual wording of this is ridiculous, with all respect. The legislative power in the first part of this is like section 1 of the Constitution. Could I suggest that if the movers of the resolution wish the preamble to refer to local government or gender equity they simply say that. This is ridiculous, with all respect.

CHAIRMAN—I must admit that that would be my view. That is why I did not feel it necessary. But I am not arguing here today. Do you still wish, Mr Brumby, to proceed? I believe the point made by Professor Winterton is totally accurate.

Mr HAYDEN—Surely if it is referred to the Resolutions Committee that sort of running repair can be done, which would meet Professor Winterton's concern, and it could be elaborated more satisfactorily.

CHAIRMAN—There are those who wish it to proceed, even though I think Professor Winterton's comments are quite valid. Those in favour of local government being referred please raise their hand. There are 48 in favour so I do not need to take the number against. Local government is referred. The next paragraph we are dealing with is gender equity. Those in favour of gender equity being referred? Those against? You have your numbers, gender equity is referred.

Paragraph 3 recognises Aboriginal people; that has already been referred under the earlier proposition. We have a further amendment. I do not know quite how we deal with this, Dr Cocchiaro. You moved the original motion, but there is a further proposition

which I gather you are advancing as some form of a hybrid. Do you wish to proceed with that, Dr Cocchiaro?

CHAIRMAN—Can I urge you not to speak, we are running out of time.

Dr COCCHIARO—I move:

Amend the preamble to add the following:

With the blessing of God and in acknowledging spirituality and humanity, we the people of Australia give ourselves this constitution.

We recognise the Aboriginal peoples and Torres Strait Islanders as our indigenous people.

We, the people of New South Wales, Victoria, South Australia, Queensland, Tasmania and Western Australia, together with all the Territories, having united in one indissoluble Federal Commonwealth of Australia under the Crown of the United Kingdom of Great Britain and Ireland, have evolved into an independent federal republic.

We are a culturally diverse but united and cohesive nation of citizens who have come from every corner of the globe to join with the indigenous inhabitants.

We recognise and value, the rule of law, mutual respect and tolerance.

Our nation dedicates itself to a responsible and respective system of parliamentary democracy that is inclusive of all its peoples, upholds fundamental human rights, respects and cherishes cultural diversity, and protects the land and indigenous heritage.

Ms ANDREWS—I second the amendment.

Dr COCCHIARO—This is just additional to Professor Winterton's. It seeks to be inclusive of people who may be atheist. It also emphasises cultural diversity and points out environmental concerns.

CHAIRMAN—Thank you. Those in favour of referring Dr Cocchiaro's hybrid? Those against? It is referred.

We will go back to the report of subgroup (i). Are we in favour of it being referred with those various addendums? Remember, you have more than one vote; this is all for the sake of reference to the Resolutions Group. The motion is that the report of subgroup (i), as amended, be referred to the Resolutions Group.

Motion carried.

Subgroup (ii)—Preamble—to retain the words "humbly relying on the blessing of Almighty God".

CHAIRMAN—We will now go to subgroup (ii). These are only to be referred. We are considering them subsequently. Archbishop Peter Hollingworth, do you wish to move your resolution?

Dr DAVID MITCHELL—Mr Chairman, there is a proposed amendment.

CHAIRMAN—Yes, I understand, but the resolution has to be moved first. Archbishop Hollingworth, do you wish to propose your group's report?

The Most Reverend PETER HOLLINGWORTH—I move:

(ii1) It is recommended to the Convention that the present formula, "humbly relying on the blessing of Almighty God", be retained in any subsequent amendments to the Preamble.

(ii2) This action will keep our Constitution clearly in line with nearly all other constitutions of nations in this region and beyond where reference is made to the Divinity as the source of all power and be a unifying statement for people of all religious faiths throughout Australia.

I will be very brief about it. Just to reiterate quickly what we said in the earlier discussion, the word 'God' is to be understood in the generic sense as every man, woman and child understands him/her to be according to their own particular experience. I think that probably covers the issue.

Ms AXARLIS—I second the motion.

Dr DAVID MITCHELL—I move:

Add a further paragraph as follows:

3. The Preamble to the covering clauses of the Constitution should include all the concepts expressed in the following words:

"The people of the Commonwealth of Australia, humbly relying on the blessing of almighty God:

Acknowledge that their sovereign, independent nation has been well served since 1 January 1901 by the Constitution then established;

Unanimously recognise that Aboriginal peoples and Torres Strait Islanders are the indigenous peoples of Australia and that almighty God made every race of mankind to be of one blood and to inhabit the whole earth and He determined the times set for them and the exact places where they should live;

Sincerely affirm the principles and rules for government expressed and acknowledged up to this time

in the historic oath and ceremonies of the coronation of Kings and Queens of Great Britain;

Totally reject practices of injustice based on race, colour, creed, sex, language, incapacity or any other characteristic or fact;

Recognise and cherish the contribution to their nation of people of diverse backgrounds and cultures;

Agree together that Australia is and shall continue to be one indissoluble Federal Commonwealth;

Live in a land of opportunity and they demand respect for, and the proper use and protection of, the gifts bestowed by Nature on their great nation and they expect each person to use his or her abilities and resources diligently and wisely so that all may prosper;

Insist on peaceful co-existence according to law within Australia and with the other nations of the world;

And they joyfully sing together—

Advance Australia Fair,

Very briefly, many of the issues in this amendment have already been referred pursuant to resolution 1. However, there are some specifics relating to this that I must draw to the attention of the Convention. You will see that there are nine sentences, each commencing with a letter and the letters spell out 'Australia'. The sentence beginning 'U', relating to the recognition of Aboriginal peoples and Torres Strait Islanders, perhaps looks wordy on its face. It is drawn straight from the scriptures in Acts, chapter 17, verse 26.

You will see that this proposal includes not only questions of discrimination and recognition of the contribution of people of diverse backgrounds but also that the preamble must declare that Australia continues to be one indissoluble federal Commonwealth.

This amendment proposes a recognition of the forests and the other natural resources of this country. It calls for work for toil, and respects the peaceful coexistence according to law within Australia and within other nations. These are matters which are not raised in the other resolutions. I put it in this place as an amendment to resolution 2 not because it necessarily fits better there than anywhere else but because I did not wish to detract from any of the matters in resolutions 1, 3 or 4.

Brigadier GARLAND—I second the amendment.

CHAIRMAN—The question is that the amendment be referred to the Resolutions Group.

Motion lost.

CHAIRMAN—The question now is that the report of subgroup (ii) be referred to the Resolutions Group.

Motion carried.

Subgroup (iii)—Preamble—to provide constitutional recognition of the indigenous people as prior inhabitants of Australia.

Father JOHN FLEMING—I move:

(iii1) That this Working Group, representing a wide range of opinion on the republic, recommends to the Constitutional Convention:

- a) that the Preamble should include recognition of Aboriginal peoples and Torres Strait Islanders as the original inhabitants of Australia who enjoy equally with all other Australians fundamental human rights;
- b) that this separate referendum question on the Preamble be put to the Australian people at the same time as the referendum on the republic; and
- c) that there be wide community consultation and negotiations with ATSIC and other relevant bodies to reach an agreement on the form of words to be used in such a proposed constitutional change before it is put to the people.

As I said at the end of the last week, the report makes sure that the recognition of Aboriginal and Torres Strait Islanders as the original inhabitants of Australia be entrenched in the preamble and that the matter can be dealt with as a separate referendum question. You simply need another act of parliament. The two questions can be put, as has occurred many times in the past in Australia. A lot of referendum questions have been put at the one time. However, because this is an in-principle motion, the wording shall be in agreement with and in consultation with the various interested community groups mentioned in the article.

Dame LEONIE KRAMER—I second the motion.

CHAIRMAN—The question is that the report of subgroup (iii) be referred to the Resolutions Group.

Motion carried.

Subgroup (iv)—Preamble—to provide constitutional recognition of citizens rights.

Ms RAYNER—I move:

(iv1) This working group recommends the adoption of the draft preamble endorsed by the ATSIC Board of Commissioners which we believe meets most of the working group's needs, and appears in the following terms:

- (a) "Australians affirm their Constitution as the foundation of their commitment to, and their aspirations for, constitutional government.
- (b) Our nation dedicates itself to a responsible and representative system of government that is inclusive of all its people, upholds fundamental human rights, respects and cherishes diversity, and ensures full participation in its social, cultural and economic life.
- (c) Australia recognises that Aboriginal peoples and Torres Strait Islanders are its indigenous peoples with continuing rights by virtue of that status.
- (d) We seek a united Australia that respects and protects the land and the indigenous heritage, values and cultures of its peoples, and provides justice and equity for all.
- (e) We the people of Australia give ourselves this Constitution."

(iv2) Further, this working group suggests the resolutions group also consider including references to the following:

- (a) both our diversity and our developing way of life
- (b) recognition of the spiritual wealth of the people
- (c) expansion of the reference to our unique and diverse land
- (d) consciousness of our responsibilities to future generations
- (e) a desire to seek mutually co-operative relations with our neighbours.

Mr DJERRKURA—I second the motion.

Mr HAYDEN—There are an extraordinarily large number of abstract notions put forward there which could allow very wide subjective interpretation as to what is exactly meant. I hope therefore that if this goes forward the Convention will bear in mind what Mr Turnbull said earlier about subjective issues in the first resolution that came before us. It could end in a disaster. When the High Court interprets a meaning in the Constitution it rules out any opportunity for parliament

thereafter to pass any laws inconsistent with the interpretation even if parliament and perhaps the public believe that that interpretation is not the sort of thing they would want. It would require a referendum to change it. So we have to be very careful. And that is apart from the litigation and the high costs which can occur with these sorts of abstract notions.

CHAIRMAN—Are there any other comments?

Ms RAYNER—I was not going to say anything but since Mr Hayden did speak against the motion may I simply point out that this is a motion which says that the ATSC Board of Commissioners' recommended preamble should be sent to the Resolutions Group. It is far from a radical document and there is really little point in saying that we should be afraid about how it is interpreted. We should in fact be ensuring that we deal with human rights and the rights and democratic principles upon which we are governed in a statutory framework and in further constitutional review. This is merely a document which gives us somewhere to look which is above our own navels.

CHAIRMAN—Are you ready? I know that it is a reference, a provisional resolution. We are considering that the report of Working Group 4 be referred to the Resolutions Group from which it will come back and we will make sure that you all have all the bits of paper so that you know the full detail of the final words. There being no further comment, I put the question that the report of subgroup (iv) be referred to the Resolutions Group.

Motion carried.

CHAIRMAN—We have one other item and that is the motion of Mr Geoffrey Hourn. Do you wish to proceed with your motion, Mr Hourn?

Mr HOURN—Yes. I move:

That this Convention calls on the Treasurer to provide an estimate of the total cost of transition to, and establishment of, each of the models of a republic currently being considered by this Convention, namely:

- (a) where a head of state is popularly elected;
- (b) where a head of state is elected by a joint sitting of the Federal Parliament; and

(c) where a head of state is appointed by the Prime Minister or a Constitutional Council

Mr BARTLETT—I second the motion.

Mr HOURN—Last Friday I was wondering late in the afternoon whether five days in Canberra in the hot house of this Convention removes one's reason or diminishes one's perspective. As you will recall, on Friday afternoon a similar motion was put by Senator Boswell and was defeated 68 votes to 65. A charitable view might be that delegates may have been preoccupied with thoughts of returning home on Friday afternoon to their loved ones or thoughts of that first sip of chardonnay and therefore did not put much consideration into the particular matter of the costs of any republic. But in simple terms it is an important issue to be considered. You certainly do not buy a racehorse when all you can afford is a camel.

Senator Boswell put up a reasonable proposition although some speakers suggested that it was a debating point and was really a trick of some form. In moving the motion Senator Boswell said that he thought that the people of Australia deserve all the information they can get in formulating their opinions of whether or not we should change our system of government and that an important part of that information is what it would cost to change.

Senator Boswell also acknowledged that democracy should not have a price on it. But nevertheless the public does deserve at least a ball park figure of what any change would cost. Mr Lavarch said that this was a bit of gamesmanship and then Mr Turnbull asked for the Treasurer to make a comment. The Treasurer got up and said that he was a servant of the Convention and would make the best attempt possible to gain this figure and supported that statement by later voting for the motion. Nevertheless the motion was lost.

Now that we have had the weekend to reflect on the matter, it is important that the matter be put again because the people of Australia do want to know what the cost of changing our form of government will be before they make any decision. The Convention will make resolutions and recommenda-

tions which will go to the Prime Minister and which the Australian people will take note of. It is therefore important that delegates understand the cost and what that implies is.

The cost may also determine such things as timing. We talked about timing earlier today. It is important that we take into consideration all aspects when making recommendations on what sort of a republic we might wish to put to the people.

In summary, we need to be transparent. We need to be honest. We need to have all the cards on the table. Considering the cost—even if it is in ballpark figures—of what a change would be is a very important consideration.

CHAIRMAN—My difficulty is that the Convention yesterday decided against the motion that this Convention call the Treasurer to provide to this Convention an estimate of the total cost of transition to and establishment of a republic with reference to consequential changes such as the provision of prior federal and state legislation and practices. This motion is very much of an agenda that fits within that. I really require a rescission motion on Senator Boswell's motion. If we have that we can consider the two. But unless Senator Boswell's motion is rescinded we would have difficulty in accepting that yours is significant or substantial.

Senator HILL—How can you rescind it if it has been defeated?

CHAIRMAN—With a motion that has been defeated we would have to have it revived—put it the other way around. Mr Jones suggests that procedurally he has an alternative. I want to know how I can get the new motion up.

Mr BARRY JONES—It was put to the Resolutions Group this morning that this is certainly something that is well above the 25 per cent threshold. It was unanimously agreed around the table at the Resolutions Group that the Boswell resolution should be put and a fresh vote taken on it. That is the recommendation of your Resolutions Group.

CHAIRMAN—I would propose that we need to have a mechanism to revisit the Boswell motion. In order to do that I will allow the Boswell motion to be considered as

an amendment. Then we can go back to Mr Hourn's motion. In other words, we will recommit Senator Boswell's motion. But I have to do something about that vote yesterday or I do not believe we can do it.

Ms HOLMES a COURT—As I understand it, Senator Boswell's motion was asking the Treasurer to provide the information by next Friday. As I understand it the Treasurer was highly relieved when this meeting agreed that he did not have to do that—when it was voted against—because he had no hope in hell of giving the proper figures to this Convention. This Convention will be finished on Friday.

Mr Hourn has said that the people of Australia deserve information. They do deserve information; they deserve proper information, and more correct and more accurate information than can possibly be obtained for this Convention. There is nothing against them getting information. I think that the idea of putting Senator Boswell's motion—as I stand here I can see that I have as much Alzheimer's as a few other people perhaps. Maybe I have made a huge mistake, have I?

CHAIRMAN—No, Senator Boswell's motion required a report to this Convention whereas the motion today calls for a report on the matters currently being considered by this Convention.

Ms HOLMES a COURT—So we want the formal motion that is before us to be put.

Mr GARETH EVANS—Mr Chairman, there is nothing in meeting procedure which stops you seeking the leave of this Convention to put a new motion to the Convention notwithstanding its similarity to one previously dealt with and negated by this Convention. If you simply seek the leave of the Convention to put a motion in these terms, I am sure that that leave will be granted, because it does seem to be the prevailing will of the Convention that this issue be readdressed in the form in which it now comes forward, which is significantly different from Senator Boswell's motion on Friday, even though it obviously covers a lot of the same ground. You cannot ignore the motion on Friday; I agree with you about that. But what

you can do is to seek the leave of the Convention to proceed in the way I have proposed and then to put this motion in these terms.

Mr BARTLETT—Many people I spoke to after that vote was taken on Friday were under the impression that it was a silly motion, with all due respect, Senator, because it was very generic in the sense that it did not cover the models or at least try to cover the models we are looking at in the Convention. That is why we have put the new motion: to make it more specific and make it easier for those, as they would be forward estimates. I know that many of the people also who voted against Friday's motion were under the impression that the whole issue of cost could be seen as a political stunt and used as such by those people opposed to a republic. I can understand that. For some that may be true; for me it is not. I am here as an independent and for me it is about practicality, it is about fairness and it is about accountability. As a journalist let me say this: I am well aware that it could be used as a scare campaign in a referendum, but I urge you to turn a negative into a positive. In that sense, remember that, with the model with the full cost built in, as it were, being endorsed by this Convention, even though it is a ballpark figure, the Australian people will know that we have considered cost and decided that it is worth while to proceed on that basis with full information. Trust me: if you ignore it, it will become an issue.

Mr HAYDEN—Mr Chairman, if you cannot accept Mr Gareth Evans's submission that this is a different resolution and you are worried about the technical complexities of resubmitting this item, could I suggest that there was a very simple precedent that was adopted last week when certain matters were determined here in relation to matters being sent to the Resolutions Committee. According to that precedent, matters that had been defeated on the floor of this chamber in fact were allowed to be resubmitted to the chamber to go back to the Resolutions Committee. So I do not see any reason why we should be spending any more time on this, because the precedent is there if you cannot accept Gareth

Evans's and Mrs Holmes a Court's recommendation, which is well taken.

Ms RAYNER—I have a request for information, really. I would like to ask of the Prime Minister whether in fact an informal calculation of these costs has already been done and been communicated to interested parties.

Mr HOWARD—No.

CHAIRMAN—I ask Mr Hourn whether he would like to seek leave to move his motion.

Mr HOURN—I do seek leave. In doing so, can I clarify a point. This motion is not meant to go to the Resolutions Committee; it is a request to the Treasurer.

CHAIRMAN—Leave is granted. You have Mr Hourn's resolution in front of you. Do you wish to discuss it further?

Delegates—No.

Mr HOURN—I move:

That this Convention calls on the Treasurer to provide an estimate of the total cost of transition to, and establishment of, each of the models of a republic currently being considered by this Convention, namely:

- (a) where a head of state is popularly elected;
- (b) where a head of state is elected by a joint sitting of the Federal Parliament; and
- (c) where a head of state is appointed by the Prime Minister or a Constitutional Council.

and with reference in each estimate to the consequential changes, such as the revision of prior federal and state legislation and practices.

Motion carried.

Senator BOSWELL—On a point of order, I want to make this very clear to the Convention. I want to point out what we have done now: we have no figure to base a decision on. I believe the Convention now has relieved the Treasurer of providing a figure to be presented to the Convention. If we accepted Mr Hourn's motion, some time in another 12 months we may get a figure. Anyhow, that is the decision of the Convention and I am not going to take my bat and ball and go home. I did want this Convention to have a figure that would be presented to the Convention so the Convention could make an informed decision, but it appears that we are not going to do that.

CHAIRMAN—I have a notice of motion from Mr Bruce Ruxton relating to the head of state not to hold dual citizenship and relating to his role as Commander-in-Chief of the Defence Force. I suggest that motion be referred to the working group and be referred to us tomorrow.

The only amendments and motions before us that I believe need to be dealt with have been concluded, so it is my intention now to revert to the debate on the general address. Prior to doing so, can I advise delegates that the working groups that are to consider the several proposals relating to section 44 of the Constitution—that is, with respect to the flag, the coat of arms, the future discussions regarding changes to the Constitution and the oath of allegiance—are all to take place in venues that have been advised.

I am told that Working Group J, on the oath of allegiance of the new head of state, will now meet in convention committee room 5, not one as listed on the green sheet. If you are leaving the chamber, could you please do so quietly. I also remind delegates that an informal drinks function, hosted by Mr Dick Smith and Tony Everton, will be held from 5.30 p.m. in the courtyard outside Backbenches Cafe. I now call on those who are to proceed with their general addresses to remain in the chamber.

Mr BARRY JONES—The Attorney-General and the rapporteur of the Resolutions Group asked me to remind you that the alternative models that are to be circulated, which require 10 signatures from the delegates if they are to go ahead for further consideration, must be in by 2 o'clock tomorrow. Those people who want to prepare those alternative models, the exact wording of it has to be ready to be handed in by 2 o'clock tomorrow.

CHAIRMAN—If there are no further interventions, points of order or anything else, I call on Mr John Anderson to go on the general address. I remind delegates that there is quite a long list. As a result, we decided that 10 minutes would be allotted instead of the 15 originally allocated on the general address.

Mr ANDERSON—Delegates, thank you for the opportunity to say a few things, and in 10 minutes there is not much you can say. But I will touch on something that I think is a very deep malaise in the Australian community and that we need to face. It goes beyond the brief of this Convention to address, but I think, nonetheless, it is very germane to our considerations.

I want to illustrate it by saying that over the nine years I have been a member of parliament I have always enjoyed meeting the school groups, many of which come to Canberra from vast rural electorates. I always enjoy meeting with them. I enjoy working through with them how the place works and sharing with them some perspectives about our jobs and our roles. When I finish that, I always ask them this question: how many of you were told by your mums and dads before you got on the bus to come to Canberra that the politicians are all hopeless and that the government is making a mess of it?

Invariably, every hand goes up. I honestly cannot recall a hand not going up. I actually want to say to you that I find that truly alarming. Plainly, if our children are not being told the good news of our democratic heritage and the freedom it delivers—social, economic, personal—they will increasingly lose faith and hope in the way of government, which has delivered all these and more in a tumultuous century.

I go on to ask them where they would rather live and usually mention a few of those more troubled spots such as Rwanda, Ethiopia and the CIS. There are never any positive responses at all. I put it to them then that perhaps they would rather live in a regime from another era—Stalin's Russia or Hitler's Germany. Again, there is never a positive response. So I ask them why they would prefer to live in Australia. The responses are always interesting. They come thick and fast. They say, 'We have lots of food. We don't go hungry. We're a rich country. We are free.' Yes, I say, but why are we all of those things and others are not? What is the difference?

What do you do, for example, if you live in an oppressive regime under a government that takes away your freedom, that lauds it over

you, that sees you as accountable to it? The response is usually something along the lines of, 'Well, you have to start a revolution. You have to go and get your guns and fight.' That always comes from the boys, interestingly enough, as a statement of fact, not a political comment. The question I ask then is: what do you do in Australia if do you not like your government? They see it very quickly—'You vote it out if you don't like it.' That is the chorus. Which is the best way? 'Our way,' they respond with newfound gusto.

So I say to them, 'As you grow up, as you approach the age where you will be required to vote, what are you going to do? Are you going to be a part of the problem—knock everyone, knock the system, undermine it—or are you going to work to make it better?' They usually respond in the positive.

I am sorry to say this but it seems to me to be palpably obvious that these simple but vital truths are not heard of by our young people in our community today. What are we doing to them? What are we doing to ourselves? Why do we seemingly have a death wish? Why do we fail to so recognise our own good fortune and why are we prepared to play so lightly with its underpinnings which are, of course, those of a stable democratic system of the sort that we enjoy in this country?

I think that these are very important issues at the heart of our future as our nation. That is not to say that the debate here about our future is not important; it is. Symbolism does matter and many Australians want to address that issue. But running alarmingly deeply through the current mood of the Australian people is a concern that the system is failing and that it is not just symbolism that needs to be changed. There is a deep longing being expressed by the idea of a popularly elected president for a leader who will be above politics, who will be strong, just and admirable and, if I can put it this way, just not a politician.

Others have pointed out the pitfall of that approach. I do not want to go over that ground. But it does seem to me that we need to knock on the head this idea that the system is failing. I passionately believe that it has not

and that our way of doing things is totally able, even inspired in its capacity to produce the sort of gifted and capable people who can and do mirror our aspirations, our beliefs and our hopes and take them forward.

Given our high view of the individual, it is only right that we can vote for those who most reflect our views and ambitions and therefore participate in the way our country is taken forward. Any individual in our country can seek political office and pursue a greater influence, at least to the point where popular support is withdrawn. That is because we recognise our own nature. As that great Catholic thinker, Lord Acton, put it 100 years ago, absolute power corrupts absolutely. Our forefathers ensure that no one individual or grouping of individuals could gain or retain too much power. The checks and balances are in the end brilliant in their effectiveness in protecting us from tyranny. We must not forget that the reserve powers that are currently there, exercisable by the Governor-General, are part and parcel of those checks and balances.

Why is it then that so many people appear disillusioned, especially if our elected members are, as I believe to be the case, quite effective mirrors of the diverse range of views and aspirations in our society? Those in public life must accept, perhaps more completely than they have to this point in time, their responsibilities to set high standards of integrity, to explain their objectives and to ensure that people understand their motivation.

But the individual Australians who collectively make up our nation must also accept that a democracy depends upon the active and constructive participation of its citizens. If we continue to tell our children—and, I assume, ourselves as well—that all politicians are rogues, only rogues will stand for public office. If we tell them that politics is dirty and ought not to be touched, we should not be surprised if there is even less participation in and understanding of our democratic way of life than there is now. If we continue to tell ourselves that the system is flawed, people will increasingly clamour for a different system that will perhaps throw up perfect

leaders—and I make the observation that the next perfect leader we discover will, of course, be the first.

As one who sees it as his role to defend our constitutional arrangements, I believe that this Convention must settle on an alternative model for our head of state, one that can be put before the Australian people. The onus is on those who advocate change at this Convention to find a model that does not undermine those all-important checks and balances and then to participate in a wide, deep, honest and educative public debate that is so obviously needed in this country that we all love so much.

The Constitution belongs not just to the politicians or even to the people of this Convention—that, I imagine, is obvious—but to the people of this and future generations. Ultimately, if they want change it is their absolute right—one we would all fight for—to pursue it. However, the National Party does not believe that a strong enough case for change has been made. Those who advocate change have an enormous responsibility to answer the hard questions that have been raised and to keep in mind that they cannot and should not attempt to gloss over those difficulties.

I say that, too, in the context of their needing to recognise that the commentators in this country, unlike the politicians who do represent the diversity of opinions on this matter in the Australian community, are almost universally on your side. They are almost universally of the view that we ought to become a republic. They have a great responsibility and so do you. The Australian people must be taken into your confidence in this matter in a wide-ranging and educative debate.

Finally, our commitment—and I speak as the Deputy Leader of the National Party—to the existing Constitution remains solid and intact; let no-one short change the Australian people with something so important as constitutional change.

Mr MYERS—Mr Chairman, I stand before you today as a young Australian, an Australian who has never faced the terror of war, who was not alive to enjoy the swinging 60s

or knows what he was doing on 11 November 1975. Similarly, I have never met the Queen. I do not subscribe to royal gossip and I do not know enough Britishers or have sufficient overseas ancestral links to have heartfelt emotions on the influence these factors have on the republic debate. I am, however, a proud Australian, a privileged Australian, who has enjoyed the full benefits of our democracy, but I must state this privilege has nothing to do with money; I am not a financially wealthy person. This privilege has everything to do with the fact that Australia is a free and prosperous nation that encourages debate and fosters innovation and thought.

I represent the young people of Australia who are not bound up in the emotive arguments which seem so inherent within this debate. I am not here to advocate or defend any particular position; I am here to ensure that we determine a system of government that will take my generation and future generations of Australians into a bright and prosperous future. I do not claim to have a mandate to advocate any of the proposed republican models or to defend our existing constitutional arrangements. I do, however, have a responsibility, idealistic as it might seem, to work with you all in an attempt to develop an outcome that will be of clear benefit to our country.

After one week in this place, if there is just one thing we all agree upon it is that achieving this goal will be no easy task. From a personal perspective, I am proud to declare my comfort with our existing constitutional arrangements. I do not think they or any part of our Constitution are daggy. On the same note, however, I do not consider them to be trendy.

To view any part of our Constitution in such a manner at a forum like this would serve only to suggest that the real point of this debate has been missed. We are not, after all, here to turn our Constitution into a colourful and glossy pictorial that will be a nationwide best-seller. That being said, however, I am still open to the arguments for change. As a young Australian, I do not have any sentimental attachment to our Constitution, nor do I have any personal love for Her

Majesty the Queen or her heirs. If there is a model for a republic that will improve and uphold democracy and that will not make any Australian worse off, I see no reason why it should not be embraced wholeheartedly.

In making this claim, it is important to acknowledge the fact that, more than anything, Australians value the stability of their democracy. Whilst we may not like all of the rights, responsibilities and people that democracy imposes upon us, there is absolutely no overwhelming sense that there should be change for the mere sake of change.

The challenge for us, therefore, is to examine closely the merits of the proposals presented and any benefits they offer over and above our existing arrangements. We must ensure that at the end of the day any recommendation for change is going to provide a very clear opportunity to improve in some way, regardless of how seemingly insignificant, our system of government. If we do not consider change, on this basis alone, this Convention will unfortunately be remembered as an exercise in futility.

From my perspective, there are three main issues relating to the various proposed methods of appointment for a head of state which need further clarification and consideration before I can support a particular model and be convinced that Australia should become a republic. These issues relate primarily to codification, the method of dismissal and the way in which politics is to be kept out of the appointment process. If not dealt with judiciously these issues will have the ability to upset the most important and valued aspects of our existing system. Of all the models we have discussed, I fear that the concept of direct election will most disrupt our system of government. Whereas I recognise the public support expressed for this method of appointment, I query whether there is the same level of support for the radical changes it will require.

Direct election would not make the office of head of state more accessible to ordinary Australians, nor would it make Australians any more respectful of the position in itself. Direct election would, however, make our head of state a politician, a populist who

would ultimately decide to act in whatever way opinion polls declare that we have decided he or she should act. History has proven that politicians in all of their various guises, who exist at the mercy of public opinion, do not always act in the long-term public benefit.

Direct election will, however, provide a mechanism to facilitate the election of an exclusive group of Australians who are wealthy enough and/or politically connected enough to mount a national campaign or gain political preselection. There are a great many Australians worthy and capable of serving as head of state who fit into neither of these categories. There are a great many Australians who would defer from having to submit themselves, their professionalism and their personal lives to the political process. An American political satirist, P. J. O'Rourke, refers to the American presidential ballot in his book *Parliament of Whores* and observes that:

In our brief national history we have shot four of our presidents, worried five of them to death and impeached and hounded another out of office. When all else fails, we hold an election to assassinate their character.

The questions we must confront are whether we want this to happen in Australia and whether direct election will provide a real benefit to the Australian public. If the answer is yes, then we must accept that a head of state will be more than just a ceremonial and political figurehead. We must accept that our head of state will have a greater mandate than our Prime Minister. As such, there will need to be many significant changes to our political system at every level.

We will need also to codify to the nth degree the powers and duties of our head of state, even though codification, in any form—binding or non-binding, legislated or constitutionally entrenched—can only serve to limit the flexibility that exists within our present system.

It is interesting to note that throughout history mankind has sought to record and detail the most precise rules and practices for human behaviour. Curiously, this practice has led to the increasingly rapid development of

the legal profession and the overwhelming scrutiny of even the most inconsequential incidents. I sometimes wonder whether the Almighty God would have spoken 10 commandments in such a straightforward fashion had he known that in the late 20th century there would have been so many lawyers to litigiously reinterpret his intended meanings of sin.

The procedure to dismiss the head of state who, for whatever reason, is not worthy or capable of office is also something that must be given sufficient consideration before a particular republican model can be embraced. Thus far, no model that has been put up at this Convention has adequately addressed this issue. Whilst I remain to be convinced that the removal of a directly elected president could be dealt with fairly and effectively, I might also add that the Australian Republican Movement has yet to convince me that they have adequately determined a fair and workable procedure for dismissal.

Consideration of this issue is as important as consideration of the process for appointment essentially because of the fact that constitutional crises do not, by mere definition, lend themselves to lengthy, inflexible decision-making processes. We need a system that works, more desperately than one which is popular. I would not be the first person to suggest that a boring system may well work more effectively and fairly than one which has superficial public appeal.

Whereas I am totally opposed to a method of dismissal which is too inflexible and unobtainable—such as the requirement to obtain a two-thirds majority of a joint sitting of the federal parliament—I am also opposed to a method of dismissal which is trite. I fear that dismissal by a simple majority of parliament may well fall into this category. To date, the McGarvie model would appear to be the only republican model proposed which has a considered and logical process for dismissal. Such a model, although not without its defects, would appear to provide the best hope that any change could continue to enshrine independence and uphold the faith of all Australians in the fairness and integrity of our political system.

As I have said, the real measure of the worth of any proposal is the benefit it provides to each and every Australian. This measure cannot be adjudged by how much or how quickly we can deliver change to the electorate. Let us not forget the fact that we are not here to serve our own interests, that we are not here to win support for a particular model nor are we here to make the year 2000 or 2001 any more significant. Whether we like it or not, we are here to represent every single monarchist and every single republican as well as the apathetic, the disinterested and those who lie somewhere in between.

As delegates, we have a responsibility to provide the people of Australia with guidance on our constitutional future. In a speech last week it was argued that anything unnecessary is pernicious and change for the sake of change is destructive. Let us never forget the fact that we are merely custodians for the future.

Mr GIFFORD—Mr Chairman, during the last speaker's speech the number of people here varied between 22 and 27. That is a shocking affair when you are looking at the seriousness of what is being discussed. I would ask that the meeting be adjourned until tomorrow morning.

CHAIRMAN—I do not accept that suggestion because we agreed this morning that there was no dissent. We are therefore proceeding in accordance with the proceedings. As those who are watching would know, at the moment there are four or five working groups plus a Resolutions Group meeting to consider tomorrow's debate. Unless we proceed on this basis, you are going to deny a large number of people any opportunity of speaking at all. In those circumstances, it was determined by the full Convention that an opportunity would be provided for speakers to speak this afternoon as we did on a number of afternoons last week.

Ms MARY KELLY—I am particularly grateful for that ruling, Mr Chairman.

I begin by acknowledging the Ngunnawal people, the traditional owners of this land. I pay my respects to them.

The Australian Women's Party, of which I am a foundation member, is unashamedly pro-republic for many of the reasons that have been outlined by other delegates. I am conscious that this is the space we have been allowed in which to put things on the public and historic record that particularly do not find a place anywhere else—and I will talk a little about the party's position in the lead-up to this Convention and how it is connected so far.

We are a nationally registered political party, established in 1995 in Brisbane. We established the party in particular to pursue equal representation of men and women in our parliaments not just as a target but as a guarantee in the Constitution. We also developed a progressive political platform on many issues, and we have run in several elections.

When the Constitutional Convention opportunity came along, we were thrilled to run candidates in two states under the banner of 'Women for a just republic'. I was elected tenth out of 13 candidates in my state of Queensland, a result which was unexpected by many but one which I think shows that Queenslanders are not afraid of progressive ideas. I understand that I have no greater mandate than anyone else here, but when it is won against the odds it does feel special.

Our platform for election to the Convention was: to seek a change to the Constitution so that both our houses of parliaments have equal numbers of men and women; to question and put forward the idea that Australia did not need a separate head of state at all; to support encoding people's rights in the Constitution, including the right to equality; and to support recognition of indigenous Australians by way of a changed preamble, designated seats or in any Bill of Rights. These four issues are connected together by a view of the world which is pro social justice, which wants to reform and improve our representative government but also wants to see the principle of responsible government retain its primacy. I want to talk a little about those ideas and link them to the Convention happenings to date.

Australians could be forgiven for thinking that our government consisted only of the

head of state, such has been the focus on that position to the exclusion of discussion on the two houses of parliament. This iconising of the head of state is causing us all to invest huge energy and heightened expectations in a single position.

The Women's Party took a broader view and recognised that Australians' alienation from their elected representatives, which is the driving force behind their desire to choose the head of state themselves, had to be confronted. We have proposed, and will continue to propose at every opportunity, that people's connectedness with the political process could be improved by improving the representativeness of the two houses, particularly on the parameter of sex or gender. I want to spend some time on this issue and to explain it and justify it.

Our proposal was for both houses to have equal numbers of men and women to reflect the community representation. Nearly 100 years of the right to vote, for non-indigenous women at least, has not delivered equal representation. The barriers to equal representation include the preselection procedures of the major parties, the family unfriendliness of political life, and so on. Barriers do not include a lack of meritorious or interested women.

The imbalance in representation has produced inappropriate decision making. Over the years issues to do with equal rights and social services, for example, would have been handled very differently, I think, if there had been more women in parliament. The Constitution could and should be amended to mandate the 50-50 outcome for the members from each state. Operational details can be encoded in the Electoral Act.

In the House of Representatives, rather than double the number of politicians—which, I hasten to add, we do not support—the existing electorates can be paired to generate double sized electorates within which each voter casts two ballots, one for a male representative and one for a female representative. The two successful members share the servicing of the electorate, either in cooperation or competition. In the Senate, there would be separate ballot papers to elect the female and

male halves of the Senate cohort. In both cases provisions can be made for odd numbers of seats and for vacancies.

Arguments against this idea of guaranteeing equal representation for women usually involve protestations about merit and precedent. Leaving aside the question of whether preselection for a seat is a merit based process, it is insulting to suggest that involving more women will somehow lower standards. In fact, if you believe as I do that brains and talent are spread evenly between the sexes then, by definition, our two houses of parliament, by the omission of the right share of the best women, must include large numbers of less- than-the-best men.

Guaranteeing seats by gender does not imply that all sorts of other physical or social characteristics—such as tallness or income, as has been suggested to me—should also be considered. Maleness or femaleness correlates strongly with key life experiences such as what sort of a job a person will have, what they will be paid, what crimes they might commit or be a victim of, how much unpaid work they will perform, their likely degree of family responsibility, how likely they are to experience discrimination, and so on. The only other characteristic which more profoundly affects a person's life chances is whether they are Indigenous or not—and that is why we support tagged seats for indigenous Australians.

Other countries have taken similar measures. In India, the world's largest democracy, all local government structures must have 35 per cent women, and their federal structure is under pressure to do the same. Scottish women are organising to push for gender balance in their new devolved parliament, scheduled for 1999.

Closer to my own experience, I have been a member of four organisations which have changed their rules to ensure gender balance in decision-making structures, including a national professional association, a union and an international body. I am happy to report that the sky did not fall in, as predicted; that there were no problems finding women of merit; and that better quality decisions were made. Gender balance soon felt normal and

became a non-controversial issue. What was most noticeable was the change in the behaviour of the preselectors and the gatekeepers in each of those organisations. Their previous inability—chronic inability—to find or sponsor women of merit changed overnight. Potential loss of power is very motivating, I think.

Because we would not tolerate a parliament that was disproportionately dominated by people from cities, say, or by people from one state, the Constitution has rules to ensure a fair spread by location. We argue that disproportionate representation by men is equally intolerable, and our Constitution needs to guarantee a fair spread by gender.

On the head of state question, we began with the position that no individual should have superior powers to the houses of parliament, that in an operational sense, at least, a separate head of state was not necessary and that satisfactory checks and balances could be created by building on the existing ones with a Bill of Rights, and so on. We took the view that if a head of state was to exist, then we would not balk at popular election, provided the powers were limited and clearly defined. That is how I ended up being a supporter of codification and popular election. This is based not just on the fact that people want it but on the reasons why people want it—that is, their desire to re-engage with the government structures that they feel alienated from. So I have taken a view, which I outlined in some detail on day 4, that popular election is now a necessary prerequisite to success in any republic referendum, and that it is possible to do it safely.

As someone who worked in detail on the revised direct election model, I strongly commend it to your attention; I understand that it will be in the pigeon holes imminently. It makes popular election possible and safe by eliminating the possibility of a rival power base, by minimising the chances of party hacks getting up, by giving a significant but not final role to parliament in the election process, but giving the parliament also a final role in the dismissal process, and so on.

This revision of the direct election model is elegant and workable. I will be very interested

to hear what arguments are put up against it, now that every single concern expressed has been accommodated.

On the question of explicit rights in the Constitution, we support a Bill of Rights which includes the right to equality, but this must include the concept of taking special measures to overcome disadvantage. Treating people the same does not result in treating people equally. The context and history of their disadvantage and circumstances must be taken into account.

I accept this meeting's decision not to expand the agenda to discuss other issues, although it does disappoint me. When we get to talk about future processes, I will be pressing that we do something very concrete about another convention-like discussion and public discussion. In other organisations I have worked in, if something inconvenient came along, you referred it—and we used to call it 'death by referral'. I hope that in our future processes, whatever we come to, the broader issues do find a place and it is not just death by referral.

Finally, I would say that at the conventions of 100 years ago many people have noted no women attended; in fact, most women at the time did not have the vote. It is worth noting that 12 years later all white women in Australia did have the vote, which I think illustrates the possibilities of radical and quick change in those open moments in our history. Nevertheless, one woman stood but was not elected; and women expressed their views from outside the main process and by concerted lobbying, and with some success.

At this Convention we have overcome, to some extent, the barrier of attendance and the barrier of participation—and I want to put on record my appreciation for the generous way in which people have embraced gender balance in participation. For those for whom it has been a bit of a constant irritation, can I say that it has been a thrill to many women outside of this process that the Convention has done that. I hope that in any future processes serious consideration is given to overdue reform, such as equal representation, to give women a permanent say at last in the running of Australia.

Mr KILGARIFF—Mr Chairman, fellow delegates and visitors: firstly, I would like to thank those territorians who demonstrated their faith in me by electing me as one of their two delegates to the Australian Constitutional Convention. I would also like to place on record my congratulations to the other territory delegate, Mr David Curtis. Mr Curtis is an indigenous Australian from Tennant Creek in the territory and was the first person in Australia declared elected to the Convention.

I rise in this debate today as someone who has already committed themselves to supporting an Australian republic. I stood under the banner of a territory republican viewing the Constitutional Convention as the means to move Australia toward a republic with minimal changes to the Constitution. I wish to make it quite clear that I come to this Convention with one overriding objective, and that is to achieve a republic for Australia. I also come to this debate with a background that could be labelled as quintessentially Irish Catholic. From someone who comes from a family of 11 children, I am sure you will understand what I mean.

While some see the republican movement as an Irish Catholic plot to undermine the monarchy, I can honestly say that culture is a minor element in my belief that the time has come for Australia to become a republic. Support for a republic was not something drummed into me at school or at home. My teachers and parents were much more concerned about sociological outcomes and the odd theological question than fundamentally changing our system of government. My belief in a republic today stems from a simple belief that Australia should have an Australian as our head of state. Incidentally, the view that our head of state is in fact the Queen is not only one that is abundantly clear to me but is also one that has been endorsed and confirmed by Richard McGarvie at this Convention.

My objectives and views throughout the debate surrounding the republic and indeed during the lead-up to the Convention were to achieve a republic with minimal change and to make any necessary compromise where

necessary and absolutely essential. I remain open to reasoned argument on all alternative models, which is after all what this Convention should be about. As I said in a speech last week, compromise delegates was the key word of the conventions in the 1890s, and it is compromise that we should be paying attention to this week.

The views expressed by delegates to date would suggest that compromise at this Convention is not impossible. Given that this is the people's Convention, we cannot ignore the polls that indicate that a majority of Australians want a directly elected president. As I said in my speech to the Convention when discussing the method to appoint and dismiss the president, I remain unconvinced that model would serve Australia well but I remain open to argument. I also concur with Mr Turnbull when he makes the point that no-one is complaining about the fact that our Prime Minister is not directly elected, so why should we get so wrapped up in the direct election of the president—unless of course we are discussing making the president a key constitutional player, in which case I would suggest that the debate needs to be much wider than a 10-day Constitutional Convention could possibly allow.

The source of all authority in a republic stems from the people. This was recognised by those who drew up the American constitution who recognised the people as the source of all political power. The famous Gettysburg Address by Abraham Lincoln reinforces the role of the people in a republic and puts them at the apex of power. Who can possibly forget those stirring words: 'government of the people, for the people, by the people'? This principle goes right back to ancient Greece and the funeral oration of Pericles. Even then Pericles was making the point that power in the Athenian democracy was vested in the people, unlike the autocratic regime of Sparta.

While some may fear what they deride as 'rule by the mob', it is essentially that character of democracy that I wish to see our constitutional change embrace. It is not a characteristic that Australians should fear but should embrace as an evolution of our system of government. My belief in an Australian

republic is also tempered by the innate conservatism of Australians when it comes to changing our political system and our political structures. One only needs to look at the success rate of referendums in Australia to change the Constitution.

Since Federation, Australians have been asked 18 times to make 42 changes to the Constitution. Of those 42, only eight have succeeded in securing the necessary majority required. Where significant opposition has been organised by the state governments or political parties, amendments were not successful. And that is a point that I think this Convention needs to bear in mind. If we go out there where there is going to be a concerted campaign against a particular republican model, it is all the more likely that that particular model will not succeed. I still believe that the best option for an Australian republic is to adopt what has become known as the minimalist position. However, I am prepared to consider alternatives as long as I am confident these alternatives could make it through a referendum. All republicans ought to keep in mind that at some stage in the near future the people will have to approve the changes that we are here to consider this week.

This Constitution process that we are all involved in is a positive exercise. I want to urge governments of all political colour to consider a process where our Constitution could be viewed on a regular and ongoing basis. It is recognised that we are not starting from scratch here. Australia already has established practices and conventions, many of which are currently supported by most if not all Australians. I reiterate that the very least I aim to achieve is a simple change affecting our head of state.

Following my election I consulted with—and I might add I often consulted with a wide variety of people in a wide variety of places—many territorians as to what sort of a republic they would like to see. I must say that views tended to be overwhelmingly in favour of a republic appointed by a two-thirds majority of a joint sitting of the parliament. While I am aware of all the polls, my feedback indicates that people are content to see

the president actually confirmed by the parliament. The polls that are being bandied around about the views of Australians certainly are not the views that have been put back to me in any consultation I have had.

For the record, I would like to reiterate the views I expressed in the debate last Thursday on how the head of state should be appointed and dismissed. I believe that Australia should move to a republic by or in the year 2001; that our head of state should be appointed by a two-third majority of both houses in a joint sitting and dismissed by a simple majority in the House of Representatives on the recommendation of the Prime Minister. I believe that our head of state should be referred to as a president. I also believe that the reserve powers and conventions of the president should not be codified beyond a simple amendment that the president acts on the advice of the Prime Minister or Executive Council in the exercise of all but his or her reserve powers. That is essentially what has been labelled as the minimalist model.

On the matter of timing, there is a symbolic gesture in moving to a republic on the centenary of Federation. I was disappointed this afternoon when the motion by Tim Fischer—that it should occur on 1 January 2001—did not get up because I believe there is a great symbolism in moving to a republic on the actual centenary of Federation. In my view, a republic is nothing more than one step further than our forefathers were able or prepared to go 100 years ago. To that extent, this Constitutional Convention is a process of evolution rather than revolution. The world as we know it will not cease to exist as the bell chimes in the Australian republic—hopefully to be known as the Commonwealth of Australia. I am a great believer in the maxim that a system of government that is not continually evolving and changing is one that will stagnate and lead to discontent.

The reality is that Australians have not and hopefully never will have to endure our equivalent of the Bastille nor undertake a war of independence—a situation for which we can be forever grateful. I echo Henry Lawson's sentiments when I say—and I am sure I speak for all of us—that we will hope-

fully never see Australian blood on the wattle. Evolution and change in our government and Constitution should be embraced as part of our changing place in the world. Right now I believe that Australia's place in the world reflects the community desire to move to a republic.

So what form of a republic should the Commonwealth of Australia adopt? I have already indicated my position on how I believe Australia's head of state should be elected. However, should it become obvious that consensus opinion is heading towards a directly elected president, I will be supporting and advocating much wider and greater changes to the Constitution. A directly elected president would so fundamentally change our system of government that we would really need to examine every aspect of our system. If we decide to pursue the direct election of the president, I will be urging full codification of powers as well as examining the status and powers of the Senate, especially in connection with money bills and blocking supply.

We should also examine the bicameral parliamentary system, what recognition we could give to indigenous Australians, whether the current system of state should be maintained, recognition of a stronger role for local and regional government as well as other constraints imposed by current constitutional arrangements—not something one can decide in the four days left to us I am afraid. When it comes to the event of a dismissal, I also believe there are merits in the McGarvie model and the model that proposes that our head of state should be dismissed by a simple majority in the House of Representatives on the recommendation of the Prime Minister.

I do believe that the majority of Australians endorse the move to a republic. I also strongly believe that this Constitutional Convention should be an ongoing process whereby Australians can examine the Constitution and the conventions that guide the way we govern ourselves. I am proud to stand before you all here today and call myself an Australian, and I am proud to support the move to a republic in Australia.

Mr BEANLAND—If there is one thing that has certainly become very apparent over the

past week, it is that the question of constitutional reform is going to be much more complex than what many first believed, particularly those people who have gone out and promoted the minimalist concept. Simple changes we needed, they said, to change Governor-General to president, but things are not so clear cut and so minimalist, and that has become quite obvious in recent days.

The Premier of Queensland highlighted the fact last week that the states of this federation are sovereign states but we have a federal compact. The Premier pointed out how we have entrenched in the Queensland Constitution that the Queen is the Queen of Queensland. A number of other important features were also pointed out which I will come to shortly in relation to the Australian states. I do not raise these issues to put roadblocks in the way of change or legitimate reform but to simply demonstrate that there are other factors which demand consideration, for the task before us is not merely a question of changing a few words. If we fail to address these and similar questions, we will not be constructing a workable constitutional framework and our efforts will be doomed to failure—and we should not forget that.

Whatever decisions are made on constitutional reform, Australia is and must remain an indissoluble federal Commonwealth. Any change which does not accept the principle through the adoption of a mechanism like the German model is doomed to failure both legally and politically. After all, Germany is a federation just like Australia. The more the structure of our constitutional framework is examined, the more evident it becomes that the minimalist position is unsustainable. There is no minimalist position which can succeed.

I believe the greatest sin we could commit at this Convention is not to reject change but to embrace change which would, despite our best intentions, become unworkable. Constitutional reform is not a question of simply voting until the nation gets it right. There is only one chance for reform. If we choose not to grasp it because we feel the present system is more appropriate for Australia or because none of the alternatives is any more effective, then it is for us to decide. It is a conscious

decision based upon our collective view of the merits of all proposals. However, if we fail to grasp the opportunity for reform because our chosen option just will not work, we will stand condemned for decades in the eyes of those who come after us.

The minimalists who came to this Convention thinking they could prevail because they felt they held the middle ground between a constitutional monarchy and the elect the president group are now finding out that things are simply not as they first thought. I instance their flagship proposal: the election of a president by a two-thirds majority of the House of Representatives and the Senate. I have already raised a number of propositions that to elect a head of state whose office did not capture the essence of the Australian federal system would be to jeopardise the very nature of that system. The minimalists have sought to ignore this feature. Their lack of logic is stunning. Their failure to acknowledge the deficiencies of their argument is inexplicable. There can be nothing more crucial to the preservation of the federation than the inclusion of all elements of the federation in the selection process in the head of state. My federation model, which includes representatives of the state parliaments and the Commonwealth parliament, acknowledges this.

When the Australian colonies federated in 1901, it was not simply a quirk of history that defined how the process was undertaken. The draft Constitution was approved in mid-March 1898 which required enabling acts of the various colonies to be submitted for referendum within those colonies. We all know that it did not pass in New South Wales in the first instance. It was some time later that New South Wales put through a further referendum before it was passed in that state.

It was only after that that it went forward to Westminster to be approved. It was not an accident; it was not achieved by chance. I think around this chamber many think it just happened by some mere fluke of instance. Australians made a conscious decision to federate, and the recognition of the role of the states was critical in that process. I must say that the elected representatives of the people

have a greater claim to participate in this process than superannuated viceroys or judges or representatives of commercial or social interest groups that I see some people are putting up. While we can have a legitimate difference about whether Australia's interests are serviced by the entire electorate, selecting the head of state or not, I am amazed that there are some amongst us who believe that this process should be left in the hands of unelected political and social elites.

Many people put forward the process of popular vote and believe that is a process which should be embraced. When they go to great lengths to talk about how they will codify the powers of the head of state and how they will codify his or her appointment and dismissal, they forget about the most overriding, crucial power of all: that is, the moral power that the head of state would have if that person were popularly elected. That person would be able to go forward and disperse their views on issues.

One could imagine the Prime Minister of the government of the day who are elected by their various electorates suddenly being confronted by someone who has the moral persuasion, the moral stance, the moral power of the people of the electorate at large. It would become unworkable very quickly, and something would need to give. We would either have to come back for another Constitution and go back to a different form of elected president or, alternatively, most likely move to the American model. I believe that those who promote the elected head of state believe deep down in the American model. If they do so, let them stand up and say so. Let them have the courage of their convictions, because if that is what the people of this country want, so be it. Let us have it. But let us not have some hybrid system that people promote in this place and believe that it is going to work when obviously, clearly it will not work. It cannot work because of the way in which the power is dispersed.

So let us avoid a constitutional crisis here and now because that is exactly what will happen. Let us have enough of this nonsense about what happens in Ireland or some other pocket handkerchief state in which there is no

Senate with any powers or the Senates or the upper houses are appointed where the whole working situation is vastly different to the partisan politics which you get in this country.

It is interesting to note that there are a number of other countries around the world that have federations. I have mentioned Germany. Another country is that of India, the largest democratic republic of all. In that country they have a federation proposal that involves the states similar to what I am proposing. I have no doubt that the introduction of a system of popular election will lead to that American system.

It should also be noted that the proposals for popular election which I have seen to date in this place are not really popular in their nature for, again, they involve a filtering process, the same as those who put forward a process for the election of a president by a two-thirds majority of the parliament. Enough of these filtering processes. If people believe in the popular election or in the other process, let them say so. I issue a further warning, and this relates to the Australia Act and how that involves the state. Section 15(1) of the Australia Act states:

This Act or the Statute of Westminster 1931, as amended and in force from time to time, in so far as it is part of the law of the Commonwealth, of a State or of a Territory, may be repealed or amended by an Act of the Parliament of the Commonwealth passed at the request or with the concurrence of the Parliaments of all the States and, subject to subsection (3) below, only in that manner.

It then goes on to precisely set out the impact of this act.

It is unclear what the lack of support would mean if you did not have the six states supporting it. For example, if we find that two states do not vote for a republic but it is carried in all the other states and nationally, are those two state parliaments to amend their Australia Act? Are we to expect that? Are they to abide by the decision of their states and not amend the Australia Act? What sort of situation will then prevail?

Brigadier GARLAND—Chaos.

Mr BEANLAND—Of course there will be chaos, constitutional situations and crisis. We

see it time and time again in other countries. If we emerge from this Convention with a workable proposition for change we would fail in our responsibilities if we did not guarantee those changes were given every possible opportunity to jump the final hurdle—a vote of the people of Australia.

Lady FLORENCE BJELKE-PETERSEN
—I am happy to be here representing Queenslanders for Constitutional Monarchy and standing for constitutional government as we have it in Australia at present. I do not believe that we need to become a republic. We have grown and developed well over the past 200 years and we have an Australian as Governor-General chosen by the government of the day. Republicans argue that Australia must become an independent nation. Independent of whom? When has Britain interfered with Australia? Perhaps it did during the last war when we were fighting a common enemy to help keep the world free. The republicans argue that Australia is not a true democracy because we do not elect our Governor-General. He is appointed by the government of the day and the Queen accepts the government's nomination.

There is a great need for the republicans to come to an agreement amongst themselves. Some of them want a president elected by the people. ARM wants a president elected by two-thirds of the parliament. Then there is the McGarvie model that suggests a president should be chosen by eminent people. Who elects the eminent people? That is another matter. I believe that they should tell us how Australia as a republic can be made more democratic than it is today.

Our present form of government has made Australia one of the most politically and economically stable countries in the world. We know our problems; we try to solve them. And most important of all we are allowed to air them publicly in the media and on TV, without fear. Does any one seriously suggest that Australia is less of a democracy than countries like Ireland, which we have heard referred to so often in this place, Portugal, Sri Lanka, the Philippines and South Africa just because they have an elected president? Adolf Hitler and Idi Amin were elected heads of

states, and they were home grown products too. The leaders of the old Soviet Union, North Korea and most of the banana republics have all been through some kind of electoral process. But that has not saved these nations from totalitarian dictatorship.

The question, I believe, is this: in which system would one prefer to live? Most Australians I am sure would recognise that they would much rather enjoy the freedom that we have under our constitutional monarchy than live in places such as North Korea, the People's Republic of China or even Indonesia, next door to us. Within our region it is the republics which are the least tolerant of nations and which have the least respect for the rights of individuals.

You know that suggestions that Australia should become a republic are not new. John Lang thought a republic was inevitable in 1851. The *Bulletin* was an advocate of a republic in the 1800s but had recanted by 1900. Henry Lawson spoke of a republic as being inevitable in the 1890s but he died a strong supporter of the constitutional monarchy. I believe our system of constitutional monarchy has served this country well. Our country has grown and prospered from the most unlikely beginnings. We have enjoyed peace and harmony unparalleled in the world and I hope and pray that it will continue to remain that way.

The issue of whether we should be a republic or not was thoroughly debated when the founding fathers wrote the Constitution, and in the end it was decided by the people that they would be better off with a constitutional monarchy than with a republic. The question was put to the people at a referendum and it was the people who chose the Crown, not the other way around. The Crown has never been forced on us and the sovereign has never interfered with our constitutional development.

We cannot escape the simple historical truth that the majority of early settlers who pioneered this country, explored it and created our modern society came here from England, Wales, Scotland and Ireland. Our early settlers brought with them our basic social and political institutions which have served us

well for over 200 years. Our Westminster system of government has come down to us from as far back as Simon de Montford's first parliament, Mr Garland, in 1265 AD in England. I was interested to hear your little history lesson the other day. Then there is our heritage of English common law, with such principles as trial by jury, natural justice and the like, which many authorities date back to 1215, when the barons forced King John to sign the Magna Carta.

Despite the growth of humanist philosophies, declining church attendance and attempts under the guise of multiculturalism to reduce the influence of Christian principles in our society, Australia is still regarded as a Christian country, as seen in the preamble to the Constitution, which humbly beseeches the blessing of Almighty God, in the daily prayers in parliament and even in our Convention here too—I think it was great that Ron put that in—and the concept of Christian justice that pervades our legal system. These are a reminder of the spiritual inheritance which has come to us from Great Britain.

In denigrating our British and European origins, some argue that we are part of Asia and our flag and Constitution should reflect this. How silly. Geographically Australia is closer to Antarctica than it is to South-East Asia, which lies almost entirely north of the Equator. Between us we have Papua New Guinea, whose land and people can scarcely be called Asian. These arguments also conveniently forget other Asian countries which are already monarchies, such as Thailand, Japan, Brunei and Malaysia. The facts are that even in what we loosely call Asia there are as many constitutional monarchies as there are republics. Furthermore, we are a continent on our own. Australia is not part of the Asian continent as much as the Soviet Union is not. We certainly trade to some increasing extent with some of these countries but that is all. Of course, we enjoy friendly relationships with them and we share in trade and sporting contacts for mutual benefit.

Finally, to argue that we should change these ties because of the growing number of other nationalities settling in Australia is, I believe, a nonsense. Unlike the British con-

victs, who were forced to come here, these migrants chose to come to Australia, and in choosing they accepted all that Australia was and is. And they knew before of our British colonial past. In many cases the monarchy signifies the very stability for which these migrants yearn. They came as migrants principally because they favoured our stable form of government. Of those people, a considerable number came from republics that they were eager to leave.

The debate during these two weeks is whether Australia should become a republic or not. We have listened to many and varied speakers who argued against the Australian monarchical system of government, telling us the form in which they envisage a republic operating in this country. However, I believe that there are two problems the republicans have to answer: how will the republic work and how can it make this democratic nation more democratic than it is at present?

The republicans will tell you that it is going to be very easy to appoint the president. Some republicans, as I said earlier, want a popular vote; others want the president to be elected by a two-thirds majority of the parliament sitting together. But think about it. How often does the Senate disagree with the House of Representatives? At best, two-thirds of the parliament would be in agreement with whoever happened to be the Prime Minister and the remainder with whoever happened to be the Leader of the Opposition. And 80 per cent of Australians say that they only want a republic if they can have a vote themselves.

What you have to remember is that if Australia appoints the president, as the republicans say—but there has to be a referendum in any case—the nightmare is going to be: how are you going to get rid of him? He could control the army, the navy, the air force and the Commonwealth police. He would have so much power that he could possibly be more powerful than the Prime Minister. And you have to remember, friends, that around the world so often it is difficult to get rid of presidents. Look at Indonesia. They have been trying to get rid of President Suharto for many years now and he says that, no, he will not go. You will recall that when Yeltsin was

made the President of the USSR the first thing he did was to sack the government. So they want to be very careful, don't they. Those are just some of the things. They propose to appoint the president by two-thirds of the parliament and yet sack him by just a simple majority in the House of Representatives.

I believe that our current system of constitutional monarchy has served us well. People say that it is old hat. The other day I was being interviewed by Charles Woolley and he said to me, 'You know, you're pretty old, aren't you.' Of course I agreed with him—I had to say that. But what I want you to remember is that the polls tell us these days that the population of Australia is getting older. So you never know, the republicans might get a bit of a shock if we have a referendum.

As far as I am concerned, what is wrong with the Queen being Queen of Australia anyway? Have you ever thought about the fact that the Pope lives in Italy, but he is still head of the—

CHAIRMAN—We are running out of time.

Lady FLORENCE BJELKE-PETERSEN—Yes, Mr Chairman, but I have seen a lot of my republican friends getting lots of extensions. I wonder if you realise that the Pope is head of the Catholic church and that they are all very proud to be associated with him, even though he lives in Italy.

It seems to me that there are quite a lot of problems besetting Australia as we look at becoming a republic. The only reason we should think of changing our constitutional monarchy is if it can be proved that an alternative system is superior and that it will deliver improved opportunities and a better lifestyle for Australians.

Professor PATRICK O'BRIEN—Originally these speeches were 15 minutes long. They have been cut down to 10, so I have dispensed with my prepared speech. I just want to explain the reasons why I hold the position I do.

This is a question about values. Lady Flo just said: how can Australia become a better place, a better country, by becoming a republic?

In my belief, by becoming a democratic republic we will free this country, particularly our youth, from that awful, dreadful, stultifying establishmentarianism that has done more than anything else in our country this century to suppress creativity and talent amongst the young. At the end of every semester for the last 25 years I have been taking my students for a drink, or they take me for a drink or whatever.

Brigadier GARLAND—Is that all they take you for?

Professor PATRICK O'BRIEN—No, not at all, Mr Garland; and they do not always wear coats either. I say to them: what is going to happen to you? You are talented, you write brilliant essays and you do great work, but I never hear from you again. They invariably say, regardless of their politics, regardless of their origins, 'When we leave here we will have to forget about all that and conform.'

Our students in the last 15 years, despite what many doomsayers say, are in my view far better than students were prior to that. That is simply because the level of education has risen, and they are very dedicated. It breaks my heart as a teacher, as an academic, to see that talent thrown into this awful conformism. That conformism comes from our establishmentarian elites who have taken over our political process in order to turn it into the means for their own preferment. Preferment in this country, at the highest levels, whether it be in the courts, in the law, in politics, in business or in arts and culture, does not necessarily go to the best and the most talented; it goes to the best courtiers—those who are best at seeking preferment.

So I believe that in becoming a democratic republic we will open this country to the creative genius of its young people. Let me give you one example before making another point. The person who actually initiated the process which made this Constitutional Convention possible was a 21-year-old student from Western Australia. His name is Jonathan Harms. He belonged to a discussion circle in Perth which considered as its principal goal publicly lobbying for a people's Constitutional Convention to determine the constitutional future of our country. He got

off his backside, as a member of the Liberal Party, as president of the Liberal Club at the University of Western Australia, got that motion on the agenda of the 1993 conference of the Liberal Party in Western Australia held in Kalgoorlie and got it through by one single vote.

At the time, I had negotiations and discussions with Alexander Downer and he agreed that it was a good idea. But, thanks to Jonathan Harms, it actually became official policy of the Liberal Party in Western Australia. It was then put on the agenda of the Federal Council of the Liberal Party, which accepted it as federal policy. Alexander Downer lost the leadership of the Liberal Party and then Mr Howard accepted it in its modified form—unfortunately, because this Convention is only half democratic. But it went forward. Then Mr Howard incorporated it in the electoral platform of the Liberal Party. Then he won the election and it had to go ahead.

I stress that because this was a 21-year-old student, who was acting as my assistant, who has had to leave this conference to go back to Perth to work as a car park attendant to earn his living. That young 21-year-old can truly be said to be a founder and the prime mover without whose effort this Constitutional Convention would never have got going. At the time, Mr Keating said that such a proposal was a mealy mouthed thing. Mr Turnbull and the ARM echoed those sentiments. But now they are here and celebrating this occasion as a great occasion for all Australians. That young Australian did it, and nobody has acknowledged that debt. That is why I want it put on the record.

But that illustrates how our young people, inspired by their beliefs—and nobody knows who they are—get off their backsides and do things. That is the history of Australia. My friend and colleague Professor Martin Webb and his wife, Audrey, made that clear in their mammoth history of Kalgoorlie and Boulder called *Golden Destiny—The History of the Goldfields in Western Australia*. It is a history of ordinary people doing extraordinary things and ordinary things.

I grew up in a country town, like most Australians did. We did it for ourselves. We

formed our football clubs, our racing clubs, our agricultural societies, we booked trains to go to the beach from the hinterland for Australia Day picnics. That was Australia—the history of ordinary people doing extraordinary things.

Who founded the great racing clubs, the sporting clubs and the agricultural societies? Ordinary people. There are people here at this Convention who would deny those people, who would tax those people and who would ask those people to give them lifts in their TV and radio ratings. But they will not ask them to have a direct voice in electing our head of state. The history of Australia is in two sections. There is the official history of Australia, the history of the politicians, the history of the governors-general, the history of the gewgaws of the High Court—‘Oh, wouldn’t you rather think that.’ But there is also the history of the real people. I say that it is time, it is long overdue, that the Australian people be given their due recognition and given their right not only to elect their politicians but also to elect their head of state. I would go so far as to say that they should be given the right to elect their head of government.

Look at the disgraceful and obscene thing that has occurred at this Convention. Here we have self-appointed politicians who hold the balance of power talking down a democratic constitution. It is as if the board of the Reserve Bank was peopled by comprador capitalists engaging in international currency dealings because they have a vested interest in preserving the very system that gives them absolute power over the people. They should be ashamed of themselves. I hope that every Australian looks very carefully on the final day of voting and sees what politicians vote for the people’s right to elect their own highest officials and what politicians do not.

It is absurd to claim that somebody appointed by one man essentially, the Prime Minister, with a formalistic approval by two-thirds of parliament, can represent the Australian people. That person will only represent the high elites that support him or her. So I say, maybe with passion: let us finally recognise the sovereignty of the Australian people. Yes,

we are a sovereign nation but we are not yet sovereign citizens. I only pray and hope that the outcome of this Constitutional Convention does honour to every Australian, whether that person has been here for two months, two days or their families have been here for 200 years, to finally cap that democratic process that began in the 1890s to make every citizen a sovereign.

Mr SAMS—That great American patriot, author of the Declaration of Independence, and the third United States President, Thomas Jefferson, once said:

Some men look at constitutions with sanctimonious reverence, and deem them like the Ark of the Covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment.

We are here not to look at our constitution as too sacred to be touched but to recognise that the time for change is upon us. We do not seek change for the sake of it but because we can.

But what do two ordinary Australians think we are doing here and what do they expect of us? The other day a young taxi driver said, when I told him I was at this Convention, 'We must keep the Queen otherwise we will not be able to go to the Commonwealth Games.' When I assured him that we would still be able to go to the Commonwealth Games, he said, 'Okay, I'm for a republic.' A bit closer to home, my father said to me when I asked him why he didn't vote in the recent ballot to elect delegates to this Convention, 'I am 70 years old. I do not believe that I have a right to decide the system under which my children and grandchildren should live.' I am not suggesting that we apply that principle here, although I noticed the Pope himself has decreed that those who are over 80 years old as cardinals should not vote for a successor.

I think these two comments, the taxi driver's and my father's, demonstrate what diverse views the punters out there have about what they expect of us and what they expect to emerge from this Convention. Such diverse views are also reflected here, and I am honoured, as we all are, perhaps for my sake a little surprised, that I was appointed by the

government as a representative of the trade union movement. Perhaps I should be somewhere else in the country at the present time. There are not too many of us here—only two, I think—but that is two more than the conventions of the late 19th century, where we as trade union officials were more likely to be in gaol than amongst this august company.

As someone who from an early age has been fascinated with and interested in politics and political processes, I can vividly remember where I was and what I was doing on 11 November 1975. It is a bit like, for those a little older, remembering where you were when President Kennedy was shot. I was a 19-year-old student who listened religiously to the parliamentary broadcasts. Some might think that is a little bizarre for someone so young, but I was terribly interested in the process and the parliament. As those historic events unfolded that day, few of us realised that we were witnessing a day that would change forever the nature and future of Australian politics.

As I listened to the parliamentary broadcast, I was convinced that that great parliamentarian Gough Whitlam had devised a novel and clever means of resolving the impasse between the House of Representatives and the Senate over the passage of supply. Remember what happened that day. Upon returning from Yarralumla, Malcolm Fraser announced in this House that his appointment as caretaker Prime Minister was given on the basis of three undertakings that had been given to the Governor-General: firstly, that the Senate would pass supply; secondly, that an election would be called; and, thirdly, that the government would only act as a caretaker until the election had been held. Mr Whitlam immediately moved and had carried a motion of no confidence in the caretaker government. I thought this was a Whitlam master stroke, because what would happen then? With the Fraser government defeated on the floor of the House, the Speaker would then advise the Governor-General that the new government lacked the confidence of the House, the Governor-General would terminate Mr Fraser's commission after supply had passed in the Senate and would recommission Mr

Whitlam as Prime Minister, as leader of the party having the confidence of the House. Thus the impasse would be resolved, constitutional conventions upheld and the primacy of the people's house to make or break governments maintained.

Of course, I, like hundreds of thousands of other Australians, was bitterly disappointed that that was not the case, for there were more sinister and conspiratorial forces at play that day. It should be remembered that the power exercised by the Governor-General that day was a power that the Queen herself has never and would never invoke. Let there be no doubt that the seeds for this Convention were sown by none other than Sir John Kerr. It must be an unhappy irony for those who advocate the status quo that, had the dismissal not occurred in 1975, we probably would not be sitting here today.

Ever since that day I have fervently believed that our head of state should have no role in the political process and most certainly have no power to dismiss a duly elected head of government. Our head of state should be seen as a symbol of national unity and integrity. He or she should fulfil ceremonial functions and have a limited role to advise, be consulted, encourage and warn the government of the day. In all circumstances, like the Queen herself, our head of state must only act on the advice of the person commanding the confidence of the House of Representatives.

This leads me to express my view as to how the head of state is to be selected and dismissed. I am firmly in the camp of those who advocate the parliament appointing such a person by a two-thirds majority at a joint sitting. I will not canvass the reasons already outlined, such as the potential conflict between two popularly elected persons or the fact that the popularly elected head of state will almost certainly be a politician preselected by political parties.

The two-thirds parliamentary appointment is attacked by its opponents who point to the overwhelming public support shown in opinion polls for a popularly elected head of state. We should not be spooked by opinion polls. Asking someone if they want to vote for a head of state is akin to asking someone, 'Do

you like paying taxes?' You know what the answer is going to be.

Let us not forget what happened in New Zealand with their new, chaotic electoral system. There was widespread public support, before it was introduced, for proportional representation, as it has now been introduced. But I wonder how popular the system is now as a consequence of the recent election. Let me give you one more local example. When Paul Keating reignited the republic debate, he was ahead of his time and the polls. He was about leadership. We, too, must not shirk leadership; indeed the people want direction from us.

My impression is that the recent debate and argument over the republic has really not canvassed the issue of appointment. The arguments have centred on whether or not we should have a republic. I do not believe that the Australian people will continue to support a popularly elected head of state when the arguments for and against are put, developed and debated.

I also believe that those who advocate a popularly elected head of state totally misunderstand our parliamentary system and traditions. This is not France; this is not the United States; this is not Pakistan; and it is not Ireland. All of us, as republicans, argue that we want an opportunity for an Australian, no matter what their birthright, to be able to become our head of state. However, I believe a popularly elected president would end up coming from a very restricted, elite group. You will either get a politician, a media flunkey or someone with enough money to buy the election.

Not one of these groups would stand as a symbol of national unity or engender broad popular support and respect. With popular election, you would never get an Aboriginal or a Torres Strait Islander. You would never get a learned jurist. You would never get a person of a non-English speaking background. You would never get a respected academic, a noted scientist or, indeed, a responsible trade union official, and you would be unlikely to get a woman.

Our system is based on the separation of powers between the executive, the legislature

and the judiciary. Parliament has the right to dismiss a judge under limited and extraordinary circumstances. If we entrust our parliaments with removing judges, who arguably have more of an influence over the body politic than a Governor or Governor-General, why can't we trust our parliament?

I began my contribution with a quote from a well-known US president. Let me end it with a quote from a lesser known one—the fourth president, James Madison. He once said:

In a democracy the people meet and exercise the government in person; in a republic, they assemble and administer it by their representatives and agents. A democracy, consequently, will be confined to a small spot. A republic may be extended over a large region.

Let us not confine our democracy to a small spot—to a small and elite group. It is only by parliamentary election that our republic will extend to all Australians, no matter what their birthright or means.

Councillor MOLONEY—By any measure, Australians have built a culture and way of life of which we can be proud. Australian citizens enjoy equality before the law and full participation in the political life of our community. Our present system is serving us well.

We are a small population spread unevenly across a vast continent. I have come to Canberra from Longreach, in the outback of Australia, from the land which lies behind the homes of most Australians. This land, which we share, unifies and has shaped us as a people. Gathered in this chamber as delegates, we are a cross-section of those people, but the final decision on our debate will come from them—from the cities, the suburbs, small country towns and isolated homesteads.

One hundred years ago, John Quick devised a system of voting which brought the smaller colonies into the discussions which led to federation, a federation whose borders are oceans, not lines drawn on a map. Any recommendation from this Convention must keep that federation strong.

If we are to change our present system, appointment of the head of state by a federal electoral college drawn from state and Commonwealth parliaments has been pro-

posed as a model. It would truly represent all states and could perhaps be considered along with the other models. Whatever the outcome from these two weeks of deliberations, the Convention has already achieved a great deal. It has become a celebration of the privilege we Australians share as citizens of this country. As we go now towards a referendum, let us use the remaining time to frame a model so that ordinary Australians can have an opportunity to play a part in framing the future of Australia, as they did 100 years ago at Federation.

Major General JAMES—It is my great honour to have the chance to speak here this evening. In late 1941, Lance Bombardier Bill Gannon and his mates of the 2nd/10th Field Regiment were in Malaya preparing for the onslaught of the invading Japanese army. Bill was 22 years of age. He came from Julia Creek, in North Queensland. He had completed first-year medicine at Queensland University, and had been selected to play rugby for Queensland when he answered his country's call and joined the second AIF. In his last letter home prior to the Japanese invasion and his incarceration for four years as a prisoner of war, he wrote to his family a letter. Part of the letter says as follows:

The news from the various Islands' scenes of fighting does not appear really bright at the present time. We have only one prayer and that is that Australia is kept free from all this trouble.

There are two old lines, perhaps you remember them—

"The good we do today,

Is the happiness of tomorrow."

He went on:

Well, we know we are fighting for the right . . . and those who fight for right are always with God . . . surely fighting for our homes, and peace, and right, is good. There will be no happiness and children's laughter in the land of tomorrow, Australia's tomorrow, if we do not do that good today.

In after years we will be proud to remember that we fought for our country and the ones we love.

Tragically, there were no afteryears for Bill Gannon in which to be proud to remember. He died on the Borneo death march somewhere between Sandakan and Ranau in September 1945.

After the fall of Singapore in 1942, the evacuation ship *Vyner Brooke*, carrying 32 Australian Army nursing sisters and hundreds of women and children of different nationalities, was sunk by Japanese bombing off the coast of Sumatra. The survivors were captured and imprisoned for 3½ years. Sister Jessie Simons of Tasmania wrote of their harrowing experiences:

The gaunt, sad-eyed children were in terrible condition. Many of them with legs so terribly affected by Beriberi, they could only walk by literally dragging their feet along with their hands. Peter was the only surviving child of a poor deranged Dutch woman. Neglected and undernourished, Peter literally had nothing. We adopted him into our small family where he helped by carrying wood and water. He slept under our tents, ate what we ate, but actually improved in health and appearance whilst with us—a triumph in which we took some professional pride.

We think Peter survived the war. Delegates, I mention all of this for I want to try to represent the fears, the feelings and the love of country of those who served in the defence of our beloved country and so that they should be heard. The words of both Bill Gannon and Sister Jessie Simons do graphically demonstrate the horrors of war but at the same time they demonstrate the spirit of our nation and the values they served for so gallantly.

I have for the last four years had the privilege of being the National President of the Returned Services League of Australia and, prior to that, spent a lifetime in the Australian Army. The constituency for whom I was elected in the RSL held several principles close to their heart. The first is to honour the memory of these who served, which is so clearly summed up in the words we all know so well 'Lest we forget'. We all want to ensure that they are not forgotten and that their service and sacrifice is remembered forever as a pillar of duty. The second is encapsulated in the motto of the RSL: 'The price of liberty is internal vigilance'.

Over the last few years, and as a delegate of the last few days, I have become increasingly concerned with the noise and chattering of a few of our nation who wish to change our way of life, our constitutions and the

symbols of our nation. Poll after poll shows that we Australians want to retain our own beautiful flag, yet a small group of Sydney based elitists are campaigning to change the flag. The outrage is that an exhibition was sponsored by two multinationals, Fuji Xerox of Japan and Apple Computers of the USA, to help us consider alternative designs for a new Australian flag. What, I ask, would the people of Japan or the US say if Australian companies funded a move to change their flags, the flags of their nations? So it is with these strange groups that they want to change our Constitution yet the Australian Republican Movement say they want to continue the same system. What, then, is their reason for change?

Delegates, I have spoken of the aims of these people who want to change the fundamentals of our nation. We have for years been subject to their campaign of slogans of it being inevitable, that 'everyone wants change', that we must have an Australian head of state. From where I stand, and from where I have come, I cannot understand the need for change or the forms of change that are being proposed.

The Leader of the Federal Opposition, Mr Kim Beazley, wants to see change and spoke of the support of the Australian Labor Party in that aim for change. He spoke in terms of change and said that it was a feature of Australians that we are able to change for we are energetic and we are innovative.

I agree that Australians are indeed innovative, and I can cite many instances of them in the way that I have personally seen in my life. But I must point out that the innovative skills of the Australian servicemen come into play only in two areas: first, to develop something that meets a need that does not exist or, second, to fix up something that is broken. Our Constitution exists, it works well and it certainly is not broken. Indeed, you want to change the very part of the Constitution that works so superbly.

The great Australian Neville Bonner has told us of his many children and grandchildren and his concerns for their future. He reminds us, if we need reminding, that there are many serious problems in our country that

really need our attention—high unemployment, street kids, high youth suicide rates, broken families, rising crime, high divorce rates and the desperate problems of the youth. He said that we should be tackling these problems for these problems are what concern Australia now.

And we should be doing that, I believe, rather than trying to change our Constitution for it is very clear that what is being proposed is something that does not measure up to our Constitution. In fact, what we are seeing is the Australian Republican Movement changing their model on the hop. After telling us that their proposal was foolproof, they are now changing it. How many changes will they make? If, God forbid, they were successful in the referendum, would we be called back to correct the mess that they land us in? How many times will that have to happen? How many times will we be called back?

Then there is the huge cost of this 'model on the hop'. How much, I ask? How much should the Australian people pay at a time when they have such appalling problems in our society—the problems Neville Bonner spoke of? But the Australian Republican Movement do not want to know. Last Friday they did not want to know, and they do not seem to care. It was made clear last Friday with their solid vote to block Senator Boswell's very responsible motion to seek a cost estimate for the change to a republic. We all know it will cost a fortune and more—and for what?

The soldiers, sailors, airmen and nurses who served and died for our country, who died so that we may go on to greater wellbeing for our people, I believe would not want constitutional instability. I have no doubt that the Aboriginal men who served with me, and who served so well, who were and are my mates, would not want this sort of change either.

Delegates, think carefully. Do not destroy the heritage which our pioneers and our founders established and our service men and women fought for and defended.

Ms SCOTT—Delegates and fellow Australians, there are many reasons why I am a republican. Other delegates like Graham Edwards, Peter Tannock and Janet Holmes a

Court have already canvassed them poetically and persuasively, so I do not intend to repeat them in detail. I will, rather, reflect on some of the criticisms levelled at my position that I listened to during week one of the Convention.

Some monarchist delegates have suggested that republicans have little or no understanding of the Constitution. Of course, there are both monarchists and republicans without detailed knowledge of constitutional complexities. That is not to say that we should be excluded from this debate. Moreover, Australians can be reassured by the views of many eminent constitutional experts who appear well reconciled to the notion of a republican future.

It has also been suggested that, although I am a republican, I am not a democrat. Over 10 years ago the newspaper where I work initiated the first newspaper-sponsored mock elections in this country. Since then I have worked with hundreds of teachers and thousands of students assisting them to run their own mock elections, each time coinciding with a federal election or referendum. For example, at the last federal election, about 3,000 students in our area cast a vote on facsimile ballot papers one day before their parents.

As an aside, again and again during this Convention I have heard delegates say that we need to introduce citizenship education in our schools. I want to say that in Tasmania I commend the many enthusiastic and dedicated teachers that I know are already engaged in just such a job. Let me just say that my views on the republic have been shaped not only by my interaction with teachers and students and also by comprehensive reading, but by where I live.

I believe, for example, that a broader preamble can engage young people, as I mentioned this morning. I do not fear democracy. I am a passionate democrat who happens to hold the thoroughly respectable view that the best way to appoint a Governor-General at this time is by a two-thirds majority of both houses of parliament. In this model, people elected by us must negotiate to a bipartisan approach. This is a marked im-

provement on the current appointment by the Prime Minister.

I am unconvinced by the message that an elected president can unify us and will better express our ideals. As a feminist I have argued for years that we should distrust the investment of power in one person rather than many. This distrust has not been dispelled by the glowing comments that I have heard about Mary Robinson. Delegates, we are not like Ireland; we are a federation of states.

I am an elected delegate from Tasmania. As Tony Rundle has told this Convention, a convincing majority of members of our Lower House recently voted in favour of a republic. It is a great first step, but this support was conditional. I am convinced that the cause of a republic could be lost if Tasmanians become fearful that it will result in a change in the balance of power.

If you try to reduce the power of the Senate, they will vote against it. This is reflected in the way Tasmanians voted for this Convention. They were provided with a wide variety of candidates, including some excellent people with sound support structures, who advocated direct election. They voted instead for the people you see here. There are two republicans—Julian Green and myself—who made their first commitment to two-thirds appointments very clear. Not one of the delegates who advocated public election was elected. So I dispute most strongly assertions that I have somehow failed to listen to the wishes of my constituency.

Despite this, I have been impressed by the arguments of delegates like Mary Kelly when she says that the current enthusiasm for a public election must be harnessed in order to increase citizen participation. I know Mary is here. I want to commend the way in which she criticises our position, not on a personal level but by looking at the way we have argued our position. For that reason, I am delighted that the ARM has agreed to second Archbishop Pell's amendment, thus involving a form of public participation in the appointment process. Similarly, I believe that we have acknowledged the value of Mr McGarvie's reservations about our prior policy on dismissal. I cannot, however, agree

with his model of appointment for the reasons already articulated today by Peter Tannock.

All people here are likely to be the doers of our community, the people who generally cannot say no to serving on yet another committee. For years I have volunteered for many community organisations—some run on hierarchical lines where a majority vote rules, others more feminist in style where we always try to talk to consensus. That committee work has taught me that we all compromise, we all make deals and that it is sanctimonious to somehow validate only our own whilst sneering at those made by others. So it is my view that the ARM must first fight for the republic but we must continue to demonstrate our capacity for compromise. We need people at either end of the republican debate. We need people who can inspire us with notions of what is possible. On the other hand, we need those people who caution us about what we must not lose. No less honourable are the people in the middle working towards broad agreement, fighting for a just republic, not dividing our nation but rather recognising that this is a matter of legitimate disagreement.

As I said earlier today, we must not be too cautious. I also acknowledge that I stand here today not because of a revolution but because of a gradual evolution from colonialism to unambiguous independence. Many delegates have reminded us of the grave responsibilities that face us. My response to them is that I need no such reminder. How could any of us think any differently about why we are here?

Senator WEST—I first wish to recognise that I am standing on the land of the Ngunnawal people, who were the original inhabitants of this area. I do not think they were asked whether they would like us to be here, but I acknowledge it is their land.

The issue before us today is whether Australia should become a republic. I say yes, and I say yes firmly. I am one of the six delegates that the federal Leader of the Opposition was entitled to nominate. I am standing here as an appointed delegate. However, to actually get to the position of being appointed, I was elected. The impression I have been left with over the last six days is that one wonders how members of parliament got to be members of

parliament. The way some people tell it, we must have appeared there by osmosis or by someone waving a magic wand. Those of us elected to parliament have been elected by the people. We represent the views of the people. So I think it is very important when I commence my contribution to reinforce to everybody, to remind people, that members of parliament do have legitimacy in that we were elected.

I guess there are a few here who will not remember 1954, but there are a fair few who will. I cannot remember the date or the month, but I can remember as a small child being across the lake, which was not there in those days, standing on the terraced lawns watching the Queen make her visit to this country. I remember the large crowds. I remember the cheering. I remember drawing a picture of the Queen and Prince Philip for my correspondence school teacher, who in later years I suspect—as I grew up and learnt more about this person—might have been quite horrified, or would be now.

Then nobody thought about it. But 45 years on, the world has changed. The concept in 1954 of Australia being a republic was one that I do not think anybody would have given any thought to. If you had, you would probably have been lined up with members of the Communist Party, and that was it. The concept of an Australian republic was very much not thought about and not agreed to, especially in the bush where I come from. But 45 years have elapsed and things have changed. This country has grown. This country has evolved. The baby boomers are growing up and, unfortunately, we are getting grey hairs.

When Lady Florence Bjelke-Petersen talks about the elderly, the ageing population and maybe the elderly will be able to have a say, I can tell Lady Florence that those of us who are not elderly but are getting grey hairs and are older than we wish we were are getting to have a say. The majority of my peers—I talk of those baby boomers—are republican, so just be aware that there is a whole stack of older people who are republican.

The Queen, now, is the Queen of Australia. This is embarrassingly brought home to us on state visits. Anybody who attended the state

dinner for President Clinton and his wife in the Great Hall in the new Parliament House will remember that feeling of embarrassment and uncertainty. There were so many heads that were hanging when, after our Prime Minister had toasted the President of the United States, the President of the United States stood up and toasted the Queen of Australia. There were so many people who were looking embarrassed and who did not know what to do. A number of diplomats caught our eye and said, 'That is an interesting press situation for you, isn't it, Senator,' to which I had to say, 'Yes'. And it was certainly reported in the media.

But the thing that stands in my mind as the reason why I became more than just a supporter of the republic because it is in my party platform is a situation that occurred four or five years ago. The Queen was on state visit to, I think, Germany and the Prince of Wales was on a state visit to France. They went to those countries as the Queen of England and as the Prince of Wales and future king of England. When they were there the functions they had gone to must have had some agricultural significance because both of them spoke in glowing terms about the value of the common agricultural policy—the CAP—to the farmers of the England and to the farmers of Europe, but particularly to the farmers of England.

The CAP has been eroding the markets of Australian farmers and primary producers for a number of years. It is the thing, in conjunction with the EEP—the USA subsidisation model for their farmers—that has been attacking and eroding our markets, taking markets off our grain producers and off our meat producers. I thought: how can this person, who we are told is the Queen of Australia, go to Germany or France and say that the common agricultural policy is a wonderful thing and that it is good for European farmers? It is not good for Australian farmers—and she is the Queen of Australia. That is something that I think people have to wrestle with very mightily.

Along with my National Party and my Liberal Party colleagues, every time we have had an opportunity to attempt to put pressure

on the European Union—and that includes Great Britain—or the USA about their subsidisation and their corruption of our primary producers markets, they each blame the other and say they need to do it because the other is getting into their market. It is the CAP that is partly to blame for Australian wheat growers having difficulty getting markets in Egypt and other places like that. And yet the Queen of England, the Queen of Australia, when she goes there, says that the CAP is wonderful for their primary producers. I am sorry, but that is a problem that I cannot overcome.

When she goes on royal visits, it is quite apparent that she goes reflecting the advice that has been given to her by the British Prime Minister and the ministers of the British cabinet. She does not go representing the views of the Australian Prime Minister. Likewise, when she goes on overseas visits and takes business representatives with her—and often state visits do involve a significant number of business representatives travelling with the heads of state—she does not take representatives of Australian businesses or Australian primary producers; she takes representatives of Great Britain's primary producers. That is fair enough, but when she comes here she is still the Queen of Australia.

These issues sum up very clearly the reason why I have a problem with us remaining a constitutional monarchy. I do not want to see major changes but I do want to see us having an Australian head. Mr Ruxton summed it up very well the other day: we do not want somebody who has dual citizenship. When I told people I was coming here and put out a press release, I was asked by some people would I be putting the position of people in rural New South Wales. I said that I was going as part of the Opposition Leader's delegation. But I think that I do here represent those people in rural New South Wales and rural Australia who are republican in their thinking and in their beliefs. I think you have just heard a very valid reason why rural people should be very seriously considering their allegiances and considering their future, because of the fact that the Queen does not stand up for our rights and our markets when she is representing England overseas.

We have also heard in the last couple of days about the cost of changing the symbols that might occur if we move to a republic. I would suggest that you also need to take into consideration the cost that would have to be borne by the people of Australia if and when the Queen dies and we have a new monarch, because that will all have to change as well and it will cost something.

I finish by saying that democracy exists by virtue of the goodwill of the people. If people ignore or abuse their rights and obligations in a democracy, it will flounder. It exists because people wish it and fulfil their obligations. The price of freedom is eternal vigilance, but it is eternal vigilance no matter what form of head of state you have.

Mr ANDREW—I stand before you, unlike my colleague Senator West, as someone who is part of rural Australia prepared to defend the status quo and prepared to defend the role of Her Majesty Queen of Australia and Queen of England.

Senator WEST—What about the wheat growers?

Mr ANDREW—And the wheat growers, to whom I will come in just a moment. I stand before you as a member of the federal parliament and, contrary to the nonsense espoused by Professor O'Brien, proud to be a member of the federal parliament, proud to be a member of the present government and proud to have spent five years in this chamber and eight years in the other Repts chamber as a member of the opposition under Prime Ministers who clearly were not of my political persuasion.

I want this evening to tell you a story. Unlike the stories told by the comedians in our midst, this is a true story. It is a story of an event in the life of our family in 1985 when, having been the member for the South Australian rural seat of Wakefield for two years, I was pressured by my wife to leave the family farm, which was on the eastern end of the electorate, and move to Gawler, which was the fastest growing and largest centre in the electorate, close to Adelaide and centrally located. She chose to move in 1985 because it coincided with the move of our 13-year-old son, the oldest of our children, from primary

school to high school. He moved, as one who had been part of four generations of a family in a small country town in a small rural school, to a large suburban state high school in which he was, of course, autonomous.

Matthew was an impressionable 13-year-old and he went along and had a number of very good teachers, one of them an English teacher, anxious to encourage all of the children to be well informed on matters of current affairs. On this particular day the English teacher ran through the newspapers of the day and said to the students, 'Look, this is what is happening in this area, this is what is happening in that area, but don't be too distressed because this is what the politicians are saying and they are all liars.' Matthew, as an impressionable 13-year-old, was hit fair between the eyes. I get a lump in my throat when I tell you the story because, while it would have changed now that he is 25, the facts are that he stayed seated at his desk until the rest of the class had left and then, no doubt tentatively, he wandered up to the teacher and said, 'Sir, my dad is a politician and he does not tell lies.'

I do not tell you that story in a desperate effort at some sort of self-promotion. I do not tell you that story because I cannot really be an advocate for the system. I know that it will take more than a sweep of my chamois to rub out the smears that you think exist in the present political system. But I have to tell you this: in 15 years in federal parliament all that I have experienced in government and opposition has reinforced in my eyes the views of my son about parliamentarians. My wife and I say publicly that, of the 148 members of the House of Representatives, 140 are welcome in our house and to stay any time and unheralded. Ladies and gentlemen, the other eight that we may not be as keen to see at the front door do not all belong to the Labor Party. I want to put to you the point that the parliament that I am a part of is a group that you could be more proud of than any golf club you might belong to or any church congregation you may be affiliated with. I suspect the proportion I have left with you balances in favour of parliamentarians rather than those other groups in the community.

There will be those even here and among the gallery who will say, 'Even if that is true, Neil—and we are prepared to accept that our local member isn't a bad bloke or is a good woman—the problem with the parliament is that they get tarnished by the party. It is party loyalty that in fact finally messes up the entire political system.' Delegates, let me tell you this: in 15 years in the federal parliament in government and in opposition I have never been told how to vote on any issue. That does not mean that I have not known; but I have never been told.

I stand before you this evening, for my sins, as the government's chief whip. It is my job to make sure people are voting where they ought to be voting. But the reality I have discovered as the whip is this: people who choose to defy what is popularly called the party line—always run, of course, to an absurd crescendo in the press—invariably do it to be popular rather than responsible. If I have discovered one thing as a member of a major political party, it is that membership in a political party obliges me sometimes to do things that are damnably uncomfortable but in the long-term interest of the nation. It is much easier of course to bail out of that. I have just been through the experience, as you would all be aware, of the debate, for example, about car tariffs. All the ones who wanted to abandon the line, which was after all in the national interest, had car plants in their electorates and could read what was going to be popular.

Why am I so determined to in fact maintain the parliament as I know it? Because I stand before you as the member for Wakefield. As the Hon. Sir James Killen knows and as the chairman knows, not my immediate predecessor but the person before him was the late Bert Kelly, who never stood on a popular issue but was prepared to defy the party if necessary in order to be responsible.

Ladies and gentlemen—and I am conscious of the time, Mr Chairman—it could well be the case that you say, 'Neil, if the parliament and the parliamentary selection system are as good as that, why don't you have the same popular vote for head of state as you have for all of those who surround me in the parliament?' The answer to that, ladies and gentle-

men, in my view is very easy. I want to use an analogy that would fit nicely, I hope, with the philosophy of my friend Phil Cleary, the footballer of this Constitutional Convention. You see, ladies and gentlemen, if I go along to a Crows match or to any other football match, the reality is that I am really not much fussed if the crowd that are watching the football match choose by popular vote the two opposing teams. I could live with that. That is fair enough. But what I could not tolerate as part of that crowd would be if I left the crowd with the power to elect the umpire.

What I am about here is discovering how we put to the Australian people the best technique for electing the umpire. We are in a situation in which we are being called to look again at our Constitution—not necessarily to make changes but, frankly, to put to the Australian people a choice. I put it to you that we are putting to the Australian people a choice about how, in fact, they will choose that umpire.

Much has been made by the previous speaker, Senator West—who is one of those 140 who are very welcome to be found at the front door of our house—of the Queen's role as Queen of Australia and of the cringe factor she felt when the Queen was toasted as Queen of Australia. I was there. I felt no cringe factor, for I saw the Queen as nothing more—and I do not mean that in any derogatory sense to Her Gracious Majesty—than a lady prepared, through the Australia Act, to forgo all ties she had with Australia, except for the opportunity to endorse the selection of the umpire. I like the idea of having a totally apolitical endorsement for the umpire's selection.

Senator West in her contribution made much of what she saw as the embarrassment we should feel about the role of the CAP program and the EEP program and their impact on Australian farmers. I would remind Senator West, as someone who represents even more farmers than she does, that since those days there have been some dramatic changes, and we now have the World Trade Organisation dictating that both EEP and CAP will disappear to the advantage of every

Australian farmer—and, as an Australian citrus grower, I can tell you from personal experience that it is working.

Mr Chairman, I wish I had more time. You have been very patient. Can I say to delegates: I stand before you as someone who arrived having been encouraged by their children to be undeclared but who increasingly was persuaded that, in fact, any change would not be in the national interest.

Ms RUSSO—Mr Chairman and fellow delegates: I am very honoured to be here with such a distinguished gathering of eminent Australians who have all contributed in some way to a better future for our country. I would firstly thank the constituents who voted for me and Michael Lavarch's team in Queensland.

I am a business woman. I am an educator and a trainer. I have been in business for something like 18 years. I started a little typing school of something like nine students, and now it has grown to become one of the largest privately owned colleges in Queensland.

I speak today because I am very passionate as an individual. This probably flowed from my late father, Antonio Russo. He made a great decision when he decided to leave the small Italian town of Castiglione and bring our family to Australia. He had a vision. He had a dream. He was looking to the future, just like all of us today.

For any Italian speaking Australians who are listening to us at this moment: ho sempre avuta molto energia e passione per la vita. Probabilmente ho preso questa energia dal mio padre Antonino Russo, defunto. Lui, ha scelto bene a lasciare Castiglione e venire in Australia. Lui aveva un sogno—Quardava al futuro—esattamente come tutti noi oggi guardiamo al futuro.

I want the best for Australia. I agree that our current system of government works very well. But this is not a reason for complacency. Let us all take the first step and make our Constitution correct, contemporary and visionary. Why can't we have something that can be taught in our primary schools? If the Constitution were simple, it could be taught

in our primary schools and, therefore, be better understood—in fact, it would really have helped me a lot.

The current system of government can be kept essentially as it is but let us get our Constitution right. Let us aim for our current needs and wants. Do not be deceived by the status quo. Maintaining the status quo is deceptively easy and an excuse for complacency; it is comfortable, predictable and fully understood but it does not necessarily reflect the world today. Would you run a business and keep doing the same thing forever? As with any business, just because something is working does not mean it cannot be improved or modernised to reflect the changing marketplace. We all strive to improve our lives, our business, our pleasure and our happiness. Why can't we update our Constitution too? Convince me that it does not affect you. Well, it does. Consider decisions of the High Court of Australia—Mabo, for example. The High Court will regularly make decisions that affect everyone. Furthermore, the more intangible things like spirit, nationhood, independence and identity affect everyone. So it does affect you.

There are three issues which I feel passionate about in our consideration of constitutional reform. These are, first, our heritage, second, our society and, third, our future. I would like to address each of these issues briefly.

Our heritage: we are not denying our British heritage but are proud of it. Just like we are all proud of the Italian, Greek, Irish, Vietnamese, Indian, Aboriginal, American and all the other origins that make up this great nation. At the time our Constitution was put together British heritage had a significant influence on the Australian way of life. This is no longer true and flies in the face of the great diversity that this nation now possesses.

Accordingly, the Constitution is unrepresentative of our true heritage and culture as it exists today. It preserves and embodies a single British culture. I ask all delegates a simple question: how can we promote diversity and multiculturalism when the very legal foundation of our great country promotes one culture only? I know from business experi-

ence that the people of Australia are our greatest asset. The diversity of our people provides us with an even greater ability to relate to the rest of the world and to take advantage of the broader range of initiative and thinking which our diverse people give us. Those millions of Australians who have brought to us their culture and heritage should all be able to take pride in an Australia which reflects our society today and a system of government which truly represents us all.

Our society: in Australia, we have developed a true egalitarian society. Any person can aspire to reach the top in their chosen field of endeavour and be recognised for it. Being an outstanding sports person, a successful business entrepreneur, an internationally recognised research scientist or even an influential politician is achievable by any Australian. It does not depend on which family you may have been born into. Australians recognise and reward people for their efforts and contribution. We have created a society where any person can achieve their best and become a leader in their field. Once we become a republic we can aspire to be our head of state.

Our future: through our geographic position, we are linked with the Asia-Pacific region. Countries in this region are now critical to our trade and economic wellbeing. We still have many barriers to overcome in our efforts to be recognised as part of Asia. I know from many contacts in Asia, through my own personal experience, that there are still some lingering doubts about our genuine desire to forge close links with the region because of the image we sometimes project.

So I ask the question: why can't we look to the future? Why can't we be visionaries? Why can't we grow and move forward as a republic into the new millennium? If we are to overcome these barriers and project ourselves as a nation, wherever it might be in the world, we need to be certain about what and who we are. We need to be able to promote ourselves as a dynamic, independent country with a head of state who will only promote Australia.

What about our children? Let us all stop for one second and think about someone else. I

will think about my six-year-old nephew Michael Panisi. Let us all forget our opinions for just one minute. What kind of environment do we want to create for the next generation? Should it be one that promotes independence, vision and identity? Let us offer them Australia as a republic with an Australian as its head of state. Is a republic really important? The image, identity, personality and fundamental character of the Australian nation is important. Becoming a republic will not only psychologically change the mind-set of Australians but also improve the perception of Australia as an independent nation.

People will only trade with Australia if they can make money. But the demand for Australian goods, the reason for buying Australian, is not so simple. The brand name of Australia must be persuasive. Recent research shows that 80 per cent of 100 business people surveyed believe that once we become a republic we will increase our export revenue by billions of dollars. I am convinced that this is definitely true.

From the good work that was achieved here last week, I am very optimistic about Australia becoming a republic. The difficult issue we

are facing this week is working together to put up the right model for electing the head of state that will be accepted by the Prime Minister, government and, of course, the people of Australia.

I would like to conclude that, while our current system has served us well in the past, it is time to see how we can improve the system to serve us even better and to compete in the challenging world yet to come. Our future is dependent upon how we perceive ourselves and our head of state. I am a fiercely proud Australian of Italian heritage who believes we are achievers in our own right and strongly believe that as a republic we can all make Australia an even better country for all of us and our future generations.

CHAIRMAN—For those of the public in the wider audience wondering where all the delegates are, can I explain that while we have been having this debate and the general addresses this afternoon there have been four working parties and a Resolutions Group deliberating on events for tomorrow. When we resume tomorrow we will have the reports from those working groups. We will first debate those reports from the working groups before proceeding with the general debate.

Convention adjourned at 7.29 p.m.