

## Chapter 2

### Historical overview

2.1 There have been a number of initiatives over the past two decades towards an Australian republic. This chapter examines such initiatives, their focus and the key issues surrounding them.

#### *Republic Advisory Committee*

2.2 Then Prime Minister Paul Keating put the republic debate on the public agenda during the 1993 election campaign. Following the election, Prime Minister Keating established the Republic Advisory Committee tasked with producing an options paper on issues relating to the possible transition to a republic.<sup>1</sup> The options paper was to outline the 'minimal constitutional changes necessary to achieve a viable Federal Republic of Australia, without examining options which would otherwise change our way of government'.<sup>2</sup>

2.3 The report concluded that Commonwealth Constitution would need to be amended to establish the office of a new head of state, provide for the powers of the office, and provide for the Australian states (as the Queen is also head of state of each state).<sup>3</sup>

2.4 The Commonwealth Constitution specifies the composition and powers of the three arms of government: the legislature, the executive and the judiciary. Under section 128 of the Constitution, a proposed Constitutional change must first be agreed to by an absolute majority of each House of Parliament before it can be put to the electors of each state and territory. The proposal must then be approved by a 'double majority': a majority of voters in a majority of states, and a majority of voters overall.<sup>4</sup>

#### *Plebiscite for an Australian Republic Bill 1997*

2.5 On 26 June 1997, the Plebiscite for an Australian Republic Bill 1997 was introduced by Senator Bolkus (Australian Labor Party) and Senator Kernot (Australian Democrats) in the Senate. The bill sought to establish a bi-partisan joint committee of twelve parliamentarians to inquire into and report to both Houses on:

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1 Mr M Turnbull, *The Republic Advisory Committee. A review by Committee Chairman Malcolm Turnbull*, 3 August 1998, [http://www.republic.org.au/ARM-2001/history/history\\_rac\\_review.htm](http://www.republic.org.au/ARM-2001/history/history_rac_review.htm) (accessed 19 November 2008).

2 Senate Legal and Constitutional References Committee, *Inquiry into an Australian republic*, Discussion Paper, December 2003, p. 5.

3 Senate Legal and Constitutional References Committee, *Inquiry into an Australian republic*, Discussion Paper, December 2003, p. 5.

4 Senate Legal and Constitutional References Committee, *Inquiry into an Australian republic*, Discussion Paper, December 2003, p. 5.

- a) the most appropriate question, or questions, to be submitted to the electors at a national plebiscite to ascertain the electors' views on whether the Australian Constitution should be changed to provide for a Republic with an Australian as Head of State;
- b) any other course of action likely to promote public debate about the issue of a Republic.<sup>5</sup>

### ***Constitutional Convention***

2.6 In February 1998, under then Prime Minister John Howard, a Constitutional Convention was held at Old Parliament House.

2.7 At the beginning of the convention, the Prime Minister stated that, if clear support for a particular republican model emerged from the convention, the government would put that model to the Australian people in a referendum to be held before the end of 1999.<sup>6</sup>

2.8 The Prime Minister asked of the convention three questions: whether or not Australia should become a republic; which republic model should be put to the voters to consider against the current system of governance; what timeframe and under what circumstances might any change be considered.<sup>7</sup> Various proposals on a republic were discussed with a model recommended for public and parliamentary review.

2.9 The responses emanating from the convention are summarised by Professor John Warhurst:

Of the Prime Minister's three questions:

- the Constitutional Convention supported, in principle, the idea that Australia should become a republic. This resolution was carried by 89 votes to 52 with 11 abstentions,
- the Convention supported the Bipartisan Appointment of the President Model by 73 votes in favour to 57 against with 22 abstentions. While this was less than an absolute majority it was declared carried by the chair and a motion of dissent in the chair's ruling was overwhelmingly defeated, and
- the Convention voted to recommend to the Prime Minister and Parliament that this model be put to a referendum by 133 votes to 17 with two abstentions. It recommended that the referendum be held

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5 Plebiscite for an Australian Republic Bill 1997, [http://parlinfo/parlInfo/download/legislation/bills/s140\\_first/toc\\_pdf/97120b01.pdf;fileType=application%2Fpdf](http://parlinfo/parlInfo/download/legislation/bills/s140_first/toc_pdf/97120b01.pdf;fileType=application%2Fpdf) (accessed 6 May 2009).

6 Australian Electoral Commission, *1999 Referendum Report and Statistics*, Updated 9.8.07.

7 Professor John Warhurst, *From Constitutional Convention to Republic Referendum: A Guide to the Processes, the Issues and the Participants*, Consultant, Politics and Public Administration Group, 29 June 1999, pp 7–8.

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in 1999 and that if successful the republic should come into effect by 1 January 2001.<sup>8</sup>

2.10 The model proposed by the Constitutional Convention was agreed to by both Houses of Parliament and then put to the people in a referendum on 6 November 1999.

### ***Referendum***

2.11 Two proposed constitutional changes were put to the direct vote of Australian electors at a referendum held on 6 November 1999. The first change was whether Australian voters approved the proposal to establish Australia as a republic and the second change was whether they approved the proposal to insert a preamble into the Constitution.<sup>9</sup>

2.12 The wording of the referendum questions was the prerogative of the Federal Government.<sup>10</sup> The question on the republic put to electors at the 1999 referendum was whether they approved of:

A proposed law: To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament.<sup>11</sup>

2.13 Nationally, 95.1 per cent of eligible electors voted in the 1999 referendum at which the question on a republic was defeated.<sup>12</sup> It was not carried by the majority of Australian voters, attracting 45 per cent of the total national vote and was not approved by a majority of voters in a majority of states.<sup>13</sup> The preamble referendum question was also defeated, achieving only 39 per cent support. Therefore the proposals for constitutional change were not carried.<sup>14</sup>

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8 Professor John Warhurst, *From Constitutional Convention to Republic Referendum: A Guide to the Processes, the Issues and the Participants*, Consultant, Politics and Public Administration Group, 29 June 1999, p. 8. See also Constitutional Convention, [2nd to 13th February 1998] *Transcript of Proceedings*, Friday, 13 February 1998, <http://www.aph.gov.au/Hansard/conv/con1302.pdf> (accessed 19 November 2008).

9 Australian Electoral Commission, *1999 Referendum Report and Statistics*, Updated 9.8.07.

10 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 4.

11 Australian Electoral Commission, *1999 Referendum Report and Statistics*, Updated 9.8.07.

12 Australian Electoral Commission, *1999 Referendum Report and Statistics*, Updated 9.8.07.

13 The Yes vote on the republic question did not achieve a majority in any state or territory except for the ACT where received 63 per cent of the vote. The lowest level of support was recorded in Queensland with the Yes vote achieving only 37 per cent of the vote. Australian Electoral Commission, *1999 Referendum Report and Statistics*, Updated 9.8.07.

14 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 4.

2.14 The 2004 Senate Legal and Constitutional References Committee report, *The road to a republic*, noted of the 1999 referendum:

The Committee received a considerable amount of evidence which suggested that lack of "ownership" was one of the problems associated with the 1999 referendum. The Committee acknowledges this evidence and considers that the Australian people should be fully consulted and involved in any process leading towards a future Australian republic. This process should be inclusive and democratic, and should engage as broad a cross section of the Australian public as possible.<sup>15</sup>

### ***Corowa Conference***

2.15 Following the defeat of the referendum, a conference met to recommend steps towards a republican form of government. The Corowa Conference of December 2001 considered 19 proposals and recommended one. The conference formally adopted a process involving a parliamentary committee, multi-question plebiscite, an elected constitutional convention and a referendum.<sup>16</sup>

### ***Republic (Consultation of the People) Bill 2001***

2.16 The same year, a private senator's bill, the Republic (Consultation of the People) Bill 2001, was introduced by then Senator Natasha Stott Despoja. The bill provided for electors to be consulted by way of a plebiscite at the same time as a general election for the House of Representatives. The bill was explained as follows:

With this Bill, the Australian Democrats are proposing to begin the process towards a second republic referendum with a plebiscite at a general election after 2001. The plebiscite would ask two questions. The first is:

Do you want Australia to become a republic?

The second is:

If most Australians decide they want a republic, do you want the opportunity to choose from different republic models?<sup>17</sup>

2.17 In her second reading speech, then Senator Stott Despoja explained the need for the first question:

The first question is designed to settle the politically motivated debate about the wishes of the Australian people. Monarchists have argued that the failure of the 1999 referendum represented a definitive rejection of

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15 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 133.

16 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 23.

17 Senator Natasha Stott Despoja, Second Reading Speech, Republic (Consultation of the People) Bill 2001, *Senate Hansard*, 26 September 2001, p. 27983.

republicanism. The truth is the referendum rejected a model. It was not a rejection of republicanism itself.<sup>18</sup>

2.18 The bill was restored to the Senate Notice Paper three times where it remains. In February 2008, the Selection of Bills Committee resolved to recommend that the bill not be referred to a committee for consideration and inquiry.<sup>19</sup>

### ***Senate Legal and Constitutional References Committee***

2.19 In June 2004, the Senate Legal and Constitutional References Committee was referred an inquiry on an Australian republic. The terms of reference stated that the committee inquire into:

- (a) the most appropriate process for moving towards the establishment of an Australian republic with an Australian Head of State; and
- (b) alternative models for an Australian republic, with specific reference to:
  - (i) the functions and powers of the Head of State,
  - (ii) the method of selection and removal of the Head of State, and
  - (iii) the relationship of the Head of State with the executive, the parliament and the judiciary.<sup>20</sup>

2.20 The committee's report, *The road to a republic*, made 24 recommendations. Of these, eight addressed the issues of education and awareness and the importance of Australians being able to engage in decisions about the future of the country in a fully informed manner with particular consideration given to engagement with Indigenous Australians.<sup>21</sup> For this reason, the committee took the view that whilst it examined a number of republic models, the form a future Australian republic may take should be decided by Australians.<sup>22</sup>

2.21 The committee recommended a three-state consultative process for moving towards an Australian republic involving two plebiscites and a drafting convention followed by a constitutional referendum to amend the Constitution. It recommended

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18 Senator Natasha Stott Despoja, Second Reading Speech, Republic (Consultation of the People) Bill 2001, *Senate Hansard*, 26 September 2001, pp 27983–27984.

19 Senate Notice Paper, No. 44, 24 November 2008, p. 11, [http://www.aph.gov.au/Senate/work/notice/snrf\\_044.pdf](http://www.aph.gov.au/Senate/work/notice/snrf_044.pdf) (accessed 19 November 2008). Senate Selection of Bills Committee, *Report No.3 of 2008*, [http://www.aph.gov.au/senate/committee/selectionbills\\_ctte/reports/2008/rep0308.pdf](http://www.aph.gov.au/senate/committee/selectionbills_ctte/reports/2008/rep0308.pdf) (accessed 19 November 2008).

20 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 1.

21 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, pp 133–136.

22 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 133.

that as the first step in the process, it was essential to establish the views of Australians on the question of whether Australia should seek to become a republic:

The Committee notes evidence that opinion polls showing majority support for an Australian republic, but supports the argument that before expending substantial resources it is important to first test this proposition in a full national non-binding plebiscite.

The Committee believes that the importance of this question for the future of Australia calls for a requirement that all Australians should have their say. The Committee therefore supports compulsory voting in this threshold plebiscite. The Committee suggest that the relevant provisions for compulsory voting could be included in the legislation that lays out the framework for the entire process.

The Committee believes that the result of this plebiscite should be determined by a simple absolute majority of voters nationally.<sup>23</sup>

2.22 In relation to the first step in the process towards a republic, the committee recommended that an initial plebiscite take place, asking Australians whether Australia should become a republic with an Australian head of state, separated from the British monarchy. Of the initial plebiscite, the committee further recommended that:

- the result be determined by a simple majority vote (recommendation 11);
- voting be compulsory (recommendation 12);
- it be conducted separately from any further plebiscites relating to the form of a future Australia republic (recommendation 13);
- the wording of the question 'enable Australians voting YES to cast that vote ON THE CONDITION that a future plebiscite would be held, where the type of republic would be decided by a majority of Australians' (recommendation 14).<sup>24</sup>

2.23 The committee recommended that, should the initial plebiscite result in a majority vote for a republic, the second step should be a plebiscite on what type of republic Australia should become whereby voters indicate a preference for the model by selecting a head of state.<sup>25</sup> The second plebiscite would include other relevant questions such as a preferred title for a head of state of an Australian republic.<sup>26</sup> The

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23 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 137.

24 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, pp 138–139.

25 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 140.

26 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 140.

committee took the view that both plebiscites where possible and should be conducted in conjunction with federal elections.

2.24 The second plebiscite, if successful, would be followed by a drafting convention where the details of the republic model would be refined and amendments to the Constitution prepared before a final and binding constitutional referendum. The drafting convention would comprise Australians with expertise in constitutional law or other recognised relevant skills appointed by the Parliament. The committee recommended that the final step in the process, the constitutional referendum, should be held to coincide with federal elections.<sup>27</sup>

2.25 One of the key themes that emerged during the inquiry was the importance that Australians engage in and feel ownership over any future process and the need for an information campaign to ensure Australians are fully educated on the options that may be put to them.<sup>28</sup> Towards this aim, the committee recommended that a Parliamentary Joint Standing Committee on Constitutional Education and Awareness be established to oversee and facilitate education and awareness programs to improve the level of awareness and understanding of the Australian Constitution; and on-going education, involvement and engagement of the Australian people in discussion on constitutional matters and development.<sup>29</sup>

### *Australia 2020 Summit*

2.26 Most recently, the issue of an Australian republic was placed on the national agenda by the *Australia 2020 Summit* held from 19 to 20 April 2008. Top idea 9.1 of the summit was to:

Introduce an Australian Republic via a two stage process:

9.1.1.1 Stage One: That a plebiscite be held on the principle that Australia becomes a republic and severs ties with the Crown.

9.1.1.2 Stage Two: This is to be followed by a referendum on the model of a republic after broad and extensive consultation.<sup>30</sup>

2.27 The *Australia 2020 Summit* did not specify a preferred model. Rather, the governance stream of the summit suggested that a two-stage referendum would

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27 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 142.

28 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, p. 9.

29 Senate Legal and Constitutional References Committee, *The road to a republic*, August 2004, Recommendation 2, p. 134.

30 Department of the Prime Minister and Cabinet, *Australia 2020 Summit – Final Report*, May 2008, p.307, [http://www.australia2020.gov.au/docs/final\\_report/2020\\_summit\\_report\\_full.pdf](http://www.australia2020.gov.au/docs/final_report/2020_summit_report_full.pdf) (accessed 19 November 2008).

prevent a delay 'due to concern about the replacement model' and that the final model would be confirmed three to five years later. The overall objective being the achievement of an Australian republic by 2010.<sup>31</sup>

2.28 On 22 April 2009, the Australian Government responded to the 2020 Summit recommendations and stated in relation to the republic recommendation that:

The Government recognises the priority placed on constitutional reform by the community. The Government is committed to ongoing reform of our Constitution where appropriate and will draw on the input of the 2020 Summit in thinking about future possible proposals for constitutional change.<sup>32</sup>

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31 Department of the Prime Minister and Cabinet, *Australia 2020 Summit – Final Report*, May 2008, p. 340.

32 Department of the Prime Minister and Cabinet, *Responding to the Australia 2020 Summit*, April 2009, p. 61,  
[http://www.australia2020.gov.au/docs/government\\_response/2020\\_summit\\_response\\_full.pdf](http://www.australia2020.gov.au/docs/government_response/2020_summit_response_full.pdf)  
(accessed 6 May 2009).