Constitutional Politics
The Republic Referendum and the Future
Constitutional Politics: The Republic Referendum and the Future

THE UNIVERSITY OF QUEENSLAND

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<td>ACM</td>
<td>Australians for Constitutional Monarchy</td>
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<td>ACRS</td>
<td>Australian Constitutional Referendum Study</td>
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<td>ACSPRI</td>
<td>Australian Consortium for Social and Political Research Incorporated</td>
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<td>ACT</td>
<td>Australian Capital Territory</td>
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<td>AEC</td>
<td>Australian Electoral Commission</td>
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<td>ANOP</td>
<td>Australian National Opinion Polls</td>
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<td>ARM</td>
<td>Australian Republican Movement</td>
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<td>ATSIC</td>
<td>Aboriginal and Torres Strait Islander Commission</td>
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<td>BAPM</td>
<td>Bipartisan Appointment of the President Model</td>
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<td>CCF</td>
<td>Constitutional Centenary Foundation</td>
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<td>ConCon</td>
<td>Constitutional Convention</td>
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<td>GG</td>
<td>Governor-General</td>
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<td>IsssA</td>
<td>International Social Science Surveys/Australia</td>
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<td>MHR</td>
<td>Member of the House of Representatives</td>
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<tr>
<td>NESB</td>
<td>Non-English Speaking Background</td>
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<td>NSW</td>
<td>New South Wales</td>
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<td>NT</td>
<td>Northern Territory</td>
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<td>PM</td>
<td>Prime Minister</td>
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<td>QC</td>
<td>Queen's Council</td>
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<td>RAC</td>
<td>Republic Advisory Committee</td>
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<td>RSL</td>
<td>Returned Services League</td>
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<td>SA</td>
<td>South Australia</td>
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<td>Tas</td>
<td>Tasmania</td>
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<td>US/USA</td>
<td>United States of America</td>
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<td>Vic</td>
<td>Victoria</td>
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<td>WA</td>
<td>Western Australia</td>
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<td>WCC</td>
<td>Women's Constitutional Convention</td>
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<td>WEL</td>
<td>Women's Electoral Lobby</td>
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<td>YWCA</td>
<td>Young Women's Christian Association</td>
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Foreword

Constitutional Politics:
The Republic Referendum
and the Future

The idea for this book was conceived after the November 1999 Republic referendum in which we were active on opposing sides of the argument. We both saw the need to record and reflect on the constitutional events of the 1990s, and to look forward to the future of constitutional politics in the new millennium.

We are grateful especially for the willing cooperation of our many contributors, who have waited patiently for the editors to complete the project. Jim Chalmers, as research assistant to the project, pulled all the strands together. It would not have reached completion without his efforts. We are also most grateful for the assistance of many others, including: Richard Nile and his team at Curtin University of Technology; Rosanne Fitzgibbon and her team at University of Queensland Press; and David Lovell of the School of Politics, Australian Defence Force Academy, for financial support.

John Warhurst and Malcolm Mackerras
March 2002
Constitutional politics revolves around proposals to alter the Constitution. The Australian method of doing so, laid out in s. 128 of the Constitution, culminates in a constitutional referendum. In contemporary Australia constitutional discussion has involved a number of issues. These have included the role of the state Governments in the making of international treaties, the division of powers between Commonwealth and state Governments for controversial policies such as the environment and industrial relations, and the recognition of Indigenous Australians in the Constitution. The major issue has been proposals to change from a constitutional monarchy to a republic.

Australian debate about republicanism became serious, if the measure is some prospect of constitutional change, in the 1990s. The decade saw a transformation of the debate through the emergence of organised groups in the community, changing attitudes within the political parties and a generalised concern to discuss constitutional reform as the centenary of federation approached on 1 January 2001. Nonetheless, constitutional reform did not eventuate. On 6 November two referendum questions — on a republic and on a new preamble to the constitution — were defeated. This book examines the constitutional politics of the 1990s and discusses the possibility of constitutional reform in the first decade of the new century. It looks both backwards and forwards.

Debating the republic

Australians have long discussed the idea of replacing the constitutional monarchy with a republican constitution, even during the century before federation in 1901. This discussion continued throughout the twentieth
century, but republicans were in a minority and the issue had always been peripheral to the main political debates (McKenna 1996; Headon et al 1994).

From the 1960s onwards, public debate quickened and well-known public identities, including Geoffrey Dutton, Donald Horne and Max Harris, declared themselves to be republicans and argued for constitutional change (Dutton 1966; 1977). None of the major political parties — Liberal, Labor or Country — were committed to the republic and republicans remained in the clear minority according to public opinion polls. The 1975 constitutional crisis drew attention to Australia’s constitutional arrangements, though the lessons for republicanism of Labor PM Gough Whitlam’s dismissal were mixed, and over the years that followed the Labor Party edged towards declaring itself for the republic. This it eventually did in 1982 (Warhurst 1993). It was in this context that there was considerable criticism of the Hawke Labor Government’s appointment of the former Labor leader, Bill Hayden, as Governor-General in 1989. He was presumed to be a republican and, according to his critics, unfit for Vice-Regal office.

The 1990s was the decade in which the republican debate flourished, generated by community action for change and reaction in support of the status quo (Hide 1996; McKenna 1996; Constitutional Convention 1998, volume 1, chapter 3). In April 1991 a Constitutional Centenary Conference was held in Sydney, convened by leading legal figures, including Professor Cheryl Saunders. From a decision of this meeting the Constitutional Centenary Foundation (CCF), a body devoted to public education about constitutional issues in the decade leading up to the centenary of federation in 2001, was created (Warhurst 1995).

On 7 July 1991 the Australian Republican Movement (ARM), the first major republican organisation, was launched by author Thomas Keneally. In turn, this led to similar organisational efforts to defend the status quo and, less than a year later, on 4 June 1992, Australians for Constitutional Monarchy (ACM), under the leadership of two senior legal figures, Lloyd Waddy and Michael Kirby, held their first public meeting (Grainger and Jones 1994).

Some state Premiers had also entered the debate on both sides of the argument, and they became important figures, alongside their Commonwealth colleagues, in the debate. Of greatest political significance, given that Labor was the only ‘republican’ party, was the emergence of two pro-republic Liberal state Premiers, Nick Greiner and John Fahey, in New South Wales. Greiner and Fahey helped to make republicanism a bipartisan issue that Liberals could support.
Paul Keating replaced Bob Hawke as Labor Prime Minister in December 1991, and immediately began to campaign on issues to do with Australia's national identity. On 24 February 1993, in his policy speech for the March 1993 federal elections, Keating announced his intention to form 'a committee of eminent Australians to develop a discussion paper that would consider the options for an Australian republic' (Constitutional Convention 1998, vol 1, 13). This committee, the Republic Advisory Committee (RAC), was established on 28 April 1993. Its chair was the Sydney lawyer and investment banker Malcolm Turnbull, head of the ARM (Turnbull 1993). The other members were: Greiner; Mary Kostakidis, SBS TV presenter and CCF member; Lowitja O'Donoghue, chair of the Aboriginal and Torres Strait Islander Commission (ATSIC); Susan Ryan, former Labor Senator and Minister for Education; George Winterton, Professor of Law at the University of New South Wales and the leading legal scholar of an Australian republic; Dr Glyn Davis, of the School of Public Policy at Griffith University, who was the nominee of the Queensland Premier; and Namoi Dougall, the nominee of the New South Wales Premier (each state Premier had been asked to put forward a name for consideration) (Republic Advisory Committee 1993).

The RAC reported on 5 October 1993 and concluded that a republic was constitutionally achievable. It was 'both legally and practically possible to amend the Constitution to achieve a republic without making changes which will in any way detract from the fundamental constitutional principles on which our system of government is based' (Republic Advisory Committee 1993, 10). The Keating Government committed itself to this position and, on 7 June 1995, Keating gave a televised address to Parliament in which he reiterated this view and set a timetable for a republic by 2001 (Ryan 1995, 173-84).

By this time, surveys of public opinion suggested that a majority of Australians supported the move to a republic in principle. The early 1990s also saw a quickening of the public debate and a number of books examining the constitutional and political issues were published by academics and republican activists (Hudson and Carter 1993; Lawson and Maddox 1993; Winterton 1994). Most of these authors wrote in favour of a move to a republic. As the Australian Democrats by this stage had joined the Labor Party in support of a republic, it became an issue of some urgency for the Coalition parties to address as the 1996 election approached.

Earlier, in November 1994, then Leader of the Opposition, Alexander Downer, had suggested the idea of a people's convention to discuss the issue, a procedure first advocated by the CCF. This first step enabled the subsequent
Opposition Leader, John Howard, to later put forward a more detailed proposal along these lines, in response to Paul Keating's June 1995 initiative.

While state Governments have no formal role in the referendum process, the issue was of constitutional concern to them and several states conducted their own inquiries. The Western Australian Government did so in 1995 and South Australia followed in 1996 (Western Australian Constitutional Committee 1995; South Australian Constitutional Advisory Council 1996).

When the Coalition parties won the March 1996 federal elections, this convention proposal was one of its campaign promises, even though the republic question did not play a major part in its campaign. At the time the Labor Government countered with an indicative plebiscite, a non-binding vote, that would test support for a republic in principle before the Government proceeded to put forward a referendum on a particular republic model (Bean et al 1997). The stage was now set for a constitutional battle.

The Constitutional Convention

The new Howard Government proceeded to implement its proposed convention and from this time onwards the debate accelerated. The Constitutional Convention (Election) Bill 1997 received its second reading on 26 March 1997. The bill was held up in the Senate for some time, because it proposed that the 76 elected convention delegates would be elected by voluntary postal ballot, rather than by the traditional compulsory voting by attendance at a polling place method used for elections. But eventually the bill passed through the Senate and planning for the convention proceeded (Australian Electoral Commission (AEC) 1998).

The election of delegates is the subject of detailed analysis by Antony Green in Chapter Two. He argues that, while the republican candidates were more successful, the results help in explaining the subsequent defeat of the referendum by those voters least interested in the issue who did not participate in the convention election. The date of the election was announced on 12 September 1997. Voting papers were to be mailed out in the period 3–14 November and the polling closed on 9 December. The results were made public on 24 December.

Elections were held in each state and territory. The distribution of seats was: New South Wales (20), Victoria (16), Queensland (13), Western Australia (9), South Australia (8), Tasmania (6), Australian Capital Territory (2), and Northern Territory (2). A Senate-style voting method, with some modifications, was used. The turnout, 45.3 percent of eligible voters was, under
the circumstances, quite respectable. But it did leave open the question of whether this was a representative sample of the whole electorate, and just what the views of the remaining 54 percent would be at any subsequent referendum.

There were 609 candidates, including 80 groups and 176 non-aligned individuals (Australian Electoral Commission 1998, 18). The two most prominent groups, ARM and ACM, did best and won the bulk of the elected positions. ARM polled 30.3 percent and ACM 22.5 percent (Australian Electoral Commission 1998, 19). Republican candidates led the count in NSW, Victoria, WA, ACT and NT, while anti-republicans led in Queensland, SA and Tasmania (Australian Electoral Commission 1998, 33–4).

The Prime Minister appointed the other 76 delegates: 40 parliamentary and 36 non-parliamentary (Constitutional Convention 1998, 58–60). The parliamentary delegates included both Commonwealth and state Government representatives. The Commonwealth representatives included all the party leaders and some backbenchers. The state representatives included the state Premiers and Opposition leaders, and the Chief Ministers of the ACT and the Northern Territory.

The selection of the non-parliamentary appointees followed considerable prior speculation and argument about the representation of young people and Indigenous Australians, and about the balance between women and men. Those selected included seven youth delegates, some Indigenous leaders such as Lowitja O'Donoghue and Gatjil Djerkurra (past and present chairs of ATSIC), and prominent women such as Professor Judith Sloan, Julie Bishop (to become Liberal MHR for Curtin in 1998), Dame Leonie Kramer, Helen Lynch and Dame Roma Mitchell. Church leaders appointed included Anglican Archbishop Peter Hollingworth and Catholic Archbishop George Pell. Other notables included Professor Geoffrey Blainey, Major-General William ‘Digger’ James, Bill Hayden, Professor Greg Craven, Sir Arvi Parbo, Peter Sams and Lloyd Waddy. Howard also appointed two senior parliamentarians, Ian Sinclair (National Party) and Barry Jones (Labor) as Chair and Deputy Chair of the Convention.

The Constitutional Convention met in Canberra at Old Parliament House for 10 working days, 2–13 February 1998. The proceedings were televised and it attracted considerable favourable attention from both the media and the public, who were able to watch from the visitors’ galleries (Williams 1998; Vizard 1998; Jones 2000, 105–19; Turnbull 1999, 43–77).

Just before the Convention a Women’s Constitutional Convention (WCC) was held in Canberra on 29–30 January 1998. The WCC was convened by representatives of Australian Women Lawyers, CCF, National Women’s Justice
Coalition, Women’s Electoral Lobby, Women into Politics and YWCA Australia. WCC aimed to ‘ensure that the debate concerning the potential shift to a republic is not one-sided but includes the interests of women’ (Curtin 1997–98).

WCC was a successful event, attended by 300 delegates, including a number who would be attending the Constitutional Convention itself. While it added to the momentum for a republic it did not support a particular model. However, a majority of delegates indicated their wish to go beyond a minimalist republic, as parliamentary election of the President had come to be known. A majority ‘endorsed a republic that recognised and accepted indigenous Australians, enshrined gender equity in the political process, promoted social cohesion, political stability and a democratic culture, and included a bill of rights’ (Rollins 1998).

Purpose and outcomes of the Convention

The Convention had a narrowly defined purpose. It was asked by the Prime Minister to consider three questions. First, whether or not Australia should become a republic. Second, which republic model should be put to the voters to consider against the current system of government. Third, in what time frame and under what circumstances might any change be considered. Howard, in his opening address, promised delegates that ‘If clear support for a particular republican model emerged from the Convention, my government would, if returned at the next election, put that model to the Australian people in a referendum before the end of 1999’ (Constitutional Convention 1998, 1). Howard then promised the Convention that, if the referendum were successful, the republic would be put in place for the centenary of federation, 1 January 2001.

In response to the Prime Minister’s three questions, the Convention: supported by 89 votes to 52 with 11 abstentions, in principle, the idea that Australia should become a republic; supported by 73 votes to 57 with 22 abstentions the Bipartisan Appointment of the President Model (BAPM) (while this was less than an absolute majority the chair declared it carried and a motion of dissent in the chair’s ruling was overwhelmingly defeated); and voted by 133 votes to 17 with 2 abstentions to recommend to the Prime Minister and Parliament that this model be put to a referendum. It also recommended that the referendum be held in 1999 and that, if successful, the republic should come into effect by 1 January 2001.
The Convention also discussed the implications that a republic would have for the states (Constitutional Convention 1998, 43). It resolved that the Commonwealth Government and Parliament extend an invitation to state Governments and Parliaments to consider: the implications for their respective Constitutions of any proposal that Australia become a republic; and the consequences to the federation if one or more states should decline to accept republican status. In any case, it resolved that state autonomy not be infringed.

The Convention preferred the BAPM to three other models that were put to it. The first, moved by the WA Opposition Leader, Dr Geoff Gallop, was the Direct Election Model, involving: the election of the head of state by the Australian people following a two-stage process for identifying candidates (Constitutional Convention 1998, 38) in which ‘not less than three candidates would be selected from the nominees by a special majority of a joint sitting of the House of Representatives and the Senate’. The second, moved by the former Governor-General, Bill Hayden, was another direct election model. It involved ‘nomination of candidates for the election by way of petition endorsed by at least one percent of voters’ (Constitutional Convention 1998, 38).

The third, moved by the former Victorian Governor, Richard McGarvie, and hence known as the McGarvie Model, involved the least change from the present system. In Chapter Six of this book McGarvie explains his belief that his model, which he continues to advocate, is both ‘simple’ and ‘safe’. Under this model, the head of state would be appointed by a new, three person Constitutional Council, whose only role would be to ratify the Prime Minister’s selection. Any citizen could put a name forward to the Prime Minister.

The choice of model was carried out by exhaustive ballot. The Hayden Model received only four votes and was eliminated in the first round. The Direct Election Model was narrowly eliminated in the second round after receiving 30 votes. Finally, the BAPM prevailed in the final round by 73 votes to 32 for the McGarvie Model, 43 for no model at all and three abstentions.

Finally, the Convention recommended a continuing process of constitutional review. It resolved: ‘that, if a republican system of government should be introduced by referendum, at a date being not less than three years or more than five years thereafter the Commonwealth Government should convene a further Constitutional Convention’ (Constitutional Convention 1998, 49). The first item on the agenda of such a convention, with two-thirds of the delegates directly elected by the people, would be to review the operation of the new system of government. It would also be able to address any other
matter related to the new arrangements, including ways to better involve people in the political process.

A new Preamble

The second major substantive issue was whether a new preamble should be added to the Constitution, while allowing for the existing preamble to remain intact. The Convention recommended that there should be a new preamble and that it should include the following elements:

- Introductory language in the form ‘We the people of Australia’;
- Reference to ‘Almighty God’;
- References to the origins of the Constitution and acknowledgment that the Commonwealth has evolved into an independent, democratic and sovereign nation under the Crown;
- Recognition of our federal system of representative democracy and responsible government;
- Affirmation of the rule of law;
- Acknowledgment of the original occupancy and custodianship of Australia by Aboriginal and Torres Strait Islander peoples;
- Recognition of Australia’s cultural diversity;
- Affirmation of respect for our unique land and the environment;
- Reference to the people of Australia having agreed to reconstitute our system of government as a republic; and
- Concluding language to the effect that ‘[we the people of Australia] asserting our sovereignty, commit ourselves to this constitution’.

The Convention also agreed that other matters might be considered for inclusion in the preamble. These included the following:

- Affirmation of the equality of all people before the law;
- Recognition of gender equality; and
- Recognition that Aboriginal people and Torres Strait Islanders have continuing rights by virtue of their status as Australia’s indigenous peoples.

The Convention resolved that the preamble should not be used to interpret the other provisions of the Constitution and that this stipulation should be written into chapter three of the Constitution which deals with the judicature (Constitutional Convention 1998, 47).
These issues all became part of a strenuous public debate when the Prime Minister decided that a new preamble should be put to a referendum at the same time as the republic referendum. Howard asked the distinguished poet, Les Murray, to assist him in drafting the preamble. Murray had long been a republican (see Murray 1977). In Chapter Seven Murray writes of his experience in doing this.

The bipartisan appointment of the President model

The Convention addressed a number of the details of the recommended model. It recommended that the Prime Minister should present to a joint sitting of the Parliament a ‘single nomination for the office of President, seconded by the Leader of the Opposition’ (Constitutional Convention 1998, 45; see also CCF 1998). The nomination would need the approval/support of a two-thirds majority.

In presenting a single name the Prime Minister would take into account the report of a committee established by Parliament to consider nominations. This committee should be:

- Of a workable size, its composition should have a balance between parliamentary (including representatives of all parties with party status in the Commonwealth Parliament) and community membership and take into account as far as practicable considerations of federalism, gender, age and cultural diversity (Constitutional Convention 1998, 44).

Nominations should be invited from as wide a range of individuals and organisations as possible so as ‘to ensure that the Australian people are consulted as thoroughly as possible’ (Constitutional Convention 1998, 44). Consultation shall involve the whole community, including ‘State and Territory Parliaments; local government; community organisations, and individual members of the public’ (Constitutional Convention 1998, 44).

The Committee should compile a short-list of candidates for consideration by the Prime Minister, being mindful of ‘community diversity’. No nomination should be made public without the consent of the nominee. The qualification for office is that the person be an Australian citizen qualified to be a member of the House of Representatives under s. 44 of the Constitution.

The term of office is five years. The President can be dismissed ‘at any time by a notice in writing signed by the Prime Minister’ (Constitutional Convention 1998, 45). This action would have to be approved within 30 days by the House of Representatives. If it were not approved this would constitute a vote of no
confidence in the Prime Minister. The powers of the President would be 'the same as those currently exercised by the Governor-General' (Constitutional Convention 1998, 45). To achieve this the Convention recommended that Parliament spell out as far as practicable the powers that are exercised on the advice of ministers (known as non-reserve powers), and issue a statement that 'the reserve powers and the conventions relating to their exercise continue to exist'.

Constitutional change by the referendum process

In his introduction to the official report of the Convention, the Chairman, Ian Sinclair, noted that the outcomes of the Convention, including the recommendation that the republic question be put to the people at a referendum, 'should be assessed against the history of rejection of constitutional change' (Constitutional Convention 1998, 3). He further noted that 'only eight of the 42 propositions submitted by referendum have been approved'. The details of all the constitutional referendums held prior to the 1999 republic referendum are to be found in McAllister, Mackerras and Boldiston (1997, 107–13; see also Bennett and Brennan 1998–99).

This record shows that it is difficult to achieve constitutional change by referendum. Various reasons are advanced for these conservative results, ranging from the compulsory voting system (inherently likely to favour conservatism in constitutional matters) to the perspicacity of the Australian people in resisting 'grabs for power' by the federal Government. However, it should also be noted that the Australian record might not be too conservative at all when it is compared with attempts to change constitutional arrangements in other comparable countries, such as Canada (Galligan 1995, 121). Constitutional change is rarely easy to achieve, whatever the method, because it always involves the most major changes possible and is, therefore, conducted according to stringent rules (Galligan 1997; Saunders 1994).

There is, however, general agreement that any significant political party opposition to a referendum proposal will spell its defeat. This was the case in 1988, when all four proposals were so overwhelmingly defeated (no proposal achieved even 40 percent support) that the future of constitutional change by referendum appeared to be bleak (Galligan and Nethercote 1989). Consequently, one strategy has been to attempt to 'depoliticise constitutional change' in an attempt to 'build constitutional change on effective consensus' (Saunders 1994, 54). In the past this non-partisan consensus building has been undertaken by constitutional committees, commissions and inquiries, most
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recently by the Labor Government's Constitutional Commission in the 1980s. On this occasion the Constitutional Convention was meant formally to serve this purpose, while the CCF attempted to do so informally. Cheryl Saunders, the CCF's driving force, discusses in Chapter Fourteen the lessons for the future that the CCF learnt while trying to do this.

The formal process of alteration of the Constitution by referendum is set out in s. 128 of the Constitution. It is a two-stage process: initiation by the Parliament and ratification by the people. First, the proposed bill must pass both houses of the Commonwealth Parliament (although under certain limited circumstances the Governor-General can authorise a referendum question that has only passed one house). Secondly, the proposal must be put to the people and passed at a referendum.

The referendum campaign is always accompanied by government distribution to each household of a pamphlet including the cases for Yes and No (each in 2000 words or less) and a statement outlining the textual alterations and additions to the Constitution that follow from the proposal. This is in accordance with the Referendum (Machinery Provisions) Act 1984 (s. 11). The preparation and authorisation of these cases is the responsibility of those parliamentarians who voted accordingly in Parliament. The No case is prepared only if there are votes cast against the bill in the Parliament.

The limitations of this method of informing electors have previously been recognised (Campbell 1989; Lenaz-Hoare 1984; Saunders 1984). The Commonwealth Government, the proposer of the referendum, has been prevented from spending any other money in support of the Yes case, whatever spending is undertaken by other organisations, including state Governments. The official arguments have tended to be partisan cases rather than the provision of reasonably factual information. It was for these reasons that alterations to the process were agreed to this time under the Referendum Legislation Amendment Bill 1999. However, John Uhr believes that further changes are necessary and puts forward his case in Chapter Thirteen.

Once the vote is taken the proposed change is approved if two majorities are achieved: firstly, an overall majority of voters; and, secondly, a majority of voters in a majority (four or more) of the states. The votes from the two territories are only counted in the calculation of the national result. These stringent, double-majority requirements have caused some referendums to fail. Five proposals, including most recently, the so-called Simultaneous Elections for the House of Representatives and the Senate, in 1977, have failed despite attracting overall majorities (Saunders 1994, 54). There have been no cases of the reverse occurring, though such is always logically possible.
Public opinion on monarchy and republic

Surveys of Australian attitudes towards the monarchy and republican constitutional change have been undertaken by polling organisations since 1953, at which time support for a republic was 15 percent (Goot 1987; Bean 1993; Goot 1994). Analysts of these surveys point out that they need to be interpreted cautiously as the wording of the questions is rarely identical and attitudes vary according to the question asked. It was for this reason that the wording of the republic referendum question itself was to become so heatedly contested.

Majority community support as measured by public opinion polls does not necessarily translate into majority support for the Yes case at a referendum. Support often evaporates during the referendum campaign. In one famous case of this, the Menzies Government's referendum in 1951 to ban the Communist Party was defeated, after a No campaign led by the Labor Party leader, Dr H V Evatt, despite previously enjoying 80 percent community support (Webb 1954, 121).

Broadly speaking, Australians favoured the retention of the monarchy until the 1990s. There was not a single case of a majority of survey respondents favouring a republic, although the size of the minority steadily grew, reaching about 25 percent in the 1960s and about 30 percent in the 1970s. During the 1980s the majority for the monarchy was usually about 60 percent with about 30 percent supporting a republic and about 10 percent undecided (Bean 1993, 193, Table 1).

This changed quite quickly in the 1990s for a number of reasons, including growing nationalism stimulated by earlier events such as the 1988 bicentennial celebrations, the changing demographic character of the Australian community and the active support for a republic now emanating from some political parties and community organisations. By 1991–92 support for republicanism had increased and individual surveys began to report either majority opinion (more than 50 percent) or plurality opinion (greater than support for the monarchy but less than 50 percent because of undecided respondents) in favour of a republic.

Attitudes towards the monarchy/republic vary according to the social and political backgrounds of the respondents in ways that, given the general character of Australian political life, are fairly predictable. Liberal and National voters are much more likely to support the retention of the monarchy than are Labor voters. So too are a number of other categories, including: women rather than men; older rather than younger citizens; rural rather than urban residents;
members of the main Protestant denominations rather than Catholics and those of no religious affiliation; and those born in England rather than other Australians (Bean 1993, 196–201). As for regional differences, according to one study, Queenslanders and Tasmanians stand out as supporters of the status quo (Bean 1993, 199). Many of these attitudinal differences were to become clear as the referendum campaign got under way. Ultimately, they were reflected in voting patterns at the referendum.

By the time of the Convention in February 1998, surveys regularly reported a majority in favour of an Australian republic, though this was never taken as a strict guide to how Australians would vote in a referendum. A Roy Morgan Research Centre Poll found Yes 53 percent, No 39 percent and 8 percent undecided (Australian Financial Review, 14 February 1998). As the likely model became more clearly defined, surveys began to test public opinion towards this ARM/Keating 'minimalist' model. They reported that, faced with a choice between a President elected by Parliament (BAPM) and a President directly elected by the people, a large majority supported the latter. For instance, a poll taken in the first week of February 1998, during the Constitutional Convention, reported that 66 percent supported election by popular vote compared with election by Parliament (17 percent) and the McGarvie model (10 percent) (Australian, 10 February 1998). When pitted against the status quo only the popular election model produced a majority for the republic. At the Convention itself, advocates of direct election, notably the late Associate Professor Patrick O'Brien from Western Australia, emphasised these results (Australian, 11 February 1998).

From then until the referendum, most surveys addressed this aspect of the question as well as opinion for/against the republic. Surveys continued to show majority support for a directly elected president. They showed also that, despite continued majority support for a republic, the parliamentary model recommended by the Convention would not have majority support and, hence, would fail to pass. For instance, this was the case in both an Age / AC Nielsen poll in January 1999 and a Newspoll in March 1999 (Age, 26 January 1999; Australian, 3 March 1999). The former, presented under the headline ‘Voters reject republic’ reported that only 41 percent would vote for a republic with an appointed president. The figure in the latter instance was only 33 percent, under the headline ‘Republic case in crisis’. The republicans were in trouble, although on both occasions general support for a republic was far greater, by about 15 percent, than general support for the monarchy.

Nevertheless, there could be no agreement as to what these results actually meant (McKenna 1999). The wording of survey questions continued to make
quite a difference to the result, suggesting that the wording of the referendum itself might also be crucial to that outcome. Furthermore, there continued to be a substantial number of Australians, between 10 percent and 17 percent of the community, who remained uncommitted.

The most favourable response in favour of the republic about that time came from a poll commissioned by the ARM itself and conducted by Newspoll in January 1999. The question read:

The referendum later this year will propose to amend the Constitution to replace the Queen with an Australian Head of State chosen by a two-thirds majority of Parliament with the support of both sides of politics. This will very likely mean that the new Head of State will not be a politician. With this in mind will you yourself vote Yes or will you vote No in the referendum to make this change to the Constitution?

The result was 58.3 percent Yes, 30.7 percent No and 10.8 percent Don't know/Refused (Newspoll Market Research 1999).

**Major participants in the constitutional debate**

As the process moved from the Convention to the referendum itself, the pattern of the participants in the party political debate became clearer. The Liberal Party was divided and there were both monarchists and republicans in about equal numbers among Cabinet Ministers. The declared monarchists included not only the Prime Minister himself, but also Cabinet Ministers such as Senator Nick Minchin, who had carried responsibility for the Constitutional Convention. Other prominent monarchist ministers included Bronwyn Bishop and, most outspoken of all, Tony Abbott.

Republican Liberals on the frontbench included: the Treasurer, Peter Costello; Environment Minister, Senator Robert Hill; Finance Minister, John Fahey; and Senator Amanda Vanstone, Minister for Justice. Prominent backbenchers included Senator Marise Payne (NSW), once ARM’s Deputy National Convener, and Senator Alan Eggleston (WA), patron of the ARM in WA, who convened a group of parliamentary Liberals for the republic. Peter Reith, Minister for Employment, Workplace Relations and Small Business, supported a popularly elected President and announced that he would vote No at the referendum.

The National Party was officially monarchist, as both the Nationals’ leader Tim Fischer and his deputy John Anderson proclaimed in their addresses to the Convention. However, Fischer stated that individual National MPs would be
allowed a conscience vote, and as the campaign unfolded several backbenchers, including Larry Anthony, declared that they were republicans. Among the Nationals, Senator Ron Boswell, the party’s leader in the Senate, was the most outspoken monarchist.

The ALP was formally and solidly republican. Since June 1991 it had been committed to the republic by 1 January 2001. The party was committed to campaigning for a Yes vote at the referendum and the Leader of the Opposition, Kim Beazley, restated this position on a number of occasions. A preliminary discussion was held at the ALP National Executive as to whether the party should declare the republic a conscience vote for MPs and party members. Former Labor Lord Mayor of Sydney, Doug Sutherland, represented the ACM at the Convention, and the direct electionists campaigning for No included Clem Jones, an ALP life member, and Paul Tully, both of whom were also Convention delegates. No federal MPs broke ranks.

The most prominent national Labor republicans were the shadow Attorney-General, Robert McClelland, and former Deputy Leader, Gareth Evans. Graham Edwards MHR (Cowan, WA) was an elected ARM delegate to the Convention prior to his 1998 election to Parliament.

Senator Natasha Stott Despoja (SA), then deputy leader of the Australian Democrats, was the most prominent spokesperson for the party’s official pro-republic position. She was a parliamentary delegate to the Convention. The Democrats advocated greater public participation in the process of constitutional reform, and wanted the Constitutional Convention to be a fully elected body (Senator Stott Despoja, Hansard, 29 March 1999, 3045–8).

Senator Andrew Murray (WA) expressed some disquiet at the official Democrats position, claiming a directly elected President would make the executive more accountable (Australian, 30 December 1998; West Australian, 13 January and 28 January 1999). The party then balloted its members to elaborate its policy by adding specific items to its Constitutional Reform Policy on the matter of choosing a head of state (Murray 1999; Austen 1999).

The Greens were not prominent in the debate and were unrepresented among the Commonwealth parliamentary delegates to the Convention, although delegates included Christine Milne, then Greens’ Tasmanian leader, and an elected NSW delegate, Catherine Moore. In general, Greens are direct election republicans. Greens (WA) Senator Dee Margetts was critical of the Convention process. She supported a further constitutional convention ‘preceded by extensive community consultation’ if the referendum was successful, and, if it was not, she advocated that a plebiscite be held at the time of the next federal election (Margetts 1999). Pauline Hanson’s One Nation
party was not represented at the Convention, and did not play a prominent role in the debate. It was, in general, solidly on the No side of the debate.

The major part of the advocacy during the debate was carried out not by the parties but by committed community groups. On the Yes side these included the ARM, the newly formed Conservatives for An Australian Head of State, members of Yes coalitions in most states and a number of smaller republican groups and unattached individuals. The No side included the ACM, the Returned Services League (RSL), and some minor monarchist groups. Their efforts were significantly supplemented by the Real Republicans, a coterie of prominent direct election republicans led by Ted Mack, Clem Jones and Phil Cleary. Ted Mack explains his position in Chapter Five.

Important roles were played by uncommitted educational organisations, the most important of which was the Constitutional Centenary Foundation (CCF) that continued its public education activities up until the referendum. Its educational publications were widely regarded as the most objective and attractively presented materials available. In Chapter Fourteen Professor Saunders reflects on the CCF's experience during the decade.

From Convention to referendum

The issue began to take real form in early 1999, following the October 1998 federal election in which the Howard Liberal government was re-elected. In February 1999 the Prime Minister decided that there would be two referendum questions — one on the republic and one on a new preamble to the Constitution. He announced that he would take a personal interest in the drafting of the preamble. The Attorney-General, Daryl Williams, would take responsibility for the carriage of the republic question. Coalition MPs were told at this time that the republic question would ask whether the 'Constitution should be altered to establish the Commonwealth of Australia as a republic with a president chosen by a two-thirds majority of Parliament' (Australian Financial Review, 17 February 1999). The wording of each question was the responsibility of Cabinet. Andrew Robb, for the Conservatives for an Australian Head of State, claimed that, by failing to mention the Queen, the question 'includes a clever selection of words most likely to provoke a negative reaction from people at the very moment they go to vote'. Robb proposed an alternative wording: 'A Bill for an Act to alter the constitution to provide for an Australian citizen, chosen by a two thirds majority of a joint sitting of the Federal Parliament, to replace the British Monarch as Australia's head of state' (Robb 1999, 4).
From this time onwards there was considerable lobbying about the wording of the question. Among republicans there was also continuing distrust of the Prime Minister’s role. This was despite Howard, while maintaining his personal position in support of the status quo, giving an undertaking not to campaign for either side (*Age*, 18 December 1998). The ARM made clear that it believed that republicans would have to fight for a level playing field against Howard’s attempts to favour the status quo. The ACM defended the PM.

On 19 February 1999, the Attorney-General announced the names of the two ten-member teams responsible for planning and managing national paid media campaigns to supplement the official Yes and No campaigns prior to the referendum. The composition of the teams had been negotiated with the ACM and ARM. The Yes team comprised Malcolm Turnbull, Janet Holmes a Court, Neville Wran, Lowitja O’Donoghue, Gareth Evans MHR, Senator Natasha Stott Despoja, Chris Gallus MHR, Jason Yat-Sen Li, Professor Greg Craven and Steve Vizard. This was a mix of four leading ARM members, three parliamentarians and three non-parliamentarians from wider republican circles. The No team comprised Kerry Jones, Cr Julian Leeser, Major-General ‘Digger’ James, Senator Ron Boswell, Dame Leonie Kramer, Senator Alan Ferguson, Sir David Smith, Heidi Zwar, Ted Mack and Clem Jones. The first eight were a mix of ACM leaders and Coalition parliamentarians, while the last two were direct election republicans.

Each team was made responsible for half ($7.5 million) of the $15 million allocated for the national media component of the Yes and No cases. The campaigns would be restricted to the month leading up to the referendum. Later, in April, the Attorney-General released guidelines under which the two committees would operate (*Australian Financial Review*, 13 April 1999):

- The committees must restrict their activities to the use of the Commonwealth Government funding and cannot accept donations or raise other funds;
- Competitive selection processes should be considered for work contracted out where this is feasible and there should be proper monitoring of the performance of contractors;
- Records are to be made available for audit and are to be transferred in full to Prime Minister and Cabinet;
- The committees will be required to submit a proposed budget for consideration by the Ministerial Council on Government Communications; and
• Administrative costs are limited and committee members are only allowed travel expenses.

The Government announced that the traditional paper versions of the Yes and No cases would be supplemented on this occasion by wider distribution, including via the internet. It also allocated $4.5 million funding to a separate public education campaign, to be conducted prior to the partisan campaign itself (Ellison 1999). It would have three elements: information on the current system of government; information on the referendum process; and information on the actual questions.

The education campaign would be advised by a panel of experts, chaired by Sir Ninian Stephen, and also comprising Professor Geoffrey Blainey, Dr Colin Howard QC, Professor Cheryl Saunders and Dr John Hirst (Williams and Ellison 1999). The Newspoll organisation was commissioned to survey the community's existing knowledge of the three elements of the information campaign.

On 9 March 1999 the government released the Exposure Draft of the Constitution Alteration (Establishment of Republic) Bill 1999 for public comment by 16 April. The draft did not depart from the major recommendations of the Constitutional Convention in regard to the appointment, removal and powers of the President (Constitutional Centenary Foundation 1999). The same was true of another potentially controversial issue, the position of the states. It indicated that any state 'that has not altered its laws to sever its links with the Crown by the time the office of Governor-General ceases to exist retains its links with the Crown until it has so altered its laws' (Exposure Draft, section 5, 'The States'). The bill removed all constitutional references to the Queen and the Governor-General, and addressed some additional matters, such as the positions of Acting and Deputy President. At the same time the Government released the Exposure Draft of the Presidential Nominations Committee Bill 1999.

The next step occurred on 10 June 1999 when the Attorney-General introduced the two bills into parliament. The bills were amended, with the assistance of The Referendum Task Force in the Department of Prime Minister and Cabinet, following the reception of over 100 submissions on the exposure drafts (Commonwealth of Australia 1999, 6). Just prior to this, in May, the Parliament had appointed a Joint Select Committee on the Republic Referendum (Commonwealth of Australia 1999). The committee comprised Liberal MHR Bob Charles (chair), Shadow Attorney General Robert McClelland (deputy chair) and fifteen other senators and members. It extended
over 200 invitations to make submissions and also made a public call for submissions.

On 22 June, in Canberra, the committee met for the first time. On 29 June it commenced an extensive series of round table discussions and public hearings that ranged across the country. The discussions were vigorous and animated within the strict terms of reference of the committee. There were 122 original written submissions. The committee reported to Parliament on 9 August, in time for the referendum to proceed on 6 November. The first of its 14 recommendations was that the title of the main bill be as follows: 'A Bill for an Act to alter the Constitution to establish the Commonwealth of Australia as a republic, with the Queen and Governor-General being replaced by an Australian President'.

The bills passed through the parliament on 12 August, with the words now being: 'A Bill for an Act 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'.

**The referendum campaign**

Once the legislation passed through Parliament, the skirmishing became more frequent. It was encouraged further by the launch of the Government's public education campaign on Sunday 19 September (Commonwealth Government 1999). The production of the education campaign materials for the press, radio and television was bitterly divisive behind the scenes. According to Turnbull one of the members of the committee, Saunders, declared 'the whole process was a disaster'. Turnbull thought 'the brochure is incomprehensible and serves to make the simple complex' (Turnbull 1999, 159). The main theme of the advertisements was that the choice before voters represented a crossroads. This jarred with the long-advanced message from the ARM that the republican model represented minimal change. On the central issue of 'Who is the Head of State?' the brochure put both answers to the question, Queen and Governor-General, without reaching a conclusion. However, the Government brochure did emphasise that the new President would have 'the same powers that the Governor-General now has'.

The official campaign period began four weeks before the polling day on the weekend of 9–10 October with the media launches of the two advertising campaigns (Turnbull 1999, 182–5; Jones 2000, 197–9). The No advertisements centred on their campaign song, 'The People's Protest', sung by James Blundell.
Closer to the polling day the Australian Electoral Commission (AEC) delivered to each person on the electoral roll a copy of official Yes and No cases (Australian Electoral Commission 1999). These cases are the most accessible statement of the arguments. They became controversial because the Yes case was very short, only 14 of a possible 25 pages. According to Jones, ‘Whenever we debated from now on we used the AEC booklet. It clearly demonstrated the Yes case did not want to promote the detail of their republic or argument’ (Jones 2000, 197).

The official Yes case concentrated on the simple message that it was now time for a mature, independent nation to ‘have our own Head of State’. It emphasised that the change would be: ‘A small step, important and safe’ (AEC 1999, 8). ‘Replacing the Queen with an Australian Head of State is a small but important symbolic step for all Australians. It is the final step to confirm our independence’ (AEC 1999, 10).

The more detailed No case urged voters to ‘Vote ‘No’ to the ‘politicians’ republic’. It continued:

This referendum is not just about whether Australia should become a republic. It is about the type of republic. And the republic model being proposed is seriously flawed — it is untried, unworkable, undemocratic and elitist. The politicians will appoint the President, not the people. It removes the checks and balances from the current system (AEC 1999, 9).

There were four types of voters, according to the No case, who would vote No: those ‘who don’t know’; those ‘who want to elect their President’; those ‘who don’t want an appointed President’ (because this President would be a Prime Minister’s puppet, subject to instant dismissal); and those ‘who value the certainty and stability of our current Constitution’ (AEC 1999, 9).

Ten detailed reasons for voting No followed. The central Yes argument in support of an Australian head of state was addressed in the No case by the claim that: ‘Our constitutional Head of State, the Governor-General, is an Australian citizen and has been since 1965’. The No case concluded with the message: ‘Any change should only be for the better — reject this third-rate republic’ (AEC 1999, 25).

On 22–24 October a deliberative poll was held in Old Parliament House in Canberra. Rachel Gibson and Sarah Miskin describe and analyse this event in Chapter 12. The poll, reporting a swing among the delegates towards the Yes side gave last minute hope to ARM and Yes campaigners. While he was initially sceptical, Turnbull saw the results as ‘an extraordinary vindication of the model’ (Turnbull 1999, 209). Jones ‘deeply regret[ted] I ever allowed the No
case to be part of such a sham. But I do not criticise the organisers, but the ARM which infiltrated the process’ (Jones 2000, 197).

The two campaigns rarely connected with one another despite innumerable media debates and other contests between the two sides. The Yes case concentrated largely on the general case for an Australian head of state, as Turnbull put it, the core message was ‘a No vote is a vote for the monarchy’ (Turnbull 1999, 185). As the campaign continued it made greater attempts to reject criticisms of the model on offer and to ‘defend the model as the best for Australia’ (Turnbull 1999, 190). The No side carefully chose to concentrate on what they saw as the limitations of the model and to throw doubt in the minds of voters about the desirability of any change.

**The referendum result: 6 November 1999**

The republic referendum on 6 November failed to pass, as did the referendum on the preamble (Australian Electoral Commission 2000; Irving 2000; Newman 1999). The result was very clear in both cases. The national No vote was 54.9 percent on the republic question and 60.7 percent on the preamble question. This meant that the Yes vote for the republic was amongst the lowest third of all 44 referendum results, while for the preamble it was the seventh worst ever (Irving 2000, 111). Chapter Eight by Malcolm Mackerras and William Maley provides more detail about the result and a number of other chapters, including those by participants such as Barns and Jones, discuss the outcome.

The republic referendum failed to pass in each of the six states, succeeding only in the Australian Capital Territory (63.3 percent). It went closest in Victoria where the Yes vote was 49.8 percent. The pattern of voting produced some intriguing outcomes. Overall 28 percent of electorates voted Yes and 72 percent voted No. Those that voted Yes included a mix of Coalition and Labor electorates, including the Prime Minister’s own electorate of Bennelong. Those that voted No were likewise mixed, including the Opposition Leader’s electorate of Brand and all National Party electorates. In general terms (Newman 1999) the Yes vote was strongest in metropolitan electorates, especially in Sydney, Melbourne and Canberra, and weakest in rural electorates. It was strongest in Labor seats, though overall Labor could not carry its own seats, and weakest in National Party seats. It was, by and large, strongest in electorates of high socio-economic status (see Table 8.15).

The size of the defeat is arguable and dependent on context. Whether it was a huge landslide for the status quo (Jones 2000, 214 and Chapter Three in this book) or ‘a substantial achievement’ for republicans (Barns in Chapter Four) is
a matter of opinion. In comparison to the defeated 1988 referenda the result was quite good for the republic. Of greater future importance is the interpretation of the results. Why was the referendum defeated? There are five broad lines of argument, which can also be combined in any number of ways. They shade into each other in various ways.

The first is based on the socio-economic breakdown of the results and summed up by the title of Kerry Jones’ memoir of the ACM campaign, The People’s Protest (Jones 2000). Irving (2000, 112) expresses this hypothesis: ‘this particular referendum failed because it represented the aspirations of an “elite” and it alienated the “people”, especially the “battlers”’. The immediate media response commonly accepted this line of thinking that the voting revealed that Australia was a society divided, not along party lines, but between ‘a confident, educated, city-based middle class and a pessimistic, urban and rural battler constituency hostile to the 1990s change agenda’ (Kelly 1999). The latter, given the chance, were keen to reject a proposal championed by the elite. Andrew Robb, the leader of Conservatives for an Australian Head of State, considered that: ‘For these people it was a costless way of poking the better off and the politicians and all the socially progressives in the eye’ (quoted in Snow 1999).

The second argument depends on the historic difficulty of achieving successful referendums. This interpretation concentrates on many of the general reasons given for the failure of referendums, such as the inherent likelihood of a negative campaign being easier to run. Barns, in Chapter Four, condemns ‘the monarchists’ use of scare campaigning’ and is supported by Mark McKenna in Chapter Eleven. Reactions in this case concentrated especially on the need for strong bipartisan support. As Irving (2000, 112) argues, ‘referendums have no chance of succeeding if they do not have wide, cross-party support and particularly the support of the Prime Minister’. Turnbull, in remarks to which Jones took great offence (Jones 2000, 215), reserved his strongest criticism on the night of the poll for John Howard: ‘there is only one person who could have made the vital difference, who could have made November 6 a landmark in our history, and that, of course, is the Prime Minister’ (Turnbull 1999, 245). These remarks are repeated by Barns, his successor, in Chapter Four.

The third argument considers the particular circumstances and processes of this occasion. Turnbull reflected after the defeat along these lines: ‘Australians felt that they had been excluded from this process, that they had been rushed, that there had been insufficient debate about what sort of republic we should have and, most of all, that they had not been given enough information’ (Turnbull 1999, 247).
Whether the timetable was too short is a matter of opinion, but the charge that there was no hurry was effective during the campaign. Irving considers ‘insufficient voter knowledge’ as an aspect of one common hypothesis, put forward by Barns in this book. Barns considers that the Government education campaign was biased, a position supported by John Uhr in Chapter Thirteen. Survey data confirms that Yes voters were better informed than No voters (McAllister 2000). Compulsory voting magnified the No victory. Despite this, it is not certain that more information and a longer period for discussion would have bridged the gap between ignorance and knowledge. While Uhr sees the deliberative poll as the ‘only really fair test of the 1999 republic model’, Gibson and Miskin contend in Chapter Twelve that, because of the distortions introduced by the mass media, ‘the poll failed to optimally educate participants’.

The fourth line of argument is that the flaw lay in the republican model that was put to the electorate. Perhaps a direct election model would have been successful. Jonathan Kelley’s survey, reported in Chapter Nine, suggests this. Much of the No campaign’s strategy was directed against the particular model, the ‘politician’s republic’, and the presence of some of the direct election republicans, Mack, Jones and Cleary, on the No side certainly hurt the republican cause.

The fifth and final interpretation, subscribed to strongly by Ted Mack in Chapter Five, is that the Yes side ran a poor campaign. Jones believed that ACM and No ‘outcampaigned’ their opposition, which she describes as ‘amateurish’ (Jones 2000, 201). The Yes campaign was criticised in hindsight for its use of political, judicial, social and sporting elites to communicate its message. At the time, it believed that public figures, such as Malcolm Fraser, made a positive contribution.

Future directions

The November 1999 referendum result led to various reflections on the future. Justice Michael Kirby, one of the founders of the ACM, concluded that: ‘One day Australia may well become a republic. But it will not happen until the lessons of the referendum of 1999 are learnt’ (Kirby 2000, 535). According to Kirby:

The republican referendum of 1999 showed once again the difficulties of changing the Australian Constitution. But it also showed the special difficulties of changing the Constitution from a monarchy to a republic. Those difficulties are likely to remain for the foreseeable future. Those who persist with the proposal for change need to reflect on the errors made that eventually contributed to the 1999
republican defeat. Unless those errors are addressed and repaired, the prospect in the immediate future of an alteration to the Australian Constitution to a republic being approved as Section 128 requires appears (to use a word much deployed in the months before 6 November 1999) minimal (Kirby 2000, 534).

Helen Irving’s conclusion was, if anything, bleaker:

Republicans will need to ask themselves how ardently they desire a republic and just how many processes they are prepared to endure along the way. The alternative is to wait until Britain itself takes the constitutional steps that will render the relevant sections of Australia’s Constitution either redundant or inapplicable. A referendum in the wake of such a move would most likely succeed (Irving 2000, 115).

Future prospects for a republic rest firstly on an understanding of the 1999 result. They involve an analysis of the institutional reasons for its defeat, the question of the model to be put to the electorate, and the limitations of the republican campaign. Each of these issues needs to be addressed in turn.

Kirby is right to emphasise the difficulty of the Australian constitutional amendment process. No change to s. 128 is likely. Only the admission of the Northern Territory to statehood would change the political arithmetic of achieving a majority of states easier. Some change to the referendum processes, as discussed by Uhr, is, however, within the realms of possibility.

There is no agreement yet among republicans, as demonstrated by some of the contributors to this book, as to whether an alternative model would be more likely to succeed. The ARM has withdrawn its support for the minimalist model and now is committed to an open process of discussion and education prior to a model being chosen (Turnbull 2001). It supports the proposal of the Australian Labor Party, put to the 2001 federal election, for a three-stage approach. The first would be an ‘in principle’ plebiscite on a republic. If this passed then a second plebiscite would offer choices between competing republic models. Finally, there would be another referendum. Labor assumes that the process would take about a decade. There is no consensus within the Labor Party itself about the best model. The state Labor Premiers include minimalist republicans, such as Bob Carr and Steve Bracks, and direct electionists like Peter Beattie and Geoff Gallop. For a final referendum to be passed Labor would have to agree to a united front in favour of the model that emerged from the plebiscites.

The limitations of the republican campaign can only be addressed when the occasion arises. The chief vehicle is likely to remain the ARM. It has reconstituted itself as a democratic national organisation. In October 2000 new
national and state executive committees were elected. The organisation now formally included on its national committee a wider range of republicans, including Tim Costello, Jason Li and Natasha Stott Despoja (elected leader of the Australian Democrats in April 2001). The new chairman, replacing Malcolm Turnbull, is Greg Barns (Barns 2000).

What is sure is that any future republic referendum will be as bitterly fought as was the case in 1999. The ACM, now convened by Professor David Flint, has also maintained and renewed its organisation. However, it is unclear just what support the ACM will have. While organisations like the Returned Services League may remain opposed to change, much will depend upon the disposition of the parliamentary wings of the Liberal and National parties. The Liberal Party might be led, in a future referendum campaign, by a republican such as the current Treasurer, Peter Costello. Costello, like most Liberal republicans, supports the minimalist model but would probably be unwilling to support a directly elected President.

The greatest uncertainty lies in the potential impact of the passage of time. Here there are competing scenarios, one favourable and the other unfavourable to a future republic. The unfavourable scenario assumes that, in Kerry Jones’ words, ‘They had their chance and they blew it’. In this scenario the republic will fade away. There will not only not be events that will revitalise the republican movement, but the operation of Australia’s ‘crowned republic’ by the Governor-General will diminish republican sentiment for an Australian head of state. If the Governor-General wins community acceptance as Australia’s de facto head of state then the task of republicans will be much more difficult.

The favourable scenario continues to rely on the ‘inevitability’ of the republic and assumes that clear majority support in principle for an Australian republic will in some way, at some time, translate into constitutional reform. The favourable scenario assumes that the question of the appropriate republican model, especially the dispute between the direct and parliamentary election models, can be resolved and unity therefore restored among republicans.

The time since the referendum, in particular the events during the centenary of federation in 2001, illustrates these alternative scenarios. Public debate has continued and proposals continue to emerge. Most encouragingly for republicans the centenary of the first sitting of the Australian Parliament, in Melbourne in May 2001, was a platform for republican sentiment. Republicans have taken this opportunity and others, such as the appointment of Archbishop Peter Hollingworth as Governor-General from July 2001, to keep the issue on
the public agenda. Opponents of constitutional reform, like Kerry Jones in this book, continue to argue that reform is too costly and that it is an elitist issue. On matters of substance they defend the Governor-General as an ‘Australian’ head of state.

Future developments are likely to address matters of process. A number of the authors in this book address matters of process for decision makers to consider with a view to broader community deliberation. In Chapter Thirteen, Uhr proposes an all-party committee on referendums and constitutional change, and a Referendum Commission. In Chapter Five, Mack looks forward to a more ordered process involving both a plebiscite and a fully elected, properly structured constitutional convention. In Chapter Six, Richard McGarvie opposes a plebiscite and puts his faith in expertise, including an all-party committee. In Chapter Eleven, Mark McKenna proposes a broader debate with less concentration on national identity and greater links with contemporary issues such as reconciliation and citizenship. George Williams in Chapter Ten suggests a process of constitutional renewal with a broader debate of issues such as a Bill of Rights. Frank Brennan, in Chapter Fifteen, stresses the need, if the community decides to move to a directly elected President, to ‘redraw the public understanding of the different roles of Prime Minister and President’. George Winterton, in Chapter Sixteen, addresses the codification of the powers of a directly elected president.

In late 2001 and early 2002 there were events that might have served to ‘re-ignite’ the debate. A major public conference was held in Corowa on 1–2 December to formulate a process for moving the republic issue forwards (Corowa Shire Council 2000; Hammond 2000; Fischer 2001). It proposed a process to include a parliamentary committee, a plebiscite and a constitutional convention prior to a referendum. In February and March 2002, public debate about the future of the Governor-General, Dr Peter Hollingworth, reached a crescendo. Criticism of his handling of child abuse incidents while he was Archbishop of Brisbane led to calls for his resignation or removal. This directed attention to the method of appointment of the Governor-General by the Prime Minister.

The next step probably lies with the Commonwealth Parliament, but no Australian government will ever again embark lightly on constitutional reform. Furthermore, the re-election of Howard’s Coalition Government on 10 November 2001 means that immediate action is unlikely. Labor’s plans are in abeyance while Howard’s personal support for the status quo means that Liberal republicans must wait for his retirement and Peter Costello’s ascendancy. An Australian republic may be years away. The opinions on this
question of the authors in this book range confidently from 2005 to never. A republic before 2010 must be unlikely.
Chapter Two

The Constitutional Convention

Election

Antony Green

The first opportunity Australians had to vote on Australia becoming a republic was not the November 1999 referendum, but two years earlier with the election for delegates to the 1998 Constitutional Convention. Rather than the simple Yes/No option offered by the referendum, the Convention election presented voters with candidates representing a range of republican and monarchist opinions, and the results help in explaining the defeat of the referendum. Also, as the first federal election since 1922 conducted under voluntary voting, the Convention election provides an insight into the possible impact of compulsory voting on Australian politics.

The origin of the Convention

Debate on Australia becoming a republic did not enter the realms of inter-party politics until 27 February 1992 when, in response to a 'Dorothy Dixer' question on whether 'the 1950s were a time of great advancement ... a golden age for Australia?', Prime Minister Paul Keating launched an attack on past Coalition support for Australia's links with Britain (Hansard, 27 February 1992, 373–4). While the answer can be seen as the starting point for the republican debate, Keating made no reference to Australia becoming a republic, and it is clear his main purpose was to open a new front of his attack on the Coalition's 'Fightback' package, which at the time was still fresh and electorally popular. Coming at the end of Keating's first week in Parliament as Prime Minister, it also helped remove any lingering bitterness on the Labor backbench over the method by which he had deposed Bob Hawke the previous December as, for the first time that day, Labor MPs finished Question Time in full voice behind his performance.
Keating's answer did not progress the issue of Australia becoming a republic, but merely put it on the political agenda. The republic became the first of many attacks by Keating designed to make the 1993 election a stark choice between Labor and the Coalition. While Keating was to raise the republican issue from time to time over the next year, the Coalition saw no reason to respond, viewing the issue as merely an attempt to divert attention from the main issue of the economy, and perhaps to goad more conservative supporters of the Coalition into outright opposition.

The re-election of the Keating Government in March 1993 changed the political dynamics of the issue. One of the Government's first acts was to appoint a Republic Advisory Committee on 28 April 1993; its two volume report was released later that year. This required a policy response from the Coalition rather than a simple refusal to countenance the issue. Divisions between republicans and monarchists within the Liberal Party made the development of a party policy that stated a position on the republic almost impossible. Instead, the Coalition under new Liberal leader Alexander Downer chose to blur the issue, settling on calling a Constitutional Convention, with half of the delegates to be popularly elected. Republicanism as the key constitutional issue was also downplayed by allowing the Convention to consider other constitutional issues.

When John Howard supplanted Downer as leader in January 1995, he also inherited the Convention policy, despite his own personal preference for Australia to retain its link with the crown. In the year leading up to the 1996 election, the Coalition again viewed the republic as a diversion from the main issues of the economy and the actions of the Keating Government. Paul Keating's ministerial statement on the republic (Hansard, 7 June 1995, 434–41), forced Howard to try and clarify the Coalition's position. (Hansard, 8 June 1995, 1620–5).

After his own speech had been well received, Keating launched a preemptive attack on Howard, stating that he had only one question to answer: "Did he support having an Australian head of state instead of a foreign monarch?" (Sydney Morning Herald, 9 June 1995). Howard declined to address the question in his speech, and media reviews of his reply were critical. Alan Ramsey described his speech as 'facile, contrived, pedestrian and disingenuous. It had no commitment, no passion and no clarity ... Paul Keating's speech on his republican timetable was everything in substance that Howard's wasn't. It was clear, precise and well crafted' (Sydney Morning Herald, 10 June 1995). Even worse for Howard, Liberal Party divisions were revealed as Victorian Premier Jeff Kennett described the Constitutional Convention as 'just another
committee’, South Australian Premier Dean Brown claimed a republic was inevitable and Tasmanian Premier Ray Groom declared himself a republican and promised a referendum in his state (Australian, 12 June 1995).

The weakness of the policy Howard had inherited was that if no consensus was reached at the Convention, there would be no vote. ‘Howard in backflip on referendum’ (Australian, 12 June 1995) was one headline that greeted the rewrite of the policy over the weekend. It now included a plebiscite if consensus was not reached on a particular model, effectively matching Labor’s promise of a guaranteed vote on a republic. As Glenn Milne pointed out, this new position allowed Howard to present the Coalition as offering a choice to the electorate, where all Labor offered was a vote on ‘Keating’s Republic’ (Australian, 12 June 1995). It allowed Howard to take the moral high ground, stating Keating had no more right to insist on his views on the republic than Howard himself had to demand retention of the monarchy.

The decision in February 1996 of the New South Wales Government to downgrade the role of the state Governor allowed Howard to attack Labor’s undemocratic methods in pushing for a republic, ‘high-handed, authoritarian behaviour — typical of the crude, strong-arm tactics about which the likes of Paul Keating and Mr Carr have constantly gloated’ (Sunday Telegraph, 28 January 1996). Instead of Labor using the republic to paint Howard as old fashioned, the Coalition was using it to paint Keating as arrogant, and had some success according to its polling (Williams 1997, 96). Voter attitude to Australia becoming a republic was strongly related to opinions of Keating (Leithner 1994), and the direction of the causal relationship was doing more harm to the republican cause than it was helping the Labor Party’s chances for re-election. The republic was a low order issue at the 1996 election, but not one that could be ignored by the Howard Government once it took office.

From policy to polling

Within a month, Senator Nick Minchin, the Parliamentary Secretary to the Prime Minister who was given carriage of the Constitutional Convention, was promising early action (Australian, 23 March 1996). In May the Prime Minister reiterated his support for the Convention at a joint party meeting after backbenchers had expressed some concern about the cost (Australian, 30 May 1996). There were reports the Government was considering abandoning popular election, concerned the election could ‘fall prey to weird and extreme groups’ (Australian Financial Review, 28 August 1996), with cost and concern about republican victory other factors raised by ministers (Sydney Morning
The agenda of the convention was also changing, initially proposed to cover a wide range of issues (Australian, 19 August 1996), before finally narrowing down to just considering the republic (Sydney Morning Herald, 27 March 1997).

Details of Cabinet's decision were announced in early February 1997. Delegates were to be elected from state-wide electorates using a modified form of the Senate's quota preferential electoral system. The number of delegates elected from each state was to be roughly equal to its representation in the two houses of the federal Parliament, weighted in favour of the smaller states. The key feature of the election was that it would be conducted by voluntary postal ballot, significantly cutting the cost. Some republican advocates saw the voluntary vote as a deliberate ploy to downplay the importance of the election, and allow a low turnout to become an argument against public interest in the issue.

The bill passed the House of Representatives in May 1997 but faced a rockier passage through the Senate, where the Government was in a minority. Non-government Senators had made it clear that given Senator Minchin's past advocacy of voluntary voting, they viewed the Convention election's rules as a 'Trojan horse' to introduce voluntary voting for all elections. The bill was amended to conduct the election by compulsory attendance ballot, an amendment the Government rejected when the bill returned to the House on 23 June. With this impasse, the Government seemed prepared to let the convention lapse, happy to blame the Labor Party and Australian Democrats for preventing them from honouring an election promise that many in the Government were happy to abandon anyway.

The election was resurrected when Greens Senator Bob Brown decided to take the Government at its word that it wanted to proceed with the Convention election. In his speech (Senate Hansard, 28 August 1997, 5917-19) Brown spoke of how his discussions with the Prime Minister and his advisers had left him with the impression the Government was happy to let the legislation lapse, not wanting the republic to progress. Brown expressed his misgivings about voluntary voting, but felt he could not use this to prevent the one opportunity to progress the republic issue in the term of a Coalition Government. With only minor amendments, the bill passed the Senate on 28 August.

A unique campaign

The 609 candidates paid a $500 non-refundable deposit to contest the election. Each elector received a package of voting material consisting of a ballot paper.
and envelope, an information booklet on the election that included statements from contesting candidates and groups, and a reply paid envelope to return completed ballots. While based on the Senate’s system of ‘above’ and ‘below the line’ voting, not all candidates’ names appeared on the ballot paper, and below the line votes required blank voting squares to be filled with candidate numbers found in the accompanying booklet. Above the line voting included the same system of registered preference tickets as used in the Senate. While the counting method was the same, a major difference was the use of optional rather than full preferential voting. A formal vote required only that a valid first preference vote be shown.

The mail-out of voting material began on 3 November 1997, with ballot papers to be returned by 9 December. For secrecy and security, a ballot paper had to be sealed in the accompanying envelope, which included a detachable flap with a unique bar code for scanning against the electoral roll. For secure identification, the flap also included a declaration which voters had to sign as well as include their date of birth. If the envelope was unsealed, unsigned or had an incorrect date of birth, it could not be admitted to the count. Once an envelope had passed these checks, the identifying flap was detached and the envelope placed in a ballot box for counting after the close of poll.

The election provided for a unique campaign. There was no fixed polling day, and voters were to receive their voting material over a two week period as a simple window faced envelope competing for attention with bills and junk mail. While the Australian Electoral Commission (AEC) ran publicity campaigns, first to get people on the roll, and then to encourage voting, it was still the first election since compulsory voting was introduced in which candidates had to worry as much about turning out the vote as attracting votes for themselves. It was a throwback to politics on the cheap, as no public funding was available, the political parties did not get directly involved, and corporations and lobby groups were little interested in an election where the fate of Government was not at stake. With the exception of the *Australian*, few media outlets went out of their way to give the campaign major attention, and the low level of the campaign highlighted how difficult it is in Australia to have a political debate outside of the normal processes of party politics.

The results

In all 5,625,754 ballot paper envelopes were returned, a participation rate of 46.92 percent. Of these, 3.18 percent were rejected, mainly through failure to sign the declaration, include a date of birth, or seal the envelope. A further 0.28
percent of envelopes were rejected once opened, usually for containing multiple ballot papers. Ballot papers admitted to the count represented 45.30 percent of the electorate, 2.18 percent of those ballot papers being informal, making formal votes 44.31 percent of enrolled voters. A total informal vote, representing all rejected envelopes and informal ballot papers, was 5.57 percent of returned envelopes.

In New South Wales, the large number of voters who took the opportunity to vote for individual candidates, along with some divided group preference tickets, resulted in Hazel Hawke being elected as one of the seven ARM delegates, despite being placed 12th on its ticket. Of the 76 elected delegates, optional preferential voting resulted in 18 being elected with less than a full quota. Across the country, the larger groups tended to elect delegates in proportion to their vote, but the filling of final vacancies often came down to incestuous preference deals done between individual candidates and smaller groups.

Only the main protagonists in the debate, the Australian Republican Movement (ARM) and Australians for Constitutional Monarchy (ACM, campaigning as No Republic — ACM) contested every state. Tables 2.1 and 2.2 summarise the results after grouping candidates into four broad categories based on their position on the Republic. As Table 2.1 shows, support for republicans was more fragmented, while the only division on the monarchist side was between an emphasis on maintaining the current constitution by the ACM, versus smaller monarchist groups giving greater prominence to the Queen. The category of non-ARM Republicans included opinions ranging from broad agreement with the ARM, to those who called for more fundamental change, in particular supporting a directly elected President.

Table 2.2 breaks the result down by state, region and electorate party status. The combined republican vote recorded a majority in all states except South Australia and Tasmania. The three smaller states saw the lowest vote for non-ARM republicans, perhaps suggesting less support for direct election. Support for republicans was strongest in city electorates and Labor electorates, and generally the more rural an electorate, or the greater the Coalition margin, the higher the monarchists' vote.

Surprisingly, the difference in turnout showed greater variation between states than between party categories. This was also true within states. There was a higher turnout than many would have expected in safe Labor electorates, even those with a high proportion of voters from non-English speaking backgrounds who could have struggled with the complex voting forms. The lower participation in National Party electorates may reflect the lower return
Table 2.1: Summary of results by position on republic

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Percentage vote

Source: AEC (1998). Classification of votes into categories by author. Classification of the republic position of candidates: groups and candidates have been classified according to the statements supplied to voters with their voting material. The Australian Republican Movement total includes the separate ARM regional tickets in Queensland. The monarchist total includes all candidates whose statement expressed a preference for maintaining the existing constitutional link with the crown. Non-ARM republicans includes groups and candidates expressing support for any form of Australian republic. Votes for Other includes all candidates whose position on an Australian republic was not clear from their candidate statement.
Table 2.2: Summary of constitutional election results by electorate category

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<td>35.9</td>
<td>30.7</td>
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<td>Rejected and Informal % of roll</td>
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Source: AEC (1998). Classification of votes and seats into categories by author. Rejected and Informal Votes: Table 2.2 provides a broader category of Informal votes than that provided by the AEC in the official statistics. It includes envelopes rejected at the initial scrutiny stage, ballot papers rejected once the envelopes were opened, as well as ballot papers declared informal during vote scrutiny. The figure is calculated from the difference between the number of envelopes returned, and the number of ballot papers admitted to the count. The Constitutional Convention election was conducted on the boundaries used at the 1996 election, except in Western Australia.
rate in large rural and remote electorates, suggesting the frequency of postal services may have affected the return rate.

However, a different picture emerges when the participation rate is analysed by age. The electoral roll includes dates of birth, and scanning envelopes as they were returned allowed an age profile of who voted to be produced (see Tables 2.3 and 2.4). The response rate was heavily skewed towards older voters. Three-fifths of voters aged over 55 participated in the poll, compared to only a third of those under 25. Given opinion polls indicated older voters were more likely to support the monarchy, this suggests that the support for monarchists was inflated by the voluntary vote, and the 34.2 percent support for monarchist groups may represent a high point in their support. The results indicate that while there may be an implicit majority for Australia to become a republic, there is no clear majority for a particular model.

What is not possible to know directly from the results is whether republicans or monarchists were more likely to vote. Fortunately, Newspolls were commissioned twice by the Australian to assess public interest in voting at the same time as asking about intended vote. The first poll (Table 2.5) indicates that republicans were more likely to vote than non-republicans. However, the poll indicated no difference in intended participation by age, which we now know is not correct. With the Convention election producing a lower participation by younger voters who were more likely to support the republic, Newspoll’s participation rate amongst republicans may have been inflated.

A second poll was conducted just before the close of poll in December (Table 2.6). Amongst those who had voted or intended to vote, the results broadly correspond to the actual results in Table 2.1. Interestingly, 53 percent of the sample said they had voted, with another 22.5 percent claiming that they would vote. This is far higher than the actual participation rate, suggesting voters were giving a ‘right’ answer rather than a true response. Significantly, amongst those who were not going to vote, the support for the monarchy was roughly the same as amongst those who voted. The big shift was from strong support for the republic amongst those who voted, to weak support or no opinion amongst those who did not. This poll backs the view that the
### Table 2.3: Participation in convention election by age group

<table>
<thead>
<tr>
<th>Age Group</th>
<th>National Participation rate (%)</th>
<th>NSW</th>
<th>VIC</th>
<th>QLD</th>
<th>WA</th>
<th>SA</th>
<th>TAS</th>
<th>ACT</th>
<th>NT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age 18–25</td>
<td>33.9</td>
<td>32.4</td>
<td>41.5</td>
<td>50.5</td>
<td>27.9</td>
<td>30.0</td>
<td>36.3</td>
<td>38.1</td>
<td>29.3</td>
</tr>
<tr>
<td>Age 26–35</td>
<td>38.0</td>
<td>35.5</td>
<td>45.2</td>
<td>35.6</td>
<td>33.3</td>
<td>34.2</td>
<td>40.0</td>
<td>44.0</td>
<td>35.8</td>
</tr>
<tr>
<td>Age 36–45</td>
<td>44.2</td>
<td>41.8</td>
<td>50.0</td>
<td>42.0</td>
<td>41.4</td>
<td>42.0</td>
<td>46.4</td>
<td>52.7</td>
<td>41.9</td>
</tr>
<tr>
<td>Age 46–55</td>
<td>50.1</td>
<td>47.4</td>
<td>54.1</td>
<td>49.0</td>
<td>48.1</td>
<td>51.1</td>
<td>52.5</td>
<td>59.0</td>
<td>47.9</td>
</tr>
<tr>
<td>Age 56–65</td>
<td>59.2</td>
<td>56.1</td>
<td>62.2</td>
<td>59.4</td>
<td>58.0</td>
<td>62.1</td>
<td>60.1</td>
<td>66.5</td>
<td>49.3</td>
</tr>
<tr>
<td>Age over 65</td>
<td>59.2</td>
<td>57.1</td>
<td>60.0</td>
<td>60.1</td>
<td>60.0</td>
<td>61.7</td>
<td>59.6</td>
<td>68.3</td>
<td>49.8</td>
</tr>
<tr>
<td>All ages</td>
<td>59.2</td>
<td>44.9</td>
<td>51.7</td>
<td>45.2</td>
<td>43.8</td>
<td>46.7</td>
<td>48.8</td>
<td>52.3</td>
<td>40.0</td>
</tr>
</tbody>
</table>


### Table 2.4: Age break-up of electorate versus participants

<table>
<thead>
<tr>
<th>Age Group</th>
<th>As a proportion of roll (%)</th>
<th>As a proportion of envelopes (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age 18–25</td>
<td>13.2</td>
<td>9.5</td>
</tr>
<tr>
<td>Age 26–35</td>
<td>19.9</td>
<td>16.1</td>
</tr>
<tr>
<td>Age 36–45</td>
<td>20.6</td>
<td>19.4</td>
</tr>
<tr>
<td>Age 46–55</td>
<td>17.8</td>
<td>19.0</td>
</tr>
<tr>
<td>Age 56–65</td>
<td>11.9</td>
<td>15.0</td>
</tr>
<tr>
<td>Age over 65</td>
<td>16.6</td>
<td>20.9</td>
</tr>
</tbody>
</table>


### Table 2.5: Percentage likely to vote in voluntary ballot

<table>
<thead>
<tr>
<th>Likelihood of Voting</th>
<th>All Adults</th>
<th>Favour Republic</th>
<th>Against Republic</th>
<th>Age 16-34</th>
<th>Age 35-49</th>
<th>Age Over 50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Likely</td>
<td>36</td>
<td>46</td>
<td>33</td>
<td>23</td>
<td>39</td>
<td>46</td>
</tr>
<tr>
<td>Somewhat Likely</td>
<td>20</td>
<td>25</td>
<td>14</td>
<td>30</td>
<td>19</td>
<td>12</td>
</tr>
<tr>
<td>Total Likely</td>
<td>56</td>
<td>71</td>
<td>47</td>
<td>53</td>
<td>58</td>
<td>58</td>
</tr>
<tr>
<td>Not Likely</td>
<td>32</td>
<td>23</td>
<td>43</td>
<td>40</td>
<td>32</td>
<td>26</td>
</tr>
<tr>
<td>Uncommitted</td>
<td>12</td>
<td>6</td>
<td>10</td>
<td>7</td>
<td>10</td>
<td>16</td>
</tr>
</tbody>
</table>


### Table 2.6: Attitude to republic by whether voted in convention election

<table>
<thead>
<tr>
<th>Attitude to Republic</th>
<th>Total</th>
<th>Already Voted or Intend to Vote</th>
<th>Will Not Vote or Uncommitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly in Favour</td>
<td>32</td>
<td>37</td>
<td>15</td>
</tr>
<tr>
<td>Partly in Favour</td>
<td>19</td>
<td>18</td>
<td>22</td>
</tr>
<tr>
<td>Total in Favour</td>
<td>51</td>
<td>55</td>
<td>37</td>
</tr>
<tr>
<td>Partly Against</td>
<td>15</td>
<td>14</td>
<td>18</td>
</tr>
<tr>
<td>Strongly Against</td>
<td>20</td>
<td>21</td>
<td>20</td>
</tr>
<tr>
<td>Total Against</td>
<td>35</td>
<td>35</td>
<td>38</td>
</tr>
<tr>
<td>Uncommitted</td>
<td>14</td>
<td>10</td>
<td>25</td>
</tr>
</tbody>
</table>

Source: Newspoll 5–7 December 1997 (Australian, 10 December 1997)
Table 2.7: Comparison of convention election, referendum and 1998 federal election results

<table>
<thead>
<tr>
<th>Category (seats)</th>
<th>1998 Fed Swing (Yes%)</th>
<th>ALP 2PP (%)</th>
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</thead>
<tbody>
<tr>
<td>ARN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rep Public</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Republican</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monarchist</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New South Wales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Victoria</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Queensland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Australia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tasmania</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Australia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Safe Labor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Safe Labor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marginal Liberal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marginal National</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Safe National</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: AEC (1998). Classification of votes and seats into categories by author. This table is based on data prepared by the Author for the ABC referendum coverage. To allow comparison, the Convention election results for Queensland and the ACT have been apportioned to 1998 election boundaries. While this may distort the comparison in individual electorates, it does not
Convention election correctly measured monarchist support, but also suggests it overestimated support for the republic. The Newspoll result suggests that despite almost half of the electorate participating, the Convention election was a self-selected sample based upon interest in the issue, and not a sample of the electorate as a whole.

Table 2.7 compares the Convention election, referendum result and the Labor two-party preferred result from the 1998 federal election. The fall in the Yes support on the continuum from very safe Labor to very safe Liberal followed the pattern of support for the republic in the Convention election. However, Yes support was much lower than Labor support in safe Labor seats, and much higher than Labor support in safe Liberal seats, with a clearer trend being the difference in Yes support between inner and outer suburban seats. There also seemed to be a positive relationship between support for a republic and an electorate’s average level of education and income. As is also so often the trend at referendums, there were huge differences in the result from state to state.

It is clear that the ability of the No campaign to harness distrust of a ‘politician’s republic’ was critical to the result of the referendum. The question is, did this campaign work by detaching those who voted for non-ARM republicans at the Convention, or by attracting the support of the disinterested who chose not to vote? With the exception of the result in Queensland, support for direct election republicans such as Ted Mack and Phil Cleary tended to be highest in electorates where the Yes vote was high, suggesting the desertion of non-ARM republicans did not defeat the referendum. The Newspoll results in Table 2.6 point more strongly to the referendum being defeated by those who did not take part in the Convention election. In all likelihood, the referendum was defeated by those least interested in the issue, and given the theme of the No campaign, those most distrustful of politicians.

distort the overall picture. Electorates have been classified according to Bennett, Kopras and Newman (1998), again with a broader Safe Seat category of 6–12 percent.
Chapter Three

Why Australians Voted No in the 1999 Republican Referendum

Kerry Jones

On 6 November 1999 the people of Australia voted No to becoming a republic. They voted No in 72 percent of federal electorates; in political terms, a landslide. Many commentators and analysts have told us, and will continue to tell us, why we voted No in such vast numbers. There will be lots of angles. Being at the front line of the debate for five years of the lead time I believe I can speak with good authority for both the constitutional monarchists and the No case. There are and will remain essential reasons unique to us as Australians as to why we voted No in the referendum. These same reasons would see the rejection of a republic in any referendum to be held in the future.

Our strong constitutional history makes us one of the best democracies in the world. Our attitude to politicians is that they already have enough power and have a pattern of misusing it. Our dislike of elites and our distrust for the media have equally been earned through reputation. We have an inherent dislike of change for change’s sake. The lack of an Australian national identity debate was one of the many diversions fabricated by republicans in an attempt to muddy the waters. Our response to political campaigns where diversionary tactics or stunts are used, particularly in referendum campaigning, is one of caution. We tend to distrust and vote against people who treat us arrogantly or as if we are stupid.

The Yes case republicans failed abysmally to justify their cause. For the purpose of this condensed chapter I have summarised the key failures of the republicans into six major arguments. For a comprehensive analysis my own book, The People's Protest (Jones 2000), complements this analysis in detail.
Our constitutional history is against republicanism

The strength of our Australian constitutional arrangements is in the recognition of our system of government as one of the best in the world. Thousands of people have come to live in Australia for the unity, stability and prosperity we offer. Our constitution was developed by Australians for Australians and absorbed the very best ideas from constitutions around the world. Federation in 1901 was an outstanding achievement of unity with no civil war or unrest. The constitution is the backbone to our democracy. The republicans tried to discredit the constitution, they attacked it and, worst of all, tried to avoid it despite the fundamental necessity of having to rewrite it to implement any change to a republic model.

Despite years of concentrated time and money the republicans never came up with a model for a republican constitution that measured up to the safeguards of our current system. The more they tried the more they divided amongst their own ranks. By the time of the Constitutional Convention in February 1998, the Australian Republic Movement (ARM) under the chairmanship of Malcolm Turnbull claimed it had a more workable model. By the end of the convention, it had changed and compromised this model in critical constitutional areas such as the appointment, dismissal and powers of the prospective President. The critical constitutional issues affecting the federation of the states were ignored and put in the too hard basket. The fact that polls consistently showed that most Australians who would consider a republic wanted to popularly elect the President was likewise ignored by the ARM despite compulsory voting being one of the great strengths of our democracy.

By the time of the referendum the Yes republicans were so afraid of any constitutional debate they used only three and one half pages of the allowed eight pages in the official Australian Electoral Commission (AEC) booklet provided to all voters. The No case, concentrating on the complex constitutional change, stood unopposed on page after page of opposite blanks.

Turnbull had earlier argued to the Joint Select Committee, 5 July 1999, that the wording of the question for the ballot paper not include the words ‘president’ or ‘republic’. Such avoidance of the constitutional debate backfired. It treated Australian voters as if they were stupid and constitutionally illiterate. Our own polling showed that as referendum day approached, people were wanting information. The No case countered with the slogan ‘if it ain’t broke don’t fix it’. 
Politicians used the republic as a diversion

When he was Prime Minister, Paul Keating loved to divert to ‘the republic’ debate or to the ‘change the flag’ debate whenever economic or unemployment issues would hot up. He knew the polls consistently showed the vast majority of Australians had absolutely no interest in the republic debate. The Premier of New South Wales, Bob Carr, would likewise use it as a diversion such as when he swung public attention from the privatisation of tollways to evicting the New South Wales Governor from his official Government House residence. Australians feel politicians have enough power already. They inherently distrust their use of this power and vote against change for change’s sake.

Republicanism by stealth became the term coined for the numerous attempts, usually by politicians, to convert public sentiment towards republicanism. We have faced continual attempts to remove the Queen’s head from our coins, to remove the Royal prefixes and the crown or the Queen’s portrait from public places and attempts to change the flag. Each instance was a diversion to move off the constitutional model of republic debate. Particularly poor of the republicans were attacks on individual members of the Royal family when from time to time they faced the personal issues that face all families confronting the difficulties of coping in the modern world.

Such diversions added to the perception of distrust in hidden agendas. The numerous stunts performed by the ARM were mostly seen through as such. When in the final months the people wanted information, the Yes case was too far down the diversionary track to provide it. It was the No case that had ready numerous resource kits, books and materials culminating in The No Case Papers (Brown 1999) and a campaign built on providing facts.

The ARM relied too heavily on politicians promoting their cause. For instance, as Australians increased in their dislike of Keating, they equally distrusted his strong advocacy of the republic. Turnbull made the mistake of courting politicians as the key promoters of his republic at a time when public distrust had peaked. Conversely, for the constitutional convention election, the ACM non-political figure Kym Bonython from South Australia proportionately won the highest vote of all. By the time of the referendum, the ARM still had not got the message. Mavericks from the National Party such as former speaker Ian Sinclair and former Deputy Prime Minister Doug Anthony caused huge unrest at the grass roots membership of their own party. Our own polling showed that the Yes case advertisements featuring former Prime Ministers Malcolm Fraser and Gough Whitlam (with arms around each other supporting the republic) was one of the biggest turnoffs in the entire campaign.
The republican model on offer at the referendum indisputably gave a lot more power to politicians. This would translate into the No campaign slogan 'Vote No to the politicians' republic'. The ARM should have left the politicians out of the debate and political parties should have allowed a conscience vote as encouraged in the Liberal Party by Prime Minister Howard. After all, the referendum was the first time in Australian history that community groups, not politicians, would run a referendum. In the final referendum vote Australians of all political persuasions ignored traditional party lines. They voted as individuals. In the leader of the Opposition's own seat of Brand, only a meagre 33 percent of voters supported Yes, although Kim Beazley led the Australian Labor Party (ALP) with a pro-republic platform. The ALP were decimated across Australia in their grassroots heartland.

Dislike of elites

Prior to the referendum, the ACM spent huge energy building a grassroots organisation across Australia. We were completely open in this, perpetually boasting our supporter base as the largest community based organisation in Australia. Our database recorded 55,000 supporters by referendum day. The ARM were a top-down organisation. The media regularly reported glitzy $500 per head dinners and glamorous Toorak parties with the elite and powerful. The profile of the Yes voter by referendum day would be the image of success. Male, aged 35–55, earning an income of $80,000 per annum or more — merchant bankers, academics, lawyers, politicians, people in big business and journalists. According to the political analyst Malcolm Mackerras, they lived in approximately 0.1 percent of the geographical area of Australia: Sydney's eastern suburbs and north shore, Melbourne's Toorak and the ACT. The vast majority of the rest of Australia were not aware the referendum was even coming up until the last couple of months of the campaign. Australians generally distrust and do not like tall poppies, yet the elite of Australian society hijacked, funded and ran the 1990s republic campaign and agenda.

Distrust of the media

The Australian media, particularly the print media, were completely, openly and unashamedly in favour of the Yes case. The Murdoch press even resorted to issuing free 'Yes' vote stickers in the final weeks leading to the referendum. Some dubbed the Australian the Republican. Blatant media support for the republic included open intervention from both Lachlan and Rupert Murdoch in the final weeks (Jones 2000). A student studying the print media of the time...
would find it hard to understand how the final vote was so strongly against the 
republic.

The only avenue for a media voice for the No case was talkback radio and letter writing. The final result suggests the same blatant distrust by most Australians for the media and its owners as for those running the republican agenda. We are told that over 95 percent of readers of the *Australian* fit the Yes voter profile. The media had clearly joined the elite pushing the republic.

The issue of media bias and its effect on the referendum result offers fascinating study for the future. It may be proven to have advantaged the No case in some ways by continually giving us the underdog status. For our campaign, we concentrated as much of our finance as possible on television and radio advertising, recognising that most undecided voters were going to get their information through these mediums, and within the last couple of weeks, when we saturated the market.

### The national identity debate

The Yes case underestimated a national resurgence for history and heritage. They used the turn of the century to argue emotionally for independence at a time when we were wanting to celebrate our national identity. They ignored the huge increase in support for the Anzac day celebrations, the increasing gusto with which we were singing the national anthem and waving our Australian flag at sporting events. For too long they had relied on their ‘the republic is inevitable’ argument. They ignored the stronger counter argument ‘change for change’s sake will not be tolerated without a clear definition of what is on offer in that change’. An Australian National University post referendum survey reported in Bob Birrell’s book *Federation — The Secret Story* (2001) suggests people passionately attached to Australia were more likely to vote No. It suggests that many Australians were rejecting a wider agenda they associated with the republic campaign: a negative view of the nation’s past, a future of big city elitism, global economics and social cosmopolitanism.

Some six months before the referendum, prominent republican supporters, many eminent legal leaders, published over fifty attacks on deficiencies of the republican model in the *University of New South Wales Law Journal*. Talk-back radio discussion was filled with distressed callers. As a proud nation with a stable history of unity we resent those who dictate that we should change because ‘they’ know best. For these sorts of reasons the No case presented a campaign totally focused on providing fact and information on what was, after all, a constitutional debate. Many eminent Australians, including Archbishop
Peter Hollingworth, would indicate their heart suggested a Yes vote but their head would incline to a No vote.

**A house divided cannot stand**

Disunity was reflected continually in the Yes campaign. Soon after the Prime Minister announced the Yes and No case teams, Turnbull went on the ABC's *7.30 Report* and attacked fellow republican Ted Mack. Ted and his Real Republican colleagues had consistently argued for a popularly elected President. At the constitutional convention the ARM treated with disdain and contempt anyone who would not agree to the letter with their flawed and compromised model. There were numerous reports of fallouts amongst the Yes case committee itself. This resulted in the campaign being all over the place and lacking a core message. They came across as individuals, not a team. The No case remained united behind our own core message, 'Vote No to this republic'.

The disunity amongst the Yes case republicans created further divisions across society: country versus city (country Australia voted almost unanimously No); across political parties and their membership; and even amongst Australian families. Many of the Yes case spokespersons such as Paul Keating and Harold Scruby (AusFlag) promoted distinct anti-British sentiment and arguments. Confusion in their core messages allowed the No case to win vital arguments across a wide range of technical issues. While the Yes campaign tried to build an argument based on a resident for President, we pointed out that the Governor-General is already proudly Australian.

By trying to run an 'it's simple' argument, the Yes case had no real substance to back the case for complex constitutional change. As the final days of the campaign led to referendum night, the divisions in ranks and argument were stark. The No case remained focused on our core message. Our leaders were not political or of outstanding credibility. We retained unity. As referendum day approached, our pollsters described the undecided voter as hungry for information. Our advertising provided it through focusing on facts.

**Conclusion**

Australia's constitutional arrangements are the best in the world. Our job for the future is to make our Constitution a living document that inspires ownership and pride in Australians across our great nation. Why would we waste hundreds of thousands of dollars on further republican debate that nobody wants? Why would we again risk constitutional division when we have such a great working democracy? The republicans had their chance. They have
been around since the 1850s. Those promoting a republic in the last ten years have had the time and money to come up with a better model for a republic. They have failed abysmally to do so. They had their chance and they blew it.
First, let us demolish one of the most widespread myths concerning the 1999 Yes campaign for an Australian Head of State — that the then Chair of the ARM, Malcolm Turnbull, was responsible for the defeat or, as some put it, the wrong person to lead the campaign. The reality was vastly different. The polling conducted for the Yes case by Australian National Opinion Polls (ANOP) showed unambiguously the reasons the Yes case lost and Turnbull did not rate at any time of the campaign as a reason that people would vote No.

If we want to talk personalities, then the real impact was made by one of the most cynical leaders this country has ever had the misfortune to have been saddled with — Prime Minister John Howard and his loyal foot soldiers, South Australian Senator, Nick Minchin, New South Wales' Tony Abbott and other lesser lights who did untold damage to the cause for an Australian head of state with a daily barrage of lies and crude tactics. The core issues in the 1999 campaign were the monarchists' use of scare tactics, a lack of knowledge in the electorate, a split amongst republicans and, above all, a Hanson style campaign by the No case that fed off the extensive disenchantment with the political process.

The setting

The 1999 republic referendum was the culmination of a process that started under former Labor Prime Minister, Paul Keating, some seven years earlier. The Howard Government inherited the issue — one that the monarchist-loving Howard would gladly have killed off — due to a rash promise made by Howard's predecessor as Liberal leader, Alexander Downer, who promised a Constitutional Convention to look at the issue.

There is little doubt that Howard's insistence on the need for only one model to be put to the Australian people at the convention was a clever ploy to make the success of the Yes case as difficult as possible. Secondly, Howard's
tactic also had the effect of splitting the Republican cause with leading direct electionists, Ted Mack and Phil Cleary — two former Independent members of the federal Parliament and at that time both were suffering severe cases of Gareth Evans’ ‘relevance deprivation syndrome’ — joining the No cause.

Whilst Cleary and Mack, along with their fellow ‘RDS’ sufferer, former Brisbane Lord Mayor and Gabba curator, Clem Jones, did not on their own make a substantial difference to the No case individually or even collectively, their presence on the official No case further confused an electorate that had little knowledge of the issue. As Turnbull put it, the impact of the direct electionists joining the monarchists was to ensure that ‘the No camp would use direct election as their principal and very powerful weapon against us’ (Turnbull 1999, 77).

What was the alternative for republicans? To have walked away from the Convention unable to agree on a model would have set the cause back many years, as would have a strategy based on refusing to play by Howard’s rules. In short, there was little choice other than to prepare for a campaign that was about selling a very workable and conservative model that would have some chance of success, notwithstanding the nation’s propensity to reject constitutional change on all but seven occasions since 1901.

The Yes team

The first benchmark study of community attitudes on the republic was carried out by the Yes case pollsters, ANOP. Rod Cameron, Margaret Gibbs and Monique Rotik formed an outstanding team, and along with the Yes case advertising agency, Singleton Ogilvy Mather, this was a formidable combination. The ARM/Yes case campaign committee was cleverly constructed by Turnbull. Former Hawke staffer Peter Barron, the recently departed federal Liberal Party Director Andrew Robb, Democrats strategist and former Senator Karin Sowada and the author of this chapter made up the committee.

The views of these seasoned professionals on whether or not the Yes case would succeed varied from pessimistic to cautiously optimistic. Barron was definitely in the former camp, whilst Robb, Sowada and the author believed that, with some luck, and if there was momentum based on a positive campaign, then victory might be a possibility. However, there was general agreement that Prime Minister Howard and the Government generally would do the Yes case no favours in ensuring the electorate was fully informed of the issues at hand. However, six months prior to the referendum, little did the Yes
case know how biased Howard and the monarchists of his Government would be with the taxpayers' dollars that it was allocating for various facets of the campaign.

The first polling

ANOP carried out its first benchmark survey for the Yes case in July 1999. It was both quantitative and qualitative polling. The quantitative poll was extensive — 4500 voters across the nation — 750 voters in each state. The qualitative polling consisted of 15 focus groups of 10-12 people held in Sydney (inner and outer), Perth, Hobart, Coffs Harbour and Devonport. Two major themes emerged from that polling. Both were to remain constants throughout.

<table>
<thead>
<tr>
<th>Table 4.1: A referendum vote indication</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Australia</td>
</tr>
<tr>
<td>Yes (%)</td>
</tr>
<tr>
<td>No (%)</td>
</tr>
<tr>
<td>Undecided/won't vote (%)</td>
</tr>
<tr>
<td>Key Targets</td>
</tr>
<tr>
<td>Direct Elects</td>
</tr>
<tr>
<td>Maybe Yes</td>
</tr>
<tr>
<td>Total Direct Elects</td>
</tr>
<tr>
<td>Media</td>
</tr>
<tr>
<td>Rely on TV for news</td>
</tr>
<tr>
<td>Watch commercial TV</td>
</tr>
<tr>
<td>Demography</td>
</tr>
<tr>
<td>Age</td>
</tr>
<tr>
<td>Under 30</td>
</tr>
<tr>
<td>30-39</td>
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<tr>
<td>40-54</td>
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<tr>
<td>55 plus</td>
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<tr>
<td>Gender</td>
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<tr>
<td>Men</td>
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<tr>
<td>Women</td>
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<tr>
<td>Education</td>
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<tr>
<td>University</td>
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<tr>
<td>Tech/TAFE</td>
</tr>
<tr>
<td>Full Secondary</td>
</tr>
<tr>
<td>Part Secondary</td>
</tr>
<tr>
<td>Location</td>
</tr>
<tr>
<td>Urban</td>
</tr>
<tr>
<td>Regional</td>
</tr>
</tbody>
</table>

Voters were told there would be only one question in the November referendum, which would outline the way of Australia becoming a republic. The question then followed: 'You will be asked to vote Yes or No to the head of state being chosen by a two-thirds majority of parliament from a list of names nominated by the people. Will you vote Yes or will you vote No to this referendum?'
the campaign. ANOP noted that pessimism about economic and social changes and a consequent distrust of politicians underlay the initial negative reaction to the ‘two-thirds majority of Parliament’, and that the ‘politicians’ republic’ was the strongest No case.

The other major theme was the underlying ‘ignorance of system of government, particularly about low profile and less newsworthy aspects — head of state, GG’s role, the constitution.’ This, noted ANOP, meant that it was ‘difficult for many “softly committed” supporters of the Yes vote to comprehend the nature and extent of change under a republic (even after an explanation is given)’. When one drilled down into the results by age, income and gender some interesting patterns emerged. ANOP observed that the ‘Yes vote is very age and class related with a step-wise reduction in Yes support down the age ladder from young to old and a similar step-wise reduction in Yes support down the income scales from high to low’ (ANOP 1999, 7). The figures backed up this assertion.

The gradations seen in Table 4.1 were set in stone — they did not change throughout the campaign. However, note that in August 1999 the possibility of the Yes vote succeeding was still a live option. I noted in a contemporaneous diary after receiving a briefing on these early results that ‘I can’t help thinking that my opponents have an easier job than me — the scare campaign is easier than selling the positive when the electorate is tired and scared already’ (Barns 1999, 4 August).

Despite the claims of some right-wing commentators, such as the *Daily Telegraph*’s Miranda Devine, that those who ran the Yes campaign falsely blame voter ignorance of constitutional matters for the referendum defeat, the empirical evidence gathered by ANOP suggests otherwise. ANOP’s polling showed that a major concern amongst ‘soft’ or ‘swinging’ voters who were at this stage inclined to vote Yes or No was that they needed more information to be convinced to vote Yes. Furthermore, there was widespread confusion about who Australia’s head of state was with only 13 percent of voters indicating it was the Queen, 29 percent the Governor-General, and 26 percent the Prime Minister. The figure that beat all those was the 32 percent of voters who were either unsure or had no idea, a figure that was highest amongst voters under 30 (46 percent) and those with part secondary or full secondary education (36 percent).

One other result from this research is worth noting. Voters were asked if they thought a successful Yes vote would mean a big or moderate change for Australia or no change at all. The results set out in Table 4.2 clearly demonstrate that the same groups in the community that had little knowledge of the current
Table 4.2: A Yes vote: How big a change for Australia?

<table>
<thead>
<tr>
<th>All Australia</th>
<th>Big change (%)</th>
<th>Moderate change (%)</th>
<th>Not much change (%)</th>
<th>Unsure (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>32</td>
<td>31</td>
<td>32</td>
<td>5</td>
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</tbody>
</table>

Key Targets

Referendum Vote

- Soft Yes: 25
- Soft No: 34
- Total soft: 29

Direct Elects

- Maybe Yes: 38
- Total Direct Elects: 36

Media

- Rely on TV for news: 35
- Watch Commercial TV: 33

Demography

Age

- Under 30: 29
- 30–39: 28
- 40–54: 31
- 55 plus: 38

Gender

- Men: 27
- Women: 36

Education

- University: 23
- Tech/TAFE: 30
- Full Secondary: 34
- Part Secondary: 39

Location

- Urban: 30
- Regional: 35

Voters were asked if, overall, they thought a successful Yes vote in the referendum would mean a big change for Australia, a moderate change or not much of a change.

A very arguable case can be made that, making the relatively safe assumption that the No case had similar polling material available to it at around the same time, the No case and the monarchists within the federal Government knew that it was in their interests to do two things: ensure that unbiased and factual information was hard for people to obtain; and play on the fears of those who felt, and in many cases had been, the most traumatised by change of an economic and social variety over the past ten years.
The first tranche of polling threw up one of the great ironies of the behaviour of the Australian polity — that despite the contempt for politicians that many Australians express, when it comes to matters involving the Constitution at least, it is politicians who have the most credibility in their eyes. 75 percent of voters thought they would take a lot or a little notice of Kim Beazley on the issue of a republic, 72 percent John Howard and 57 percent Peter Costello. The only non-politician to approach these figures was Hazel Hawke with a 65 percent credibility rating. Kerry Jones, the leader of the No campaign, polled only 12 percent and Malcolm Turnbull, 39 percent. In the last 10 days of the campaign the politicians, particularly Howard, would swamp the media and their credibility would be a much more telling factor than Turnbull, Jones or any other non-politicians involved on either side of the campaign.

The Government’s bias

One of the interesting features of the referendum campaign was that despite the fact that there were many republicans in the federal Coalition Government, including the Treasurer and heir apparent to the Liberal Party leadership, Peter Costello, and the Government’s leader in the Senate, Robert Hill, the Prime Minister and his office heavily influenced the taxpayer funded public information campaign to inform the public about the referendum.

The Government’s communications committee approves public information campaigns and was influenced by the Prime Minister’s representative on the Committee and monarchist, Tony Nutt. The Attorney-General, Daryl Williams QC, was the responsible Minister for the assembling of the communications campaign along with the Department of Prime Minister and Cabinet. Williams, a republican small ‘l’ liberal, was unable to prevent an advertising campaign that Andrew Robb described as ‘another $9 million for the No campaign’ (Barns 1999, 15 September).

The Government’s idea of an objective, unbiased communications campaign was to show an advertisement that depicted the choice before voters as a fork in the road — literally. The advertisement showed a car heading to a t-intersection. This advertisement was deliberately designed to make the viewer believe that what was being proposed by the Yes case was a radical change. The print media advertisement was two pages of dense script designed to ensure that as few people as possible could be bothered reading them.

The Government also decided that if people wanted to obtain further information about the Referendum then they would have to make the effort to obtain it for themselves, unlike the case with the Government’s tax reform
project that was being pushed through at the same time, where each household received a booklet explaining the changes. This was yet another roadblock erected by Howard and his determined advisers in his private office, led by Nutt and another right-wing apparatchik, Gerard Wheeler. This pattern of obfuscation and bias was to continue throughout the remainder of the campaign.

The Yes Case Response

Faced with the polling that demonstrated that support for the Yes vote was soft and uncertain and the level of ignorance was high, the Yes case decided to run a series of advertisements designed to get people thinking about the issue and to reassure them that the change was safe. The advertisements consisted of ‘vox pops’ and a couple that were scripted. That the Yes case felt the need to expend money on an expensive advertising campaign some six weeks before the vote demonstrated the enormity of the task before it. The No case simply had to keep raising scares on a weekly basis, as it did.

Despite the fact that some of the No case’s tactics were crudely offensive, such as the No case Campaign Director, David Elliott’s speech in Albury where he compared an Australian republic to Nazi Germany (Australian, 20 August 1999), or Tony Abbott’s ‘ethnic cleansing’ line in relation to British migrants’ right to vote in the referendum, the fact remains that they fell on fertile ground given that the soft voters tended to be those whose understanding of the issues was not good and who had, in many cases, been the ‘losers’ from economic and social change. In that state of mind, any suggestion of radical change to our way of life takes on a magnified and suddenly real significance.

The fact that the No case deliberately sought to frighten the voters was borne out by the questionable tactics of the polling company it had engaged — Quantum Market Research. In a survey that it compiled in September 1999, the aim of the questions asked of participants was to ensure that as many fear ‘buttons’ as possible were pressed. For example, there was this question:

Which of the following would you most prefer?

- Australia doesn’t become a republic at all;
- Australia becomes a republic but only if the people get to elect the President;
- Australia becomes a republic where the President is elected by politicians; or
Don't know/don't care (Quantum Market Research, Referendum Tracking (1), Final, 2 September 1999).

The survey questionnaire also contained a number of statements that were asserted as fact about the republican model on offer that were palpably false. For example, ‘If this model is successful other things may change including the flag, [and] Commonwealth connections’. In short, this was the No case’s exercise in what is commonly referred to as ‘push polling’ — a dubious practice used by some less reputable polling companies in the USA to communicate negative messages about a candidate or organisation under the guise of a supposedly neutral market research exercise.

The other difficulty that the Yes case had at this time was that its advertising and media strategy was trying to achieve two aims: firstly, to generate the momentum that was needed to convince Australians of the necessity of change; and secondly, given the Government’s deliberate tactic of ‘keeping voters in the dark on the issue’, the communications strategy had to be educative. The futility of trying, on a limited budget, to ensure that the vast bulk of voters, particularly ‘soft’ voters in regional Australia and outer suburban areas, understood what was entailed in the change proposed by the referendum itself, was apparent at the time but there was no choice in the matter if the Yes case was to combat the Government’s manifest bias and the No case’s tactics.

The Referendum question

In the analysis of the referendum, much has been made of the issue of the question that was to appear on the ballot paper itself. There are some who have suggested that the ‘wrong question’ was asked and that the question should simply have been ‘Are you in favour of Australia becoming a republic?’ There are a number of points that need to be made about the question. To have simply asked a question along the lines of the one put above was not possible in the circumstances of a referendum. Under the referendum legislation, the long title of the specific Constitutional Amendment Bill must be the question that is on the ballot paper.

The alternative simple question that some said should have been asked would not have effected constitutional change — it would have made the vote a plebiscite and not a referendum. Mind you, there is little doubt that if that had been the question, the No case would have mounted an even more outrageous scare campaign along the lines of ‘why would you vote for a proposition that hands a blank cheque to evil politicians?’
From the Yes case perspective, it was important that the referendum question set out all the elements of the republican model that was being put to the Australian people. It had to at least contain the following facts: that an Australian citizen would replace the Queen as Australia's head of state; that the public could be involved in the nomination of candidates for the position of head of state; and that approval of the successful nomination would occur by a two-thirds majority of a joint sitting of both houses of Parliament.

As Turnbull said, the accurate framing of the question that was to appear on the ballot paper was 'a critical antidote to the campaign of misinformation being waged by our opponents' (Australian, 7 July 1999). The referendum question on which Howard agreed with the Democrats contained some but not all of these elements and crucially left out any reference to the involvement of the public through the public nomination process.

In the final analysis, how much did the referendum question itself matter when the voter was confronted by it in the privacy of the polling booth? It is arguable that, given the potency of the scare campaign of the No case, which was based on a relentless attack on politicians, the question itself did little to persuade a 'soft' voter who was undecided as he or she went to vote on polling day. The fact that the question did not contain any reference to 'public' involvement, however, certainly did not help the Yes case.

The NESB vote

The importance of the non-English speaking background (NESB) vote in the referendum campaign was something that both the Yes case and No case recognised early. The capacity to reach a large pool of voters through the NESB media and community leaders makes the political strategy involved in winning support a good deal easier than the more diffuse nature of the general electorate.

The Government commissioned a major market survey of NESB communities to gauge attitudes to the Republic in May 1999. This research, carried out by Émigré Multicultural Communications and Newspoll, focussed on six communities: Arabic speaking, Greek, Turkish, Chinese speaking, Macedonian, and Vietnamese (Émigré Multicultural Communications in association with Newspoll 1999). The research results were instructive and the No case's scare campaign probably had a greater impact amongst many NESB communities than was evident to many involved in the Yes case campaign at the time.
The use of the word ‘republic’ was problematic — while all groups surveyed associated the term with independence and autonomy for the nation (Émigré Multicultural Communications in association with Newspoll 1999, 22), for many the term implies repression and authoritarianism (particularly for those whose origin is the former Eastern Bloc). The major stumbling block to a successful Yes vote amongst NESB communities lay in the fact that awareness of the referendum was much lower amongst the surveyed groups than in the general community — some 13 percent lower — and that the knowledge of the issues to be covered in the referendum was also lower than the general population. The fact that the Government refused to send to each household impartial material explaining what the referendum was about was a blow to the Yes case in the community generally, and amongst culturally diverse groups it had a severe impact.

The media

One of the other great myths of the referendum campaign peddled by the No case campaigners was that the media was manifestly biased in favour of the Yes case. In fact, the Prime Minister was alleged to have told his cabinet colleagues that the Australian newspaper should be renamed the Republican. Whilst it is true that the Australian took an unashamed pro-republic line in its editorial, its news stories were generally balanced. However, the News Limited papers in general could not be said to have had a consistent line. Brisbane’s Courier-Mail was a direct election supporter and did not give the issue major coverage. The Daily Telegraph, possibly the most influential paper in this country, ran a helpful educative daily series entitled ‘Queen or Country’ from September 1999 onwards but this section was often placed well into the paper itself. Melbourne’s Herald Sun did not give great prominence to the issue but was sympathetic to the Yes case. The Hobart Mercury and Adelaide Advertiser were in favour of the Yes case.

The Fairfax media was quirky. The Sydney Morning Herald was inconsistent and often pessimistic in tone about the chances of the Yes case succeeding, although the Melbourne Age was more consistently pro-republican. In Perth the independently owned West Australian was a supporter of the No case, primarily due to the direct election views of its then editor, Paul Murray. Even if the print dailies on balance could be said to be pro the Yes case, there was a healthy phalanx of forces that were stridently anti the Republic and importantly, most of these forces were on the powerful medium of talkback radio.
The case of 2UE's Alan Jones, a well patronised breakfast announcer, referred to by Stuart Littlemore as 'the parrot' is a case in point. Jones' lack of fairness on the issue of the republic is a statistical fact, as a Rehame report found. Rehame, a national media monitor, analysed Jones' republic comments on his three media outlets — 2UE, Brisbane's 4BC and the Channel 9 Today program — between 1 July and 30 September 1999. Of the 118 mentions of the republic between those dates, a staggering 75 percent were negative, 25 percent neutral and not one was positive. Jones' colleague, John Laws, was more measured but could at best be said to have been neutral. In other states such as South Australia, commercial talkback radio was agnostic or hostile to the republican cause. On television it has to be said that the news programs on all channels were generally fair to both sides and the Bulletin magazine editorialised in favour of a republic.

The killer blow

Despite the setbacks and the inherent difficulty that the Yes case was experiencing in selling the case for constitutional change to a weary, cynical and disinterested electorate, it is fair to say that a month before the referendum the possibility of winning was still open, just. ANOP's research taken over the period 3–6 October showed that in New South Wales the Yes vote was 52 percent but in South Australia, 44 percent. ANOP noted that the major scare issues were that voters saw the change as major, and that the change was costly and a waste of money. The No case line that the model was a 'politicians' republic' was polling in the mid-30 percent region, although support for a directly elected president was high: 67 percent in New South Wales and 69 percent in South Australia.

In a major benchmark survey undertaken in September by ANOP, other interesting points emerged. Table 4.3 demonstrates the point that the Yes case was still in the race to win the referendum despite the No case onslaught and the rantings of Alan Jones and those of his ilk in the media. Note that the cascading demographics and educational standards in terms of support had not changed since the first survey in July.

What changed between early October and the vote on the 6 November? It was the advertising strategy of the No case and the media blitz that attended it. The No case advertising campaign was launched on Sunday 10 October. The slogan of the No case was 'Vote No to the Politicians' Republic'. A simple, researched, cynical line that resonated immediately with a community that has for over 15 years distrusted the political establishment and blamed it for the ills
Table 4.3: A referendum vote indication

<table>
<thead>
<tr>
<th></th>
<th>July 1999</th>
<th></th>
<th>Sept 1999</th>
<th></th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Yes (%)</td>
<td>No (%)</td>
<td>Undecided/won't vote (%)</td>
<td>Yes (%)</td>
</tr>
<tr>
<td>All Australia</td>
<td>48</td>
<td>44</td>
<td>8</td>
<td>47</td>
</tr>
<tr>
<td>Kr: Targets</td>
<td>39</td>
<td>53</td>
<td>8</td>
<td>41</td>
</tr>
<tr>
<td>Total Direct Elects</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demography</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 30</td>
<td>54</td>
<td>37</td>
<td>9</td>
<td>55</td>
</tr>
<tr>
<td>30-39</td>
<td>50</td>
<td>40</td>
<td>10</td>
<td>49</td>
</tr>
<tr>
<td>40-54</td>
<td>49</td>
<td>43</td>
<td>8</td>
<td>47</td>
</tr>
<tr>
<td>55 plus</td>
<td>40</td>
<td>53</td>
<td>7</td>
<td>37</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men</td>
<td>51</td>
<td>43</td>
<td>6</td>
<td>51</td>
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<tr>
<td>Women</td>
<td>45</td>
<td>44</td>
<td>11</td>
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<td></td>
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<td></td>
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<tr>
<td>University</td>
<td>61</td>
<td>32</td>
<td>7</td>
<td>60</td>
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<td>Tech, TAFE</td>
<td>50</td>
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<td>Full Secondary</td>
<td>44</td>
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<td>43</td>
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<td>Part Secondary</td>
<td>38</td>
<td>52</td>
<td>10</td>
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<td>Location</td>
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<td>Urban</td>
<td>50</td>
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<tr>
<td>Regional</td>
<td>42</td>
<td>49</td>
<td>9</td>
<td>40</td>
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</tbody>
</table>

You will be asked to vote Yes or No to the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament. Will you vote Yes or will you vote No to this referendum?

that have befallen many in Australia due to the transition from the industrial to the information age and globalisation.

The Yes case slogan was 'Vote Yes for our Republic' and the advertising campaign was based around positive images of being an Australian, and the campaign theme song was Bruce Woodley's 'I am, you are, we are Australian'. The vehemence with which the No case theme bit the 'soft' voters and persuaded them that the referendum gave them yet another opportunity to strike a blow against the political establishment can be seen in the polling carried out by ANOP on the weekend before the referendum vote.

As Table 4.4 illustrates, the collapse in the Yes vote covered every demographic and income group except students. It was a collapse that occurred over two weeks from 10 October. Interestingly, the final vote of 45.7 percent that the Yes case achieved in the referendum demonstrated what many in that campaign believed: that the longer the campaign went and the more informed people were, the more likely it was that the Yes case would go close to winning.
The role of Malcolm Fraser

The role of former Prime Minister Malcolm Fraser in the Yes media and advertising campaign is worthy of special mention. Fraser, and his two former prime ministerial colleagues, Gough Whitlam and Bob Hawke, all contributed to the Yes case in both free media and in the advertising campaign. All three polled well when voters were asked by ANOP in September about their credibility on the issue of a republic. Fraser, particularly so — his credibility rating was as high as Kim Beazley at 77 percent and higher than that of John Howard at 72 percent. Fraser’s high approval rating was due, to some extent, to the fact that he had played a pivotal role as chair of Care Australia in rescuing two Australians from spying charges in Serbia during the Kosovo conflict that year.

### Table 4.4: Trend in Yes support

<table>
<thead>
<tr>
<th></th>
<th>July %</th>
<th>Sept %</th>
<th>Early Oct %</th>
<th>Late Oct %</th>
<th>Change Early-Late Oct %</th>
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<tbody>
<tr>
<td><strong>All Australia</strong></td>
<td>48</td>
<td>47</td>
<td>47</td>
<td>42</td>
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<td><strong>Age</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 30</td>
<td>54</td>
<td>55</td>
<td>51</td>
<td>46</td>
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</tr>
<tr>
<td>30-39</td>
<td>50</td>
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<td>52</td>
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<td>(-7)</td>
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<tr>
<td>40-49</td>
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<td>48</td>
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<td>(-3)</td>
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<td>50-59</td>
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<td>44</td>
<td>46</td>
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<tr>
<td>60 plus</td>
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<td>35</td>
<td>34</td>
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<td><strong>Gender</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men</td>
<td>51</td>
<td>51</td>
<td>50</td>
<td>43</td>
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</tr>
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<td>Women</td>
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<td>44</td>
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<td>39</td>
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<td>31</td>
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<td>53</td>
<td>57</td>
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<td>(-11)</td>
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<tr>
<td>Urban</td>
<td>50</td>
<td>49</td>
<td>49</td>
<td>45</td>
<td>(-4)</td>
</tr>
<tr>
<td>Regional</td>
<td>42</td>
<td>40</td>
<td>40</td>
<td>34</td>
<td>(-6)</td>
</tr>
</tbody>
</table>
Table 4.5: Republic referendum results by state and territory

<table>
<thead>
<tr>
<th>State</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>News South Wales</td>
<td>46.43</td>
<td>53.57</td>
</tr>
<tr>
<td>Victoria</td>
<td>49.84</td>
<td>50.16</td>
</tr>
<tr>
<td>Queensland</td>
<td>37.44</td>
<td>62.56</td>
</tr>
<tr>
<td>Western Australia</td>
<td>41.48</td>
<td>58.52</td>
</tr>
<tr>
<td>South Australia</td>
<td>43.57</td>
<td>56.43</td>
</tr>
<tr>
<td>Tasmania</td>
<td>40.37</td>
<td>59.63</td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>63.27</td>
<td>36.73</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>48.77</td>
<td>51.23</td>
</tr>
<tr>
<td>Nationally</td>
<td>45.13</td>
<td>54.87</td>
</tr>
</tbody>
</table>

**Conclusion**

History records that the Yes case was defeated in the 1999 referendum and as Table 4.5 shows, only Victoria, of the states, was nearly won. However, the final national vote of 45.1 percent was a substantial achievement given the disunity amongst republicans and the Prime Minister’s determination to sink the republican ship from the time he took office in March 1996. Whilst there is nothing inevitable in this life, and particularly in politics, the probability of Australia becoming a republic within the next ten years remains high.

Some key lessons however emerged from the 1999 referendum. Firstly, if constitutional change is to have any chance of success in Australia then the Prime Minister and Opposition leader must support it. Secondly, it would be highly desirable for the Australian people to be given a choice of models in a plebiscite prior to a referendum — this will lock out the monarchists and provide the opportunity for greater unity amongst republicans and for the public to feel more involved in the process. Finally, there is an ongoing need to inform the community about how our current system of government and the institutions of governance operate. This is critical if the unscrupulous scare campaigners are to be thwarted from cynically manipulating millions of voters.
Chapter Five
The ‘Real Republic’ and the Referendum

Ted Mack

From around 1997, a successful republican referendum appeared likely. This was confirmed by the 1998 Constitutional Convention elections resulting in 27 Australian Republican Movement (ARM) delegates, 19 republicans, 27 monarchists and three others. Despite this, the seeds of failure had been sown some years earlier. In 1991 a small elite group formed: the ARM. The elitist nature of this group was to result in one of the more politically inept campaigns in Australian history. In addition, from the time Paul Keating divisively cast the debate in terms of traditional Australian republicanism — a negative anti-British approach invoking old historical controversies and overtones of sectarianism — the debate was effectively poisoned.

The negative Keating agenda and the ARM’s elitism locked them into a position of ignoring both the public’s increasing dissatisfaction with the political system and the virtues and opportunities of a republican system of Government. It is ironic, in retrospect, that the ARM at no stage campaigned against a monarchical system of Government, it merely argued against the nationality and method of appointment of the monarch. As Harry Evans, Clerk of the Senate, arguably Australia’s foremost authority on the Constitution and Parliamentary procedure observed ‘[t]he palace of Buckingham was anathema while the palace of Westminster was sacred’.

The ARM rejected the public’s consistently expressed desire to vote for any future President. It took this position contrary to the views of expert political judges such as Robert Ray, Neville Wran, Hugh MacKay, Gary Morgan and Peter Beattie. It also ignored the worldwide movement of people wanting greater participation in Government, not less. The view that people have a right to be involved in all decisions that affect them did not enter into the ARM’s thinking.
As a consequence, it is hard to think of any public issue in Australian history where the combined urgings of such a galaxy of public figures, lawyers, academics, past and present politicians, business leaders, media pundits, prominent expatriates and celebrities were rejected. It nonetheless occurred in spite of being backed by a disproportionate amount of money and possibly 90 percent media support.

The February 1998 Constitutional Convention, in effect, accelerated the ARM on its suicide course. The Convention, initially a political response to then Prime Minister Keating, was laudably held out by then Opposition leaders Downer and Howard as a genuine Convention, canvassing wide constitutional issues. In practice, once the false euphoria of celebrities at play was cleared away, it was clearly a carefully crafted arrangement to frustrate the republic. The appointment of 76 politicians and high achievers was structured to prevent any clear majority republican model arising. It also ensured that no wider constitutional reform, or anything that threatened the interests of government and opposition parties, could emerge.

The Convention was a successful Machiavellian ploy to frustrate the will of the people and to stave off a republic for some years. Incredibly, the ARM conspired with a monarchist Prime Minister to achieve this end. Firstly, it did this by acquiescing in the decision to hold such a convention before a plebiscite to establish the republic in principle. This ensured a double-barrelled referendum question that dramatically reduced its likely success. In effect, do you want a republic and do you want this republic?

Secondly, it proceeded with a referendum question which had only minority support: only 45 percent of the elected delegates (ironically the same level of support as the referendum). Even that was only achieved by a misleading Convention election campaign. The ARM election material had stated that 'if the Australian people indicate that they want to elect the Head of State directly, then the ARM would support this'.

Thirdly, it split republican support through electoral cheating and disregarding the consistent 70 percent of the public who wanted the right to elect a President. The ruthless caucusing and arrogant behaviour by the ARM at the Convention further alienated many republicans. The political axiom that 'disunity is death' was ignored to the glee of monarchists.

Fourthly, it altered the ARM model to give power to the Prime Minister to instantly dismiss the President. This opened up well-founded charges, by Harry Evans, of fundamental and undesirable constitutional change. His view was reinforced by a wide range of other constitutional experts who commented on the inappropriateness of the arrangement.
The 1998 Constitutional Convention concluded by endorsing a republican model the public had consistently shown it did not want, a model that was a worse form of Government than the status quo and one that had an entrenched republican opposition. No wonder a beaming Prime Minister instantly leaped to his feet at the final vote announcing he would put the model to a referendum. The ARM and its celebrity acolytes stood and applauded as John Howard directed them, like lemmings, over the cliff. All those, both at the Convention and around Australia, who believed in a republic but recognised what had happened, were profoundly depressed.

Nevertheless, with the initiative and inspiration of Clem Jones and, to a great extent, the intellectual underpinning provided by the writings of Harry Evans and David Solomon in his book *Coming of Age — A Charter for a New Australia*, a relatively small group of republicans was formed to oppose the referendum under the banner of ‘The Real Republic’. Clem Jones and David Muir in Brisbane, Ted Mack and Ed Haber in Sydney, Phil Cleary in Melbourne and Professor Martyn Webb, a long-term associate of the late Paddy O’Brien in Perth.

The campaign strategy was obvious to any experienced political strategist. The polls showed that the referendum could only be defeated if republicans voted No. The campaign could not support the monarchy, oppose a republic in principle or indicate that a future referendum would not be held. All campaigning had to be directed against ‘this republic’. No model of direct election should be canvassed, thereby preventing the ARM from diverting attention from the referendum question. It also left the ARM in the virtually impossible position of convincing the electorate that the politicians should be trusted with the vote but not the people.

The official ‘No’ committee and its campaign advisers agreed with this strategy without demur as did, I suspect, the Prime Minister and Senator Nick Minchin. While this strategy did create difficulties for some monarchists, they were always going to vote ‘No’. The campaign was summed up in a 30-second ‘Real Republic’ television commercial in the last weeks of the campaign as follows:

Of course Australia will become a republic. But in November we certainly don’t want a pretend republic like the one the politicians and big business are trying to sell.

A republic that concentrates more power in Canberra and takes away our right to vote for our President. Let’s do it the Australian way and leave our children with the
right to vote as well as the right to become president. Make the politicians listen. Tell them we want a Real Republic by voting NO!

The ‘No’ committee, with eight monarchists and two republicans, surprisingly operated without dissension. The planning and implementation of the campaign proceeded in an ordered and effective way, much to the credit of the Chair, Kerry Jones.

What was also a surprise was the chaos and ineptness of the ARM campaign, often complementing the No strategy. Endless ‘head-kicking’ reinforced the arrogance of the ARM. The use of celebrities arguing that, as Patrick Cook of the Bulletin put it, ‘Australians would be dumb witless sheep not to agree with them’ (Cook 1999, 114), and the public could not have the right to vote because they might elect a celebrity, was bizarre. The resurrection of rejected ex-Prime Ministers reminded everyone of the 1975 Constitutional crisis. The ARM proclaimed that the public couldn’t have the vote because a politician would be elected. This emphasised that politicians could not be trusted. At the same time, again quoting Cook, the electorate was denounced ‘as cringing, sycophantic boofheads, who shouldn’t be trusted with the cutlery, much less the vote’ (Cook 1999, 114).

The referendum result revealed three grim skeletons. First, the split in Australian society with the Yes vote being primarily based on wealth. Second, the vast majority of the media at odds with the electorate. Third, the failure of representative Government with only three out of 224 federal ‘representatives’ openly supporting the public’s right to vote for a President.

After this false start on the way to a republic, the stage has now been set for a more ordered process. First, a plebiscite to establish clearly that Australia should break constitutional links with the monarchy. Second, a deliberative process over some years through a fully elected, properly structured convention to evolve a genuine republic offering real benefits to the people.

No individual or group can hope to evolve a model of a republic and impose it on the Australian community. A republic can only be achieved by a high degree of consensus. No republican model that centralises power is likely to succeed. This is the real message of a century of mostly failed constitutional referendums.
I use the republic issue to illustrate the realities of constitutional change at a time when Australia is much influenced by the mass media and postmodernism. This chapter is based on a previous conference paper (McGarvie 1999e). Making major constitutional change without creating unnecessary risk to the democratic qualities we value in our constitutional system is possible but quite difficult. First we need to understand what our constitutional system is, how it actually works and why it works that way. The Constitution, the basic set of legal rules of our system of Government, is complemented by the operative organisational part of the constitutional system, which is based on and greatly influenced by it. That part contains the constitutional conventions which actually bind office-holders because they are backed by effective penalties for breach, imposed by the operation of the system itself. It also contains other non-legal incentives and disincentives which exert great influence on the way office-holders exercise power (McGarvie 1999a, 7–12, 46–8, 53–63, 79–80).

Australians have been extraordinarily successful in building one of the world’s best and most durable democracies within one of the harshest political and constitutional cultures of any democracy (McGarvie 1999a, 6–7, 36–8). The explanation is neither that we are the lucky country nor that Australians are inherently resistant to the temptations of power. Our constitutional system has been developed with a consciousness of Lord Acton’s truism that ‘Power tends to corrupt and absolute power corrupts absolutely’. Office-holders are bound by laws of the Constitution or by effective constitutional conventions to exercise their powers in the way that keeps our system a democracy. The system also influences them in other ways to do that. It is not enough that a changed system will provide democracy when people are behaving themselves, as is usually the case. Durable democracy requires that its safeguards will be effective...
in the exceptional situations when people are behaving badly (McGarvie 1999a, 78–9).

A book by Dr Evatt in 1936 has fostered the idea that the operation of the constitutional system is akin to that of the legal system, and that lawyers have great advantage in understanding it (Evatt 1936). That is wrong. What is needed mainly is an understanding of human behaviour in relation to power, individually and within organisations. Most people have this understanding from their experience of life. Any intelligent citizen who takes the trouble to find out can understand how the constitutional system works (McGarvie 1999a, 47, 82–3). Constitutional changes typically last for a century or centuries, but their full impact upon the operation of the system is usually not felt until there is a new generation in electorate and government (McGarvie 1999a, 77–8).

All that is necessary for Australia to become republican is to eliminate the monarchy from the Commonwealth and state systems (McGarvie 1999a, 2). Most of the seven years’ debate has been on the easy, symbolic question of whether an Australian should be head of state. By about September 1999 there was overwhelming support for that, so the question was for practical purposes resolved. A Newspoll survey conducted on 6–12 September 1999 showed some 95 percent agreement (88 percent strongly agreeing) that the head of state should be an Australian (Weekend Australian, 9–10 October 1999). Support for continuing the colonial legacy of a head of state in a country on the other side of the world has almost evaporated.

The two questions of vital importance in the last couple of months before the referendum were whether the proposed model would preserve the strengths and safeguards of our democracy in a republic, and whether confining the decision to the Commonwealth system posed substantial risk to the strength of our federation. The constitutional changes in the flawed referendum package would have introduced substantial risks to the strength and stability of our democracy and federation. The Prime Minister’s power of instant dismissal of a President would have crippled the fail-safe mechanism that enables an exceptional constitutional malfunction to be referred in the last resort to the Parliament or people for resolution (McGarvie 1999a, 193–201). The selection process would have given Presidents a great mandate encouraging rivalry with the elected government, and produced celebrity presidents of very different calibre from those who have been our Governors-General (McGarvie 1999a, 124–35; 1999b, 82–5; 1999c). Constitutional provisions relating to the reserve powers would have required a president to follow supposed conventions which are non-existent and unworkable, and have left it open to an activist High Court to shift great constitutional influence to
itself by exercising jurisdiction in relation to the powers (McGarvie 1999a, 145–7, 157–62, 189–90, 213–16; Constitutional Alteration [Establishment of Republic] 1999, Schedule 1, substituted s. 59; Schedule 3, Transitional provisions, ss. 7 and 8). Dissenting states would have been forced into a Commonwealth republic they did not trust with their democracy, and forced by circumstance and ridicule to change to republics at state level. This would have produced tensions and weakened the federation (McGarvie 1999a, 252–3).

**Government and Opposition**

Ordinarily a Government puts forward a referendum proposal and in the interests of its political future is careful to ensure that it is a sound one. The Opposition does not give the support essential for a successful referendum unless it has critically scrutinised it and found it free of major flaws. Neither of those quality assurances was available to voters in the recent referendum. The Government had undertaken to hold a convention and put to referendum a model which had clear support. The Coalition did not accept responsibility for the quality of the referendum model. For every Coalition member who said there were flaws in the model, another said there were none. Because the model was Paul Keating's original one with some alterations and extras, the opposition was protective of it and not prepared to concede, much less expose its flaws.

**Media**

We have had a good example of the effects of the massive shift from the political power of Government to the economic and information power of media organisations throughout the world in recent years (McGarvie 1999d). It raises concern for the future of democracy when, increasingly, its lifeblood, the flow of views and information, is held and controlled by fewer and more powerful media hands. We have been reminded that media power has the same tendency to corrupt as political power. With centuries of experience in tempering abuses of political power, democracies have hardly started to think about coping with abuses of media power.

Unlike the Government, the media took sides, almost unanimously giving support to the referendum package (for example, only two major newspapers, the Australian Financial Review and the West Australian, editorially opposed the referendum proposal). Usually support went far beyond an objective reporting of the debate and an expression of editorial opinion. Some units acted as principal parties in the debate, using every means, save one, to persuade people
to vote Yes. The exception was that all gave access to supporters of a No vote to express their opinions.

Yes and No cases

Those putting the Yes and the No cases, with some justification accused each other of engaging in some misleading conduct. The community was deprived of a real debate on the effect that the constitutional changes of the referendum would have on the actual operation of the constitutional system and upon the federation. The Yes case supporters were strong on the symbolic question of an Australian for head of state and even after that question had resolved itself in their favour sought to confine the debate to that. When flaws of the referendum package were raised they normally avoided debate and thus avoided drawing attention to them. Instead, the person who had raised the flaws was usually ridiculed and called an alarmist running a scare campaign. Because most of the media were supporting the referendum there was seldom any pressure put on the Yes campaigners to answer the argument that the package was flawed and would introduce unacceptable risks. The avoidance of debate, however, suggested to people that there was a desire to cover something up.

Intellectuals

Most Australian intellectuals either failed to give, or failed to report the result of, adequate critical scrutiny of the model in any of the forms it took from the Report of the Republic Advisory Committee in 1993 to the referendum in 1999. That is illustrated by the events of the nine months before the Constitutional Convention of February 1998. The preferred model of the Republic Advisory Committee, adopted by Paul Keating in 1995, provided for a two-thirds majority of a joint sitting of the federal Parliament to elect and dismiss a president (McGarvie 1999a, 95–7). In a paper published prominently in the Australian, Age, and Herald Sun on 1 May 1997, a week after I ended as Governor of Victoria, I pointed out that the model in practice provided for an und dismissible President which meant that the basic constitutional convention requiring the head of state to act as advised by Ministers would lose its binding quality. For the first time I put forward the McGarvie model for public consideration (McGarvie 1997, 31; see also McGarvie 1999a, 99–100).

On the first day of the Constitutional Convention Malcolm Turnbull abandoned that dismissal mechanism and on the second-last day substituted instant dismissal of a President by the Prime Minister. Later he conceded the vice of dismissal by a two-thirds majority (McGarvie 1999a, 101). It is now
virtually common ground that the original provision for dismissal would have had a disastrous effect by rendering ineffective the basic constitutional convention on which the democracy of our system depends.

During the nine months there was an election for delegates to the Constitutional Convention in which the most successful ticket was that of the Australian Republican Movement whose preferred model was the one providing for dismissal by the two-thirds majority. Apart from Malcolm Fraser and George Winterton, few, if any, of the many intellectuals who later gave fulsome praise to the referendum model and assurances as to its safety, had publicly voiced the slightest concern about the disastrous model receiving strong media support during the nine months (Fraser 1997, 13; Winterton 1997b, 16).

There could be a number of explanations for the silence of the intellectuals on the successive flaws of the model. In the second half of the century it cannot be assumed as it could in the first, that educated people have a general understanding of the working of the constitutional system. For three and a half decades to the mid-1990s most people received no grounding in our system of democracy from their schooling (McGarvie 1999a, 268–9). Also, many intellectuals have been influenced by postmodernism so as to lose the confidence in their own opinions that would enable them to say in public what is unpopular with the media. Deconstructing the office of Governor-General, which Australians have built, has its attractions. The influence of the concerted media push for the referendum package cannot be discounted. Exposing its flaws courted media ridicule and being lumped with those described as alarmists running a scare campaign. By contrast, unqualified support for the package earned from the media instant fame and heroic status. Further, unlike most proposals for constitutional change, which have come from parliamentarians, this model at all stages received a hefty input from intellectuals. Other intellectuals tended to identify with it.

Of course, there were others who looked at the package with knowledge and a readiness to reveal any significant flaws perceived, but concluded there were none. The lesson is that if we are to resolve the republic issue in a way that will preserve the strengths of our democracy and federation for future generations, Government, Opposition, the media and intellectuals must do better.
Referendum decision

It was no surprise that the referendum package was rejected by about 55 percent of Australian voters. Before the model was even moved for adoption at the Constitutional Convention I warned that ‘Its fundamental flaws would see it confined to the wastepaper basket in a referendum’ (Department of the Prime Minister and Cabinet 1998, vol 4, 839). The Newspoll on peoples’ main reason for an intended No vote, taken the weekend before the referendum, indicated the thinking behind the rejection. Only 9 percent indicated their main reason as a desire to retain the Queen as head of state. Considerations of the workability of the constitutional system activated 78 percent: 45 percent holding the view that the present system is fine and there is no need to change it and 33 percent indicating there was too much uncertainty about the proposed republic model. Only 16 percent gave as their reason that they would only vote Yes for a directly-elected President (Herald Sun, 4 November 1999, 4; the percentages are approximate, and total 106 because a small portion interviewed were unable to give one main reason and gave more than one). The indication is that some 78 percent of No voters were not primarily motivated by either a desire to retain the Queen or a desire for a directly elected President but were not satisfied that overall there was advantage in voting for the referendum changes.

One factor in the referendum outcome was clearly the ordinary voters’ assessment of the reliability of the information they were given. When attention started in about September to move from the symbolic issue to the effect of the package on democracy and federation, only the skills of the media were equal to providing people before the referendum with the balanced, concise and readily absorbable information necessary for voters to make an informed decision on that issue. Instead, much of the media was so blatantly one sided in supporting the referendum and so obviously treating the people as ignorant customers who would tamely do as they were told, that voters could place little reliance on what came from it. Life has taught them how to cope with salespersons using those techniques. In The New Prince, Dick Morris emphasises that people of the information age have developed capacities to see through slant and manipulation (Morris 1999).

After the vote many media people, resenting the failure of the majority of voters to do as they were told, made no attempt to conceal that they regarded them as ignorant, apathetic, pessimistic and lacking confidence. In the referendum the vote of the majority was contrary to what had strongly been urged by most of the media and most of the intellectuals. Andrew Bolt has
warned that we risk being a nation that has lost its head (Bolt 1999, 10). The reassuring feature is that without the assistance of most of the media and intellectuals the majority of the electorate voted down the flawed package.

I consider that Australians voted wisely. Anyone who proposes a reform such as a constitutional change accepts the responsibility of convincing a constitutional majority that it is desirable. Those who were satisfied that the referendum package had deep flaws were wise to vote No. So were those who were not satisfied of the absence of such flaws. So were those who were not satisfied there was overall community advantage in a Yes vote. I regard the political and constitutional wisdom and instinct of the ordinary practical Australian as the anchor of our democracy. Over my lifetime I have always been interested in elections and referendums. Looking back, I consider that Australians have usually got it right, even when I voted on the losing side. My experience with juries has taught me that Australians almost always get it right there. Because it will involve Australians voting in a referendum, I am sure that no decision would be made to become a republic unless it preserves our democracy and federation intact and strong.

Promptly resolving the issue

Australians and Australian Government have no realistic option but to resolve the republic issue as soon as practicable. The opinion polls indicate that there is now an overwhelming preference for an Australian head of state or, in other words, a republican form of Government. A large number of Australians who strongly favour a republic but put the democracy and federation of future generations first and voted No at the referendum are entitled to resent that they have never been given the opportunity to express their preference by voting for a viable republic. Most importantly, we must learn from Canada’s experience. It has had a series of running disputes on basic constitutional issues since the 1970s which has greatly weakened the bonds that unite that federation (McGarvie 1999a, 5–6). We must not allow our differences on the republic issue to develop into a constitutional weakness. People and events determine what will be the issues in public life more than politicians.

Method of resolution

Holding a plebiscite on whether a republican or monarchic form of Government is preferred would have the advantage of putting beyond doubt the preference the opinion polls indicate. That would slough off the symbolic question of an Australian for head of state with its high emotional content, and
move concentration to the much more difficult questions of retaining the health and strength of our democracy and federation in a republic. It would have the disadvantage of introducing substantial delay into the process and leaving the nation, between the plebiscite and the conversion by constitutional amendment to a republic, with a constitutional system with which most had declared dissatisfaction. I consider that we should proceed without delay to determine the best model, and the best method of making the decision on becoming a republic. Then, in a second referendum, everyone has the advantage of knowing what sort of republic would be introduced if the referendum passed.

The suggestion of first having a plebiscite and, if it favours a republic, then voting on what kind of republic is preferred, would be of little advantage unless voters had before them the actual models proposed and the constitutional amendments designed to introduce them. Otherwise people would not have the information necessary to form an opinion on the actual effect the various models would have upon the operation of the constitutional system. That would involve the delay and expense of three future national votes, because there would finally be a referendum to make the necessary constitutional changes. In deciding how we should proceed, we must remember that the issue of whether we should become a republic is no longer a real issue. The task is to identify the best model and the best way of the nation making a decision on whether to act on it. The adversarial contest between private organisations such as the Australian Republican Movement (ARM) and Australians for Constitutional Monarchy (ACM), which largely resolved the former issue, is not suitable for the present task.

The aim is to resolve the republic issue, not perennially to keep wrangling over it. In reality, passing a referendum does not involve one side beating the other. It involves building a consensus that will produce the almost universal support necessary in practice to change Australia's constitution. Australia is likely to change to a republican form of government within the foreseeable future only if that is supported by most current republicans or monarchists and most supporters of the Coalition, Labor and other parties. So far the issue has been politicised: Keating raising it as a partisan political issue and John Howard defusing political disadvantage by the offer of a constitutional convention and referendum. We have the unique advantage at present that the issue is not politicised. The only model that owed its origin to a political party has been decisively rejected. We must build firmly on that advantage while it lasts.

The choice is whether to rely for the initial work on another constitutional convention or high-powered parliamentary committees. A rationale for having
A Constitutional Convention in 1998 with half the delegates elected was that its first question was whether or not Australia should become a republic. Most of those elected in the republic interest devoted the majority of their speeches to this issue and the Convention decided in favour of becoming a republic.

A convention is not well suited to making decisions on the best model or the best method of the nation making its decision. Those elected to the constitutional conventions that built our federation last century were almost all well-known parliamentarians with a great deal of knowledge and experience of the practical working of our constitutional system. In the election for the 1998 Constitutional Convention, where parliamentarians were ineligible and political parties did not run candidates, the organisations thought people most likely to vote for someone they knew of. So tickets were crowded with people who were well-known, regardless of whether they had constitutional knowledge or experience. However worthy as persons, being well-known is no more a qualification to design a republic model than a passenger airliner. The flawed package that emerged from the Convention is evidence of that. The average Australian is well qualified to pass judgment in a referendum on a designed model, but few without constitutional experience would claim the ability to design one.

It is best to adopt the approach that produced our good state and federal constitutions, and rely on experienced members of parliament to inquire and report upon the model which will best maintain our democracy, and the method of deciding the republic issue least likely to overstrain the federation. It is desirable that this can be first done by all-party committees in each state and territory Parliament (McGarvie 1999a, 260–2; Centenary of Federation Victoria, 2002, 14). Besides having first hand knowledge and experience of the actual working of our constitutional system, such committees would almost certainly be guided by the merits and not by partisan politics.

Direct election

With the referendum’s rejection of the parliamentary election model the choice is between a model such as the McGarvie model which leaves the constitutional system operating as it has for years, and a direct election model which would fundamentally change the system and its operation. Until the Constitutional Convention the option for having a directly elected President had been stated in general terms along the lines of the description of that option in An Australian Republic: The Options (Republic Advisory Committee 1993, vol 1, 69–73, 81–2, 95–106). At the Convention, models had to be specified in some
Richard E. McGarvie

detail. The kind of provisions that would be included in such a model were demonstrated by the Gallop model and Hayden model which were two of the four models the Convention finally considered (Department of the Prime Minister and Cabinet 1998, vol 1, 123–30). That brought to public attention for the first time, that, unless our system of government were changed fundamentally so as to accommodate a directly elected President, such a model would inject into the working of our constitutional system far greater risks to the strengths and safeguards of our democracy than the rejected referendum model.

A directly elected President, as the only official elected by the whole of Australia, would have a greater electoral mandate than the Prime Minister or Government. A President would inevitably have been the candidate of one of the major political parties. When the President had been the candidate of the Opposition party there would be the strongest tendency for the President to operate as a rival centre of political power opposed to the Government (McGarvie 1999a, 137–40). Under our system of democracy the Governor-General is the only one who can exercise vital constitutional powers central to the system of Government (McGarvie 1999a, 12). It is essential to our democracy that in ordinary circumstances the Governor-General be bound by the basic constitutional convention to exercise those powers within a reasonable time whenever advised by Ministers of the Government to do so. The convention is binding because it is backed by the penalty that a Governor-General who refused to comply would be dismissed within a week or two (McGarvie 1999a, 10–11, 61-3, 88–91, 95).

This convention would lose its binding quality under the direct election models because the penalty of prompt dismissal for breach would in practice not be available. Dismissal would be by one or both houses of Parliament on specific grounds and experience shows that the process would be politicised from the outset and even if dismissal resulted it would be inordinately slow (McGarvie 1999a, 103–7). A President not bound by the basic constitutional convention would be able to veto actions of the Government. Unavailability of the penalty of prompt dismissal would also deprive of their binding quality the conventions that a President not make political statements and not collaborate politically with the Opposition. It would be impracticable to impose on the President legal obligations to the effect of the withered conventions (McGarvie 1999a, 107–19).

The fail-safe mechanism mentioned earlier consists of the reserve authority of the Governor-General to act independently of ministerial advice in respect to the exercise of the reserve powers of appointing or dismissing a
Government or dissolving or declining to dissolve Parliament. It is to be used only as a last resort when it has become absolutely necessary in order to ensure the operation of the constitutional system and its safeguards of democracy. It has the effect of referring an exceptional constitutional malfunction to the Parliament or people for resolution (McGarvie 1999a, 145–9). It would be open to an elected political President to abuse the reserve authority for political purposes, for example, to dissolve Parliament for a premature election at a time when the opinion polls indicate the Government would lose (McGarvie 1999a, 110, 201–2). Supporters of direct election models accept that those models would have to include a codification of the reserve authority. This was proposed by Evatt in 1936 but is quite impractical (McGarvie 1999a, 202–5).

Introduction of a direct election model in an Australian republic would lead to an inevitable drift towards the United States’ system without that system’s checks and balances (McGarvie 1999a, 140). Theoretically we could change our system fundamentally to make it correspond to the American system where the elected President is head of state and head of Government, or to the Irish system where the elected President has virtually no constitutional powers of consequence (McGarvie 1999a, 11–13, 92–5, 140–2, 140–4). In theory we could change our language to that of Finland or our law to that of Chile. In reality, it is highly unlikely that in the absence of invasion or revolution we would see it as an advantage, or summon the will to make such a fundamental change to the constitutional system, language or law we are used to and which has served us well. The practical result of a serious attempt to convert to a republic with a directly elected President would most likely be postponement of the resolution of the republic issue for a long time.

The prospect of Australia becoming a direct election republic was exaggerated during the referendum campaign. For their own purposes leaders of the Yes and No cases put it that voting their way would improve the prospects of ultimately obtaining a directly elected President. Other leading proponents of the Yes case put it that the referendum amounted to a choice between the referendum model and a direct election model. The three jurists, Sir Zelman Cowen, Sir Anthony Mason and Sir Gerard Brennan, described those models as ‘the two models from which voters must choose at the referendum’ (1999, 13). People who accepted that as the choice were open to persuasion that the Yes case had more strength than it had.

Some Yes case supporters warned that unless the referendum passed we would get a direct election model posing a threat to democracy. That shows a lamentable lack of faith in the commonsense of the Australian voter. It is saying to voters that unless you adopt our model you will later be so unwise as
to adopt a model that degrades your democracy. Voters are too smart to do that. A lesson from the 1999 referendum is that even though the majority favour an Australian head of state they will not vote for a republic package unless satisfied it is safe for democracy and federation.

The referendum model was often presented in a better light than it deserved, through being compared only with the model that would be worse for democracy, direct election, and never with the McGarvie model, which would preserve our democracy intact in a republic. One of the worst examples of that was the deliberative poll in Canberra, 22–4 October 1999. People were not reminded that the runner-up to the referendum model at the Constitutional Convention was not a direct election model but the McGarvie model.

There is a present tendency for people to want to make decisions for themselves instead of leaving it to their elected representatives (Morris 1999). However, once people are aware of the effect of a directly elected President in our kind of democracy, they will no more favour it than they would favour electing the judges. This was illustrated at the Constitutional Convention. On 1 May 1997, when I first advanced the McGarvie model in public and compared its impact on our democracy with that of the models for a President elected by Parliament or by direct election, the prevailing preferences were indicated by the Morgan Poll of the year before. It showed 76 percent support for direct election, 18 for parliamentary election, 3 for a model such as mine, and 3 percent not stating a preference (Morgan Poll Finding Number 2915, June 1996). After advancing my case over the nine months, without organisational or funding backing but relying on what I wrote and said, the McGarvie model attracted sufficient votes from delegates at the Convention uncommitted to vote as the ARM or ACM decided, to eliminate both direct election models in the votes for preferred model, finishing second to the parliamentary election model (Department of the Prime Minister and Cabinet 1998, vol 4, 872–85).

**McGarvie model**

The McGarvie model is as simple as it is safe. The Governor-General continues and becomes actual instead of de facto head of state. The Queen's one remaining active duty, appointing or dismissing the Governor-General as advised by the Prime Minister, would be performed in exactly the same way by a Constitutional Council of three members determined automatically by constitutional formula. The Prime Minister will still choose a new Governor-General. It is important to emphasise that a Constitutional Council will not propose, choose or select a new appointment, because there have been
extensive misrepresentations that it would choose or select. The misrepresentations are made by those who do not understand the model, or opponents who fully understand it and its appeal to the ordinary Australian, and deliberately misstate its structure in order to ridicule it. A Constitutional Council will be bound by an effective constitutional convention to appoint or dismiss within two weeks of advice (McGarvie 1999a, 86–7, 217–24; the model is set out in Department of the Prime Minister and Cabinet 1998, vol 4, 838. Although the head of state retains the title, 'Governor-General' under the McGarvie model, the name 'President' had to be used in the description there, because of a decision of the Convention).

The members of the Constitutional Council will be designated from those who have retired from non-political constitutional positions of Governor-General, Governor, High Court or Federal Court judge and are not over 74. It accords with centuries of tradition throughout the world to have a high community responsibility, as important as appointing or dismissing the head of state on the advice of the Prime Minister, performed by a Council of Elders. It draws especially on the central principle of the oldest civilisation in this country — that of the Aboriginal people.

Governors will become heads of state of their state systems, appointed or dismissed on the advice of the premier by a Constitutional Council under the state constitution. The monarchy will be entirely eliminated from our systems of Government and Australia will become a republic. The McGarvie model makes only the changes necessary to convert to a republic and leaves the constitutional system operating in the same way as has produced one of the world's best democracies. It is a myth that our constitutional conventions are only binding because we are a monarchy. They are made binding by the operation of the system. As the system will continue to operate in the same way, they will continue to bind (McGarvie 1999a, 207–25, 232).

With their instinctive constitutional wisdom, Australians would only be likely to vote for a republic based on a model such as the McGarvie model. It would keep our democracy as safe as the present system, which they trust, and the more it is investigated and debated the clearer that would become. Every referendum that has passed since 1910 has been supported by the overall majority of voters and a majority in every state. The obvious way of making a decision without risking the tensions created by forcing a dissenting state into a republic is to make a decision for the whole federation requiring the support of all states. This can be done with a referendum where the systems of the Commonwealth and each state would together change to republican form if supported by an overall majority, a majority in at least four states and a request
under s. 15(1) of the Australia Acts 1986 and s. 51(38) of the Commonwealth Constitution by each state Parliament (McGarvie 1999a, 255–63; Centenary of Federation Victoria, 2002, 24–6, 34–7). I predict that the republic issue is likely to be resolved early this century in a referendum of that type based on a model such as the McGarvie model.

**Final thoughts**

I close with two thoughts, the first quoted from my book: 'No one has a contribution to the working and preservation of our democracy which is more important than that of our teachers in primary, secondary and tertiary education' (McGarvie 1999a, 269). The second is that we should renew our faith in our democracy as a practical working system and our faith that Australian voters will only make referendum changes which preserve the strength and stability of our democracy and federation.
Chapter Seven

Mates Lost and Saved: Drafting the Constitutional Preamble

Les Murray

In January 1999, constitutional change was in the air. The hurried token deliberations of the Constitutional Convention were over, with republicans fatefully divided on the mode of selecting a head of state, and all sorts were trying their hand at composing resonant new preambles for our country's constitution. Journalist Tony Stephens, of the *Sydney Morning Herald*, phoned me on the eve of my flying overseas to do some readings in Britain and then go on to New York to launch my verse novel *Fredy Neptune*. He asked me to contribute a sample preamble, and I quickly scribbled one and dispatched it in handwritten form, more or less as I left for the airport. A week or so later, I heard from the Australian consulate in New York, and from my publishers there, that Prime Minister John Howard urgently wished to talk with me.

I took Howard's call at the Consulate, learned that he had liked my sample preamble and that he wanted to see me and to discuss writing the real one. I promised to visit him in Canberra en route to a short reading tour I was to do in South Australia. After a mere day's turnaround at home, I drove to Sydney to do a performance and stay the night at the Hilton, and it was in that hotel that I wrote out a draft preamble to present to Howard in Canberra the next day. When I arrived at Parliament, amazed to see that journalists and camera crews were already in wait for me there, Howard's staff typed up my draft and he studied it intensely and quietly right through lunch at the Lodge, between bouts of conversation with me. I promised him confidentiality regarding our deliberations and still feel bound by that, but it is probably fair to say that I was impressed to discover that he knew the old Sydney University Songbook far better than I did. We didn't sing any of those fifties political ditties together, but we quoted several. I told him frankly that my position on headship of state was the polar opposite, or antipodes, of that which he was known to espouse: I think that headship of state should be vested in all citizens equally, with
elections and referenda the ultimate checks on parliamentary and official good behaviour.

Passing with a nervous wave through the crowds of newshounds back at Parliament House, I hurried on to Gawler in South Australia with my left eye watering painfully from an attack of Bell’s palsy which had struck me just as I had got ready to go abroad a few weeks before. My tour in the late summer heat had its highlights, but what I remember most are my drooping asymmetrical face and the messages at nearly every stop: ‘Mr Murray, please ring the Prime Minister’. Urgently. Sometimes the only way was to go out and find a public phone box which would permit reverse charges. Howard would be on the other end, requesting a rewrite of one or other clause of the draft. Knowing that the first and last clauses were dear to me, he considerately left those alone, but all the middle clauses got worked over, and it was in respect of one of those that we had our polite disagreement about the word ‘Mateship’. I can talk about that because Howard himself acknowledged in the press that we had agreed to differ about that word. I could only tell him that it was out of tune with the rest of the draft preamble, and would draw opprobrium upon it; he dearly loved the term, though, and he was the client. I was, and understood myself to be, the copy-writer, though one with an agenda of my own.

On 23 March 1999, after a few last-minute pin-tucks, the draft preamble was released to the press. It read as follows:

With hope in God, the Commonwealth of Australia is constituted by the equal sovereignty of all its citizens.

The Australian nation is woven together of people from many ancestries and arrivals.

Our vast island continent has helped to shape the destiny of our Commonwealth and the spirit of its people.

Since time immemorial our land has been inhabited by Aborigines and Torres Strait Islanders, who are honoured for their ancient and continuing cultures.

In every generation immigrants have brought great enrichment to our nation’s life. Australians are free to be proud of their country and heritage, free to realise themselves as individuals, and free to pursue their hopes and ideals. We value excellence as well as fairness, independence as dearly as mateship.
Australia's democratic and federal system of government exists under law to preserve and protect all Australians in an equal dignity which may never be infringed by prejudice or fashion or ideology nor invoked against achievement.

In this spirit we, the Australian people, commit ourselves to this Constitution.

People will remember the brown blizzard of contempt and vilification which got vented on this text in the media in March and April 1999. This was termed public debate, but as a veteran of the fight to stop Bob Hawke's Australia Card in the 1980s, I knew how readily newspapers could orchestrate their Letters pages, even salting them with fake letters of their own composition. I was briefly tempted to defend the invocation of hope, not faith, in God, on the grounds that federal Government statistics show that 74 percent of us believe in Him, which in electoral terms is a landslide. I wasn't at all sure a letter from me would be run, however, or run uncut. After a day or two I lost interest in the media hoo-ha, and looking back now I can almost sympathise with it. Although mutterings about a 'polemic against political correctness' surfaced at times, no clear acknowledgement that the draft preamble's bottom line was aimed directly at the throat of our over-mighty media was ever made. The fact that the implicit menace of the final clause had the tacit approval of the Prime Minister must have been unnerving for them, though I am sure that will never be admitted.

In the only part of the media that remains hard to manage completely, talkback radio, I understand the March draft elicited a lot of public approval and enthusiasm from many parts of the country. An amusing part of the great debate was the number of rival preambles people came up with. Some were syrupy, many were predictably scornful. Along with the rest of Australia, I laughed heartily at Jeff Kennett's mighty prolegomenon. The only one of these texts I had much respect for, though, was that of journalist and editor David McNicoll. I knew that his disdain of mine, or mine and Howard's, was at least not compelled by adherence to any political line. I was slightly nauseated to hear, while overseas on another tour in late May, that an Opposition questioner in Federal Parliament had enquired whether the Prime Minister had put the job of preamble writing up for tender among all of Australia's poets. Of course he hadn't, any more than Labor's Justice Minister Senator Tate had done when he hand-picked me to rewrite the Oath of Allegiance some seven years before. I never seem to get used to applied political hypocrisy; I'm just not a party animal.

In April, when the media response began to die down, I sent Tony Stephens the following letter and rewrite for publication in his newspaper. The letter was
paraphrased into a news item but the revamped text was printed verbatim (Sydney Morning Herald 1999):

Dear Tony Stephens,

You wanted me to show you and the Herald's readers how I would rewrite the Constitutional preamble now, in the light of the public reaction to it. I suppose I owe you that, since it was you who got me into this perilous genre of preamble-writing. What I offer here is not an official re-draft, nor is it meant to compromise the Prime Minister. Contrary to reports in the Hobart Mercury and elsewhere, there is no rift between Mr Howard and me, but inserts and recastings did make our collaborative document rather baggy. This is an attempt to pull it together into a crisper statement of the nation and some of its core values.

The one solid fact that I learned from the so-called debate was that, in a rare legal usage, 'time immemorial' can mean about 700 years. I have replaced that phrase accordingly. A lot of people privately complained that we had passed over native-born Australians, and in the end it seemed unreal for me to separate them from immigrants. To do so would fly in the face of sex, of ancestry and intermarriage. My early drafts carried a specific mention of Tasmania, and I have restored it, but on mateship I have bowed to the Prime Minister's preference, and his sense of the broad community. Wide approval for the term has come from many quarters, not least from younger women, including some lesbians. Others will always disdain it, but the preamble itself doesn't promote uniformity! If nothing else, my right honourable client and I may have helped to clarify the modern Australian usage of 'mate' and 'mateship'. In the Aboriginal paragraph, both Labor's word 'custodianship' and my suggested 'stewardship' of land seem to be unsuitable, because both primarily refer to taking care of the property of others. I've had to rethink the formula there, and put more warmth into it. Here is my new version of the preamble:

With hope in God, the Commonwealth of Australia is constituted by the sovereign equality of all its citizens.

Australia's people are woven together from many ancestries, both immigrant and native born. Their lives continue to be enriched from ancestral cultures and by traditions and achievements of their own.

The great island continent of Australia with Tasmania has set its people crucial challenges, but it has also given sanctuary and the good life to many, and remains a distinctive inspiration for all.

Since great antiquity, it has been inhabited by Aborigines and Torres Strait Islanders, whose spirit is nourished above all by their deep kinship with their lands.
Australians are free to be proud of their country and heritage, free to realize themselves as individuals, free to be generous and exercise moral courage. The nation values excellence as well as fairness, and independence as dearly as mateship.

Australia’s democratic federal system of government exists under law to preserve each person in an equal dignity which may never be infringed by prejudice or fashion or ideology, nor invoked against merit.

I sent a copy of this text to the Prime Minister with a note to the effect that I hoped it might be of use in further deliberations. I received no reply, and that was the end of my direct involvement. In discussions with the Australian Democrats, the March 1999 draft was compromised away, and when what became the final version was released in early August that year, I realised I would not be voting for it myself. I said so to the media when asked, adding that there was merit in the compromised text’s Aboriginal clause, and in the fact that an acknowledgement of our indigenous people was still in the draft at all. I gather the Democrat’s new Senator Aden Ridgeway, of the Gumbaynggir people up the north coast of New South Wales, had liked the new ‘kinship’ formula I had come up with in my re-draft and adopted it. Someone must also have fought to keep God in. The final draft of the preamble read as follows:

With hope in God, the Commonwealth of Australia is constituted as a democracy with a federal system of government to serve the common good.

We the Australian people commit ourselves to this Constitution:

proud that our national unity has been forged by Australians from many ancestries;

never forgetting the sacrifices of all who defended our country and our liberty in time of war;

upholding freedom, tolerance, individual dignity and the rule of law;

honouring Aborigines and Torres Strait Islanders, the nation’s first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country;

recognising the nation-building contribution of generations of immigrants; mindful of our responsibility to protect our unique natural environment;

supportive of achievement as well as equality of opportunity for all;

and valuing independence as dearly as the national spirit which binds us together in both adversity and success.
The *Sydney Morning Herald* headline for 12 August 1999 was ‘Mates Make Way for Aborigines’, but journalist Michelle Grattan noted that the revised preamble, with its vote-seeking inserts about wartime sacrifice and the environment, immediately came under attack from Aboriginal leaders. The usual cast of old Labor Aborigines did indeed repeat their lines in favour of ‘custodianship’ of land, but the gutted text was passed in the Senate and in due order went to referendum on 6 November, where it was resoundingly defeated. In all of Australia, only 16 electorates out of the total 148 voted Yes to it. I was asked by the media for my response to this and replied that the thing had been crippled by compromise, whereat the people in their mercy took it out and shot it.

So ended my second and final foray into political copy-writing. For the pledge of allegiance I had drafted in 1993, Senator Tate had offered me a fee of $3,000. I waived that, on *pro bono* grounds, even though I was sore that they had rewritten my text into a legalistic formula that eliminated both euphony and a reciprocity between Government and citizen that I had proposed. This time I had been promised payment too, but no figure had ever been mentioned. People suggested huge amounts I might ask for — barristers’ fees, an emolument on a par with the daily earnings of a judge etc — but I was not sure I would ask for anything, even as a solutium for the many libels and insults I had suffered in the media. In the end, because our family is at the expensive end of teenage and student needs, I decided to ask for $9,000, on the basis that the draft preamble was three to four times as long, in inches if not in words, as the Pledge of Allegiance had been. I didn’t ask for any expenses, because my travels in South Australia and to and from there had been covered by those who invited me, and the page of Hilton Hotel notepaper had come free of charge. The *Australian*, a newspaper which likes to vilify people and then impute paranoia to them when they object, tried for a day or two to make a mini-scandal out of my fee, but I kept silent and no one took them seriously.

In contradistinction to print, verbal reactions to the preamble that people have made to me have been overwhelmingly polite and friendly. Looking back on the whole adventure, I’m glad the March draft and even my revised unofficial draft never survived to be voted on by the electorate, because it means that the preamble’s bottom line, the covert two-line Bill of Rights which I wrote and John Howard let stand, has never been defeated at the polls. Nor has it been locked away in a ceremonial space of guiding principles having no legal force and prohibited from use in interpreting either the Constitution or any part of state and federal law; those were the restrictions which would have been formally laid upon the preamble if it had been approved by the voters. As
things stand now, commentators with the big money behind them, and activist gangs with media support, are constrained by nothing except a leftist agenda of protected human groups and ‘relevant’ causes. I only re-learned in 1999 what I had long known in hard detail about bullying, slanting and the silencing of support.

My formula for bringing prejudice, fashion and ideology into line with democratic values and the enlightenment’s state support for equality and freedom has applicability throughout modern society. The need for checks and balances on trendsetters and opinion-makers is a matter for what may be hard political battles in the future. I rather horrified Opposition Leader Kim Beazley in 1997 by telling him frankly that of course Parliament didn’t rule the country, fashion did. If the helpless and the poor are to be protected against, say, destruction of their morale in advance of destruction of their employment so as to advance the ideology of globalisation, someone in the future with the numbers and the will might find my formulation useful as a law, with teeth.
Chapter Eight

1999 Republic Referendum Results: Some Reflections

Malcolm Mackerras and William Maley

The November 1999 referendum on whether Australia should become a republic was one of the most unusual in the history of the Commonwealth. The republic was rejected by a 55–45 division of the vote and rejected in all six states. Altogether, 42 of the 148 electorates voted Yes and 106 voted No. These simple figures mask some much more arresting features of the result. First, a majority of the 55 Australians per hundred voting for the Queen identified themselves to pollsters as being republicans. Second, the Prime Minister of the day, Howard (Liberal), campaigned for a No vote. Third, the 42 electorates voting Yes consisted of 25 held by Labor and 17 held by the Liberal Party. Furthermore the 17 held by the Liberal Party included Howard's own seat of Bennelong. The former seat of Sir Robert Menzies, founder of the Liberal Party, gave a 23,000 vote majority for the republic (Kooyong) while the seat formerly held by Labor Prime Minister Gough Whitlam gave a 13,000 vote majority to the Queen (Werriwa). Using plausible assumptions, of those who gave their two-party preferred vote to Labor in 1998, the split in 1999 was 57–43 in favour of the republic. Of those who gave their two-party preferred vote to the Liberals in 1998 the split in 1999 was 65–35 against. Around 80 percent of the 1998 National Party vote was cast against the republic in 1999. Clearly more was at work than simply partisan contestation, which has typically been a key determinant of a proposal's prospects. Why was the influence of party so relatively weak, and what were the other factors at work?

Our point about the usual impact of partisan contestation is best demonstrated by reference to recent past experience. The Curtin-Chifley Labor Government (1941–49) presented five referendum proposals to change the Australian Constitution. Four of those were directly opposed by the then Liberal-Country Party Opposition and were defeated. The Menzies Coalition Government (1949–66) presented one proposal only. It was opposed by Labor
and defeated. The Holt Coalition Government (1966–67) presented two non-partisan proposals, of which one was carried. The Whitlam Labor Government (1972–75) presented six proposals, all of which were opposed by the Liberals and defeated. The Fraser Coalition Government (1975–83) presented four non-partisan proposals, of which three were carried. The Hawke Labor Government (1983–91) presented six proposals, all of which were opposed by the Liberals and Nationals and defeated. That adds up to 19 rejections from 1944 to 1988 (inclusive) of which 17 were rejected on lines of voting, which were unambiguously partisan.

The point of the preceding paragraph can be further illustrated by taking as typical cases just the first in each of the sets of questions presented to referendum by the Hawke Government. In December 1984 the ‘Terms of Senators’ proposal was carried in New South Wales, Victoria, the ACT and the Northern Territory but was lost in the four least populous states. With an Australia-wide Yes vote of 50.6 percent it was carried in 74 of the 148 electorates. Of those 74 electorates 69 were won by Labor at the general election held on the same day. At that general election Labor won 82 seats (69 Yes and 13 No) and the Coalition won 66 seats (five Yes and 61 No). In September 1988 the ‘Parliamentary Terms’ proposal (four year terms for all members and senators) was lost in every state and territory and secured an overall Yes vote of only 32.9 percent. Nevertheless, there were four electorates voting Yes, all rock solid Labor seats in the Melbourne metropolitan area. In addition there were 22 seats with a No percentage below 60 percent, all Labor seats in Sydney, Canberra, Wollongong, Melbourne and Brisbane.

Now to November 1999 and some further overall statistics. There were 12,392,040 electors enrolled to vote and the turnout was 95.1 percent. On the republic question the total formal vote was 11,683,811 and the informal vote was 101,189. That meant the total votes cast were 11,785,000. On the preamble question the total formal vote was 11,672,561 and the informal vote was 122,474. That meant the total votes cast were 11,785,035. Ballot papers for the two questions were separate and dropped into different boxes, creating the net 35 extra votes on the preamble. (In 1967, 1973, 1974, 1977, 1984 and 1988 the two or more questions were placed on a single piece of paper.) The purpose of this chapter is to consider the republic question with a view to shedding light on the questions with which we began our analysis.

Table 8.1 sets out the formal position. The 45.1 percent Yes vote for the republic ranked it 30th (in terms of overall Yes vote) out of the 44 questions put since federation. In other words, there were 14 proposals which received even less overall support than the republic which, in any event, was markedly
Table 8.1: Formal votes and percentages for republic referendum

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Yes Votes</th>
<th>%</th>
<th>No Votes</th>
<th>%</th>
<th>Total formal</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>1,817,380</td>
<td>46.4</td>
<td>2,096,562</td>
<td>53.6</td>
<td>3,913,942</td>
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<tr>
<td>Vic</td>
<td>1,489,536</td>
<td>49.8</td>
<td>1,499,138</td>
<td>50.2</td>
<td>2,988,674</td>
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<tr>
<td>Qld</td>
<td>784,060</td>
<td>37.4</td>
<td>1,309,992</td>
<td>62.6</td>
<td>2,094,052</td>
</tr>
<tr>
<td>WA</td>
<td>458,306</td>
<td>41.5</td>
<td>646,520</td>
<td>58.5</td>
<td>1,104,826</td>
</tr>
<tr>
<td>SA</td>
<td>425,869</td>
<td>43.6</td>
<td>551,575</td>
<td>56.4</td>
<td>977,444</td>
</tr>
<tr>
<td>Tas</td>
<td>126,271</td>
<td>40.4</td>
<td>186,513</td>
<td>59.6</td>
<td>312,784</td>
</tr>
<tr>
<td>ACT</td>
<td>127,211</td>
<td>63.3</td>
<td>73,850</td>
<td>36.7</td>
<td>201,061</td>
</tr>
<tr>
<td>NT</td>
<td>44,391</td>
<td>48.8</td>
<td>46,637</td>
<td>51.2</td>
<td>91,028</td>
</tr>
<tr>
<td>Australia</td>
<td>5,273,024</td>
<td>45.1</td>
<td>6,410,787</td>
<td>54.9</td>
<td>11,683,811</td>
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</tbody>
</table>

more successful than the preamble proposal put on the same day as the republic proposal. The dismal defeat of the preamble was shown by its 39.3 percent affirmative vote, placing it at number 38 when ranked by national Yes percentages. Of the 11 proposals which failed to gain acceptance by a single state, the republic was the second best supported, second only to the 'Interchange of Powers' proposal put to the people in December 1984. That had gained an affirmative vote of 47.1 percent. The preamble was the fifth best supported of those proposals carried in no state.

The 45.1 percent affirmative vote means that the republic would have gained an overall national majority with a mere lift of five percentage points in its support. However, an overall five percentage point support increase would not have carried the republic proposal. There are, in fact, seven different vote values in an Australian referendum, since support from ‘electorates’ of different size — the country as a whole, and four out of six states — is required. Seen from the perspective of the Yes campaigners, the unfortunate fact is that, by and large, their support was greatest where vote values were least. By contrast, opposition to the proposal was strongest (again, by and large) in the states with the highest vote values. A vote cast in either the Australian Capital Territory or the Northern Territory has the same value as the other. However, such a vote has the least value of all since it is counted nationally but not by state. Of the seven values, therefore, the Territory vote is the least valuable. The second least valuable vote is that cast in New South Wales. At the other extreme of value is the vote cast in Tasmania. If we combine the two votes we get 58.7 percent Territory support for the republic. The only affirmative vote among the seven was the one with the least value. On the theory of uniform swing a national Yes vote of 54 percent would have seen success for the republic. It would then have carried the four states needed for
passage, Victoria, New South Wales, South Australia and Western Australia. That would have left Queensland and Tasmania as the dissenting states.

It is often asked why the Australian Capital Territory was the only jurisdiction to vote for the republic on 6 November 1999. Throughout this chapter readers will come to understand that the ACT has every feature that would predict its high Yes vote. The three main characteristics are those of residence, party and socio-economic status. The republic was always a Labor cause and the ACT is the most strongly Labor of the eight jurisdictions. The referendum result, however, was one in which the Yes vote was essentially an inner metropolitan phenomenon with a link to party and high socio-economic status. As the most Labor, most inner metropolitan jurisdiction, with high indexes of relative socio-economic advantage, the referendum vote in the ACT should cause no surprise.

These points are brought out by the data set out in Tables 8.2, 8.3 and 8.4. On the question of place of residence and political party these data say a great deal. The combined votes of the adjoining seats of Sydney and Grayndler give

<table>
<thead>
<tr>
<th>Australia</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inner metropolitan</td>
<td>27</td>
<td>14</td>
<td>41</td>
</tr>
<tr>
<td>Outer metropolitan</td>
<td>13</td>
<td>29</td>
<td>42</td>
</tr>
<tr>
<td>Provincial</td>
<td>2</td>
<td>18</td>
<td>20</td>
</tr>
<tr>
<td>Rural</td>
<td>45</td>
<td>45</td>
<td>90</td>
</tr>
<tr>
<td>Total</td>
<td>42</td>
<td>106</td>
<td>148</td>
</tr>
</tbody>
</table>

Table 8.2: Electorates by Yes and No and by AEC description
a higher Yes percentage than the combined votes of Canberra and Fraser. The combined votes of adjoining Melbourne and Melbourne Ports give an even higher Yes percentage. Inner metropolitan Labor seats in Melbourne, Sydney and Canberra provided the heartland of support for the republic. Furthermore, in every jurisdiction the most clearly inner metropolitan seat gave the highest Yes percentage. For example, in the ACT a look at the map tells the observer that Fraser is more clearly inner metropolitan than Canberra, and its slightly higher Yes vote is therefore not surprising. In Sydney, Melbourne, Brisbane, Canberra and Hobart the most clearly inner metropolitan seat is held by Labor. In Adelaide and Perth the most clearly inner metropolitan seat (Adelaide and Curtin, respectively) is held by the Liberal Party.

The point about place of residence is so clear from the aggregate data that recourse to opinion poll findings has not yet been necessary in our analysis. From now on that changes. We rely increasingly on the findings of the opinion polls and survey research to answer this question: which was the second best predictor of the referendum vote? We conclude that party — weak though it was by historical precedent — was probably still the second best predictor. On the day of the referendum itself, 6 November, the Weekend Australian carried the results of the Newspoll taken on 3–4 November. Overall it showed a Yes vote of 47 percent, a No vote of 50 percent and three percent uncommitted. That was a moderately accurate prediction of the outcome, albeit an underestimate of the magnitude of the republic’s defeat. However, a truly interesting statistic is to be found on page 8 of the Weekend Australian. It showed Labor voters as splitting 61–38 in favour of the republic (with one percent uncommitted) while Coalition voters split 62–35 against (with three percent uncommitted). When the votes were actually counted the results were fully consistent with such a finding.

The figures in Tables 8.5 and 8.6 shed light on what happened in more detail. In the absence of opinion poll findings the data in Tables 8.5 and 8.6 might not be so persuasive. However, when we combine the two we think these estimates of party voting are highly plausible. The terms ‘Safe Labor’ and ‘Safe

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor</td>
<td>25</td>
<td>42</td>
<td>67</td>
</tr>
<tr>
<td>Liberal</td>
<td>17</td>
<td>47</td>
<td>64</td>
</tr>
<tr>
<td>National</td>
<td></td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Independent</td>
<td></td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>42</td>
<td>106</td>
<td>148</td>
</tr>
</tbody>
</table>
Table 8.4: Electorates voting Yes

<table>
<thead>
<tr>
<th>Labor seats</th>
<th>Liberal seats</th>
<th>Average Yes in Labor Yes seats</th>
<th>Average Yes in Liberal Yes seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Melbourn (Vic)</td>
<td>Kooyong (Vic)</td>
<td>Inner Metropolitan</td>
<td>64.2</td>
</tr>
<tr>
<td>2. Sydney (NSW)</td>
<td>Higgins (Vic)</td>
<td>Inner Metropolitan</td>
<td>63.7</td>
</tr>
<tr>
<td>3. Melbourne Ports (Vic)</td>
<td>North Sydney (NSW)</td>
<td>Inner Metropolitan</td>
<td>61.3</td>
</tr>
<tr>
<td>4. Grayndler (NSW)</td>
<td>Wentworth (NSW)</td>
<td>Inner Metropolitan</td>
<td>60.2</td>
</tr>
<tr>
<td>5. Fraser (ACT)</td>
<td>Wentworth (NSW)</td>
<td>Inner Metropolitan</td>
<td>59.9</td>
</tr>
<tr>
<td>6. Canberra (ACT)</td>
<td>Menzies (Vic)</td>
<td>Inner Metropolitan</td>
<td>58.0</td>
</tr>
<tr>
<td>7. Batman (Vic)</td>
<td>Menzies (Vic)</td>
<td>Inner Metropolitan</td>
<td>56.4</td>
</tr>
<tr>
<td>8. Wills (Vic)</td>
<td>Bradfield (NSW)</td>
<td>Inner Metropolitan</td>
<td>55.6</td>
</tr>
<tr>
<td>9. Brisbane (Qld)</td>
<td>Curtin (WA)</td>
<td>Inner Metropolitan</td>
<td>55.5</td>
</tr>
<tr>
<td>10. Chisholm (Vic)</td>
<td>Ryan (Qld)</td>
<td>Inner Metropolitan</td>
<td>55.3</td>
</tr>
<tr>
<td>11. Gellibrand (Vic)</td>
<td>Bennelong (NSW)</td>
<td>Inner Metropolitan</td>
<td>54.6</td>
</tr>
<tr>
<td>12. Jagajaga (Vic)</td>
<td>Warringah (NSW)</td>
<td>Inner Metropolitan</td>
<td>54.5</td>
</tr>
<tr>
<td>13. Maribyrnong (Vic)</td>
<td>Warringah (NSW)</td>
<td>54.5</td>
<td></td>
</tr>
<tr>
<td>14. Lowe (NSW)</td>
<td>Sturt (SA)</td>
<td>Inner Metropolitan</td>
<td>53.7</td>
</tr>
<tr>
<td>15. Scullin (Vic)</td>
<td>Deakin (Vic)</td>
<td>Inner Metropolitan</td>
<td>52.9</td>
</tr>
<tr>
<td>16. Kingsford-Smith (NSW)</td>
<td>Boothby (SA)</td>
<td>Inner Metropolitan</td>
<td>51.9</td>
</tr>
<tr>
<td>17. Bruce (Vic)</td>
<td>Berowra (NSW)</td>
<td>Inner Metropolitan</td>
<td>51.7</td>
</tr>
<tr>
<td>18. Watson (NSW)</td>
<td>Aston (Vic)</td>
<td>Inner Metropolitan</td>
<td>51.6</td>
</tr>
</tbody>
</table>

* Cunninham and Newcastle should be shown as 'Inner Metropolitan Wollongong and Newcastle' rather than 'Provincial'.

a AEC description: Inner Metropolitan, Outer Metropolitan, Provincial.
Table 8.5: Aggregates of two-party preferred votes by types of seat, 3 October 1998

<table>
<thead>
<tr>
<th>Seat type</th>
<th>Number of seats</th>
<th>Votes preferring Labor</th>
<th></th>
<th>%</th>
<th>Votes preferring Liberal–National</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safe Labor</td>
<td>36</td>
<td>1,826,503</td>
<td>67.3</td>
<td></td>
<td>886,584</td>
<td>32.7</td>
</tr>
<tr>
<td>Fairly safe and marginal Labor</td>
<td>31</td>
<td>1,257,986</td>
<td>54.2</td>
<td></td>
<td>1,060,895</td>
<td>45.8</td>
</tr>
<tr>
<td>Fairly safe and marginal Liberal</td>
<td>48</td>
<td>1,638,680</td>
<td>45.4</td>
<td></td>
<td>1,968,960</td>
<td>54.6</td>
</tr>
<tr>
<td>Safe Liberal</td>
<td>16</td>
<td>428,317</td>
<td>35.2</td>
<td></td>
<td>788,028</td>
<td>64.8</td>
</tr>
<tr>
<td>Independent</td>
<td>1</td>
<td>34,068</td>
<td>46.8</td>
<td></td>
<td>38,744</td>
<td>53.2</td>
</tr>
<tr>
<td>National Party</td>
<td>16</td>
<td>486,850</td>
<td>41.3</td>
<td></td>
<td>693,048</td>
<td>58.7</td>
</tr>
<tr>
<td>Total</td>
<td>148</td>
<td>5,672,804</td>
<td>51.1</td>
<td></td>
<td>5,436,259</td>
<td>48.9</td>
</tr>
</tbody>
</table>

Our aggregates are 65,223 votes higher than those of the AEC. The reason is that our totals include an estimate for the 65,223 formal votes cast in Newcastle. The AEC totals of 5,630,409 for Labor and Lib-Nat 5,413,431 are those for 147 contests only. The missing seat of Newcastle is caused by the fact that there was no Coalition candidate at the supplementary election on 21 November 1998. A candidate for the 3 October election died before polling day.

Table 8.6: Aggregates of republic votes by types of seat, 6 November 1999

<table>
<thead>
<tr>
<th>Seat Type</th>
<th>Number of seats</th>
<th>Yes Votes</th>
<th>%</th>
<th>No Votes</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safe Labor</td>
<td>36</td>
<td>1,477,580</td>
<td>51.4</td>
<td>1,396,615</td>
<td>48.6</td>
</tr>
<tr>
<td>Fairly safe and marginal Labor</td>
<td>31</td>
<td>1,091,302</td>
<td>45.0</td>
<td>1,331,151</td>
<td>55.0</td>
</tr>
<tr>
<td>Fairly safe and marginal Liberal</td>
<td>48</td>
<td>1,708,956</td>
<td>44.9</td>
<td>2,099,345</td>
<td>55.1</td>
</tr>
<tr>
<td>Safe Liberal</td>
<td>16</td>
<td>563,859</td>
<td>44.1</td>
<td>713,874</td>
<td>55.9</td>
</tr>
<tr>
<td>Independent</td>
<td>1</td>
<td>27,938</td>
<td>36.9</td>
<td>47,788</td>
<td>63.1</td>
</tr>
<tr>
<td>National Party</td>
<td>16</td>
<td>403,389</td>
<td>32.9</td>
<td>822,014</td>
<td>67.1</td>
</tr>
<tr>
<td>Total</td>
<td>148</td>
<td>5,273,024</td>
<td>45.1</td>
<td>6,410,787</td>
<td>54.9</td>
</tr>
</tbody>
</table>

Liberal' refer to all those seats above ten percent on the then Mackerras Pendulum (Bean and McAllister 2000, 238, Figure 2). For example, on the Labor side, the strongest ‘Safe Labor’ seat was Batman and the weakest Fremantle. For the Liberal Party, the strongest ‘safe seat’ was Bradfield and the weakest Indi.

On the night of the referendum, Howard had to suffer from continual sneering references by broadcasters to ‘the Republic of Bennelong’. His inner metropolitan Sydney seat of Bennelong was one of the 17 Liberal seats to vote Yes. However, a glance at Table 8.6 makes it clear that the Prime Minister had good reason to be pleased by the results, taken overall. With the exception of ‘Safe Labor’ seats, all categories turned in an overall negative vote. It is true that
'Safe Liberal' seats, taken as a whole, did not vote as solidly No in 1999 as they had voted Liberal in 1998. However, taking all the 64 Liberal seats together we find that the Liberal two-party preferred vote in 1998 was 57.2 percent while the No vote in 1999 was 55.3 percent.

At this point we strike a problem with terminology. The party line for Labor was clearly a recommended Yes vote. The party line for the National Party was equally clearly No. What are we to say of the Liberals? It is probably true that a majority of parliamentarians of that party (federal, state and territory combined) voted for the republic, yet the Prime Minister, and the most senior Liberal state Premier, Richard Court, were advocates for a No vote. Since it appears that, among the electorate at large, about two-thirds of Liberal votes were cast in the negative, we have decided to say that the 'party line' of the Liberal Party was for No, using the stance of the two most senior Liberal politicians as our guide. It should be noticed that we place the term 'party line' in inverted commas. We do not use inverted commas when we write of the party line of the Labor or National parties. Despite this, the most arresting question as far as party support is concerned relates not to the Liberal Party, but to the ALP: how could the Labor Party (with virtually every politician and senior figure in the party saying Yes) persuade only 57 percent of its voters to follow the party line?

Virtually every Labor member of Parliament and office holder advocated a Yes vote. Consequently, it should have been possible for the Labor Party to do better than persuade only 57 percent of its 1998 supporters to say Yes. That failure is the essential reason why the republic was defeated. It is best illustrated by what happened in the safe Labor seats. This is done in Table 8.7. The right-hand column 'Relative socio-economic advantage rank' is a concept to which we shall return. The correlation is clear. The greater the socio-economic advantage of the seat the more likely it was to vote for the republic. The drop from the Labor vote of 67.3 percent in 1998 in Table 8.5 to the Yes vote of 51.4 percent in Table 8.6 was very far from uniform. In the inner metropolitan 'safe Labor' seats of Melbourne, Sydney, Grayndler, Fraser, Canberra and Kingsford-Smith the average drop was only two percent. At the other extremity were the 15 seats set out in Table 8.8. The single most extreme case was Bonython which turned in the highest No percentage of all the 36 'safe Labor' seats as well as showing the biggest defection from the Labor vote. Bonython is also the most disadvantaged socio-economically.

Kim Beazley was made to suffer the indignity of losing the referendum as well as having a disastrous defeat in his own seat of Brand, which may well be called 'the Kingdom of Brand'. Howard had to put up with sneers about 'the
1999 Republic Referendum Results: Some Reflections

Table 8.7: Yes percentages in safe Labor seats

<table>
<thead>
<tr>
<th>Seat</th>
<th>AEC Description</th>
<th>% Yes</th>
<th>Relative socio-economic advantage rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Melbourne (Vic)</td>
<td>Inner Metropolitan</td>
<td>70.9</td>
<td>4</td>
</tr>
<tr>
<td>2  Sydney (NSW)</td>
<td>Inner Metropolitan</td>
<td>67.9</td>
<td>3</td>
</tr>
<tr>
<td>3  Grayndler (NSW)</td>
<td>Inner Metropolitan</td>
<td>64.8</td>
<td>12</td>
</tr>
<tr>
<td>4  Fraser (ACT)</td>
<td>Inner Metropolitan</td>
<td>64.5</td>
<td>2</td>
</tr>
<tr>
<td>5  Canberra (ACT)</td>
<td>Inner Metropolitan</td>
<td>62.1</td>
<td>1</td>
</tr>
<tr>
<td>6  Batman (Vic)</td>
<td>Inner Metropolitan</td>
<td>61.2</td>
<td>22</td>
</tr>
<tr>
<td>7  Wills (Vic)</td>
<td>Inner Metropolitan</td>
<td>58.7</td>
<td>17</td>
</tr>
<tr>
<td>8  Gellibrand (Vic)</td>
<td>Inner Metropolitan</td>
<td>56.9</td>
<td>27</td>
</tr>
<tr>
<td>9  Mariibyrnong (Vic)</td>
<td>Outer Metropolitan</td>
<td>56.8</td>
<td>14</td>
</tr>
<tr>
<td>10 Scullin (Vic)</td>
<td>Outer Metropolitan</td>
<td>56.3</td>
<td>19</td>
</tr>
<tr>
<td>11 Kingsford-Smith (NSW)</td>
<td>Inner Metropolitan</td>
<td>55.2</td>
<td>9</td>
</tr>
<tr>
<td>12 Watson (NSW)</td>
<td>Inner Metropolitan</td>
<td>54.4</td>
<td>26</td>
</tr>
<tr>
<td>13 Hotham (Vic)</td>
<td>Outer Metropolitan</td>
<td>54.2</td>
<td>10</td>
</tr>
<tr>
<td>14 Calwell (Vic)</td>
<td>Outer Metropolitan</td>
<td>53.9</td>
<td>21</td>
</tr>
<tr>
<td>15 Cunningham (NSW)</td>
<td>Provincial</td>
<td>53.6</td>
<td>7</td>
</tr>
<tr>
<td>16 Derison (Tas)</td>
<td>Inner Metropolitan</td>
<td>52.4</td>
<td>6</td>
</tr>
<tr>
<td>17 Fowler (NSW)</td>
<td>Outer Metropolitan</td>
<td>51.9</td>
<td>35</td>
</tr>
<tr>
<td>18 Newcastle (NSW)</td>
<td>Provincial</td>
<td>51.0</td>
<td>11</td>
</tr>
<tr>
<td>19 Prospect (NSW)</td>
<td>Outer Metropolitan</td>
<td>49.8</td>
<td>25</td>
</tr>
<tr>
<td>20 Reid (NSW)</td>
<td>Inner Metropolitan</td>
<td>49.0</td>
<td>33</td>
</tr>
<tr>
<td>21 Blaxland (NSW)</td>
<td>Inner Metropolitan</td>
<td>49.0</td>
<td>32</td>
</tr>
<tr>
<td>22 Lalor (Vic)</td>
<td>Outer Metropolitan</td>
<td>48.7</td>
<td>23</td>
</tr>
<tr>
<td>23 Holt (Vic)</td>
<td>Outer Metropolitan</td>
<td>48.7</td>
<td>28</td>
</tr>
<tr>
<td>24 Fremantle (WA)</td>
<td>Inner Metropolitan</td>
<td>48.3</td>
<td>5</td>
</tr>
<tr>
<td>25 Port Adelaide (SA)</td>
<td>Inner Metropolitan</td>
<td>47.5</td>
<td>30</td>
</tr>
<tr>
<td>26 Perth (WA)</td>
<td>Inner Metropolitan</td>
<td>47.4</td>
<td>8</td>
</tr>
<tr>
<td>27 Throsby (NSW)</td>
<td>Provincial</td>
<td>46.9</td>
<td>29</td>
</tr>
<tr>
<td>28 Shortland (NSW)</td>
<td>Provincial</td>
<td>45.4</td>
<td>18</td>
</tr>
<tr>
<td>29 Como (Vic)</td>
<td>Provincial</td>
<td>44.5</td>
<td>24</td>
</tr>
<tr>
<td>30 Charlton (NSW)</td>
<td>Provincial</td>
<td>43.7</td>
<td>13</td>
</tr>
<tr>
<td>31 Chifley (NSW)</td>
<td>Outer Metropolitan</td>
<td>42.2</td>
<td>34</td>
</tr>
<tr>
<td>32 Werriwa (NSW)</td>
<td>Outer Metropolitan</td>
<td>41.8</td>
<td>31</td>
</tr>
<tr>
<td>33 Hunter (NSW)</td>
<td>Rural</td>
<td>36.8</td>
<td>20</td>
</tr>
<tr>
<td>34 Brand (WA)</td>
<td>Provincial</td>
<td>33.7</td>
<td>16</td>
</tr>
<tr>
<td>35 Lyons (Tas)</td>
<td>Rural</td>
<td>33.5</td>
<td>15</td>
</tr>
<tr>
<td>36 Bonython (SA)</td>
<td>Outer Metropolitan</td>
<td>33.3</td>
<td>36</td>
</tr>
</tbody>
</table>

Republic of Bennelong' as well as watch 17 of the 64 Liberal seats turn in Yes majorities. There was, however, one leader who had every reason to smile — at least in the short term. John Anderson succeeded in getting every one of his party's seats to vote No. The extent of his success is shown in Table 8.10. In only one National Party seat did the No vote fall below 60 percent. That was
Table 8.8: Rank order of loss of Yes vote

<table>
<thead>
<tr>
<th>Seat</th>
<th>AEC description</th>
<th>Yes/No majority</th>
<th>Loss</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bonython (SA)</td>
<td>Outer Metropolitan</td>
<td>No</td>
<td>31.2</td>
</tr>
<tr>
<td>2 Chifley (NSW)</td>
<td>Outer Metropolitan</td>
<td>No</td>
<td>28.7</td>
</tr>
<tr>
<td>3 Brand (WA)</td>
<td>Provincial</td>
<td>No</td>
<td>28.6</td>
</tr>
<tr>
<td>4 Hunter (NSW)</td>
<td>Rural</td>
<td>No</td>
<td>27.9</td>
</tr>
<tr>
<td>5 Lyons (Tas)</td>
<td>Rural</td>
<td>No</td>
<td>27.1</td>
</tr>
<tr>
<td>6 Throsby (NSW)</td>
<td>Provincial</td>
<td>No</td>
<td>25.6</td>
</tr>
<tr>
<td>7 Fowler (NSW)</td>
<td>Outer Metropolitan</td>
<td>Yes</td>
<td>24.4</td>
</tr>
<tr>
<td>8 Blaxland (NSW)</td>
<td>Inner Metropolitan</td>
<td>No</td>
<td>23.1</td>
</tr>
<tr>
<td>9 Reid (NSW)</td>
<td>Inner Metropolitan</td>
<td>No</td>
<td>22.6</td>
</tr>
<tr>
<td>10 Lalor (Vic)</td>
<td>Outer Metropolitan</td>
<td>No</td>
<td>21.1</td>
</tr>
<tr>
<td>11 Werriwa (NSW)</td>
<td>Outer Metropolitan</td>
<td>No</td>
<td>20.9</td>
</tr>
<tr>
<td>12 Prospect (NSW)</td>
<td>Outer Metropolitan</td>
<td>No</td>
<td>19.9</td>
</tr>
<tr>
<td>13 Charlton (NSW)</td>
<td>Provincial</td>
<td>No</td>
<td>19.3</td>
</tr>
<tr>
<td>14 Gellibrand (Vic)</td>
<td>Inner Metropolitan</td>
<td>Yes</td>
<td>19.0</td>
</tr>
<tr>
<td>15 Port Adelaide (SA)</td>
<td>Inner Metropolitan</td>
<td>No</td>
<td>18.6</td>
</tr>
<tr>
<td>Average</td>
<td></td>
<td>No</td>
<td>18.6</td>
</tr>
</tbody>
</table>

a The term 'Loss' refers to the reduction from the Labor share of the two-party-preferred vote in 1998 to the Yes percentage in 1999. For example, in Gellibrand in 1998 Labor had 75.9 per cent of the two-party preferred vote. The Yes vote in 1999 was 56.9 per cent, so the loss was 19 per cent.

In Richmond (NSW) where the member, Larry Anthony, was a self-proclaimed republican and advocate for a Yes vote.

In our opening paragraph, we wrote of an estimate that 80 percent of the 1998 National Party vote was cast against the republic in 1999. A major problem with estimating the National Party separately from the Liberals is that opinion polls typically lump the two together under the heading 'Coalition'. Where polls do distinguish there is a strong tendency to over-estimate the Liberals and under-estimate the Nationals because voters do not really differentiate the two. That leads typically to very small and, therefore, unreliable samples of National Party voters. In the light of Table 8.10 and such survey research as has been done, we think the 80 percent figure is highly plausible, if unprovable.

Survey results are as instructive as aggregate data. The 1999 Australian Constitutional Referendum Study (ACRS) was conducted to investigate the Australian electorate’s attitudes towards the significant political issues surrounding the 1999 constitutional referendum. The principal investigators were David Gow of the University of Queensland, Clive Bean of the Queensland University of Technology and Ian McAllister of the Australian National University. As part of the Australian Election Study series, the 1999
Table 8.9: John Anderson: Total success in No advocacy, two-party-preferred votes in National seats, 3 October 1998

<table>
<thead>
<tr>
<th>Seat</th>
<th>Votes preferring Labor Votes</th>
<th>Votes preferring National Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Votes %</td>
<td>%</td>
</tr>
<tr>
<td>New South Wales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cowper</td>
<td>32,002</td>
<td>43.6</td>
</tr>
<tr>
<td>Farrer</td>
<td>24,493</td>
<td>35.4</td>
</tr>
<tr>
<td>Gwydir</td>
<td>24,330</td>
<td>36.4</td>
</tr>
<tr>
<td>Lyne</td>
<td>30,650</td>
<td>40.3</td>
</tr>
<tr>
<td>New England</td>
<td>25,377</td>
<td>37.1</td>
</tr>
<tr>
<td>Page</td>
<td>35,724</td>
<td>47.6</td>
</tr>
<tr>
<td>Parkes</td>
<td>33,617</td>
<td>45.9</td>
</tr>
<tr>
<td>Richmond</td>
<td>40,013</td>
<td>49.2</td>
</tr>
<tr>
<td>Riverina</td>
<td>25,801</td>
<td>34.7</td>
</tr>
<tr>
<td>Victoria</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gippsland</td>
<td>30,445</td>
<td>41.2</td>
</tr>
<tr>
<td>Malie</td>
<td>23,109</td>
<td>30.6</td>
</tr>
<tr>
<td>Queensland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dawson</td>
<td>35,375</td>
<td>45.6</td>
</tr>
<tr>
<td>Hinkler</td>
<td>35,933</td>
<td>49.7</td>
</tr>
<tr>
<td>Kennedy</td>
<td>29,341</td>
<td>38.8</td>
</tr>
<tr>
<td>Maranoa</td>
<td>26,826</td>
<td>35.6</td>
</tr>
<tr>
<td>Wide Bay</td>
<td>33,814</td>
<td>47.1</td>
</tr>
<tr>
<td>Total National Party seats</td>
<td>486,850</td>
<td>41.3</td>
</tr>
</tbody>
</table>

ACRS provides a perspective on the political attitudes and behaviour of the Australian public, which, in turn, can be compared to those attitudes recorded at past and future electoral events. The 1999 ACRS also functions more specifically as a means of investigating the patterns of public opinion concerning the republic and its specific features.

Variables include: voting preference; degree of exposure to media reporting of the referendum; level of interest in the referendum debate; past and present political affiliation; party voted for at the last (1998) election; evaluation of parties, politicians and key participants in the referendum debate; views on national identity and Australia's standing in the world; preferred head of state and the importance of the Queen to Australia; knowledge of the current role of the Queen and Governor-General and future role of the president if Australia became a republic; perceived changes to powers held by the prime minister and the president; attitudes to a range of issues including unions, big business, income distribution, law enforcement, equal opportunities for migrants/women, Aboriginal land rights; and views on the preferred function of society, government and the law. Background variables include level of education, employment status, occupation, type of employer, position at
workplace, trade union membership, sex, age, own and parents' country of birth, parents' political preferences, religion, marital status, income and, where applicable, the occupation, trade union membership and political preference of the respondent's spouse.

Of the many findings from the ACRS, the two most significant are those on the referendum and party votes. For the referendum the question was: 'In the Constitutional Referendum held on Saturday 6 November, did you vote YES or NO for Australia to become a Republic?' Answers from respondents were 1,533 for Yes (47.7 percent) and 1,683 for No (52.3 percent). That was close to the result of the referendum, albeit with a marginal over-estimate of support for the republic. By contrast, the party votes illustrated the points made above. There was a clear tendency for people to say they had voted Liberal in 1998 when a significant number of such respondents probably did not vote Liberal. After all, the election was more than a year earlier, so memory of election vote would be poorer than that of referendum vote. The ACRS question was: 'In the last Federal election in October 1998, when the Liberals were led by Howard and Labor by Beazley, which party got your first preference in the House of Representatives election?' As shown in Table 8.11, answers from respondents were 1,322 for Liberal Party, 1,304 for Labor, 96 for National Party, 202 for Democrats, 96 for Greens, 119 for One Nation and 64 for another party/Independent.

Table 8.12 cross tabulates party voted for in the 1998 election by social class and vote at the referendum. It shows that, of Liberal voters who consider themselves upper class, 47.2 percent voted Yes and 52.8 percent No. Of Liberal voters who consider themselves working class, however, only 30.2 percent voted Yes and 69.8 percent No. So the higher the social status that Liberals saw themselves, the less likely they were to follow the 'party line'. For Labor voters who consider themselves upper class, 66.7 percent voted Yes and 33.3 percent No. Of Labor voters who consider themselves working class, by contrast, there was only a bare majority for the Yes side. The higher the social status of Labor voters, therefore, the more they were likely to follow the party line by voting for the republic on offer.

Table 8.13 shows the party for which respondents would vote in an election today by social class and vote in the referendum. A different measure of party support is used and more parties are included in the table. However, the findings of Table 8.12 are not varied in any significant way by Table 8.13. Essentially, this information is somewhat paradoxical. While Liberals are more likely to think of themselves as upper class than Labor voters, the party line for Labor (Yes in the referendum) was the upper class vote. Liberals considering
Table 8.10: John Anderson: Total success in No advocacy, republic referendum votes in National seats, 6 November 1999

<table>
<thead>
<tr>
<th>Seat</th>
<th>Yes Votes</th>
<th>Yes %</th>
<th>No Votes</th>
<th>No %</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cowper (4.2)</td>
<td>30,100</td>
<td>39.4</td>
<td>46,319</td>
<td>60.6</td>
</tr>
<tr>
<td>Farrer (1.5)</td>
<td>24,008</td>
<td>33.9</td>
<td>46,823</td>
<td>66.1</td>
</tr>
<tr>
<td>Gwydir (8.6)</td>
<td>19,274</td>
<td>27.8</td>
<td>50,081</td>
<td>72.2</td>
</tr>
<tr>
<td>Lyne (1.9)</td>
<td>31,045</td>
<td>36.4</td>
<td>49,785</td>
<td>61.6</td>
</tr>
<tr>
<td>New England (4.5)</td>
<td>23,328</td>
<td>32.6</td>
<td>48,203</td>
<td>67.4</td>
</tr>
<tr>
<td>Page (8.8)</td>
<td>29,925</td>
<td>38.8</td>
<td>47,213</td>
<td>61.2</td>
</tr>
<tr>
<td>Parkes (15.4)</td>
<td>22,592</td>
<td>30.5</td>
<td>51,549</td>
<td>69.5</td>
</tr>
<tr>
<td>Richmond (3.1)</td>
<td>39,208</td>
<td>46.1</td>
<td>45,790</td>
<td>53.9</td>
</tr>
<tr>
<td>Riverina (1.2)</td>
<td>25,701</td>
<td>33.5</td>
<td>51,017</td>
<td>66.5</td>
</tr>
<tr>
<td>Victoria</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gippsland (6.3)</td>
<td>27,335</td>
<td>34.9</td>
<td>51,092</td>
<td>65.1</td>
</tr>
<tr>
<td>Mallee (1.8)</td>
<td>22,395</td>
<td>28.8</td>
<td>55,426</td>
<td>71.2</td>
</tr>
<tr>
<td>Queensland</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dawson (14.6)</td>
<td>25,167</td>
<td>31.0</td>
<td>55,945</td>
<td>69.0</td>
</tr>
<tr>
<td>Hinkler (19.1)</td>
<td>22,989</td>
<td>30.6</td>
<td>52,031</td>
<td>69.4</td>
</tr>
<tr>
<td>Kennedy (9.0)</td>
<td>23,326</td>
<td>29.8</td>
<td>54,977</td>
<td>70.2</td>
</tr>
<tr>
<td>Maranoa (12.8)</td>
<td>17,944</td>
<td>22.8</td>
<td>60,610</td>
<td>77.2</td>
</tr>
<tr>
<td>Wide Bay (21.4)</td>
<td>19,052</td>
<td>25.7</td>
<td>55,153</td>
<td>74.3</td>
</tr>
<tr>
<td>Total National Party seats (8.4)</td>
<td>403,389</td>
<td>32.9</td>
<td>822,014</td>
<td>67.1</td>
</tr>
</tbody>
</table>

Note: The figures in brackets beside the name of each seat are the percentage differential between both (a) the Labor vote and the Yes vote, and (b) the National and No votes. In every seat the Yes percentage was lower than the 1998 Labor percentage of the two-party-preferred vote.

Table 8.11: Percentages at 1998 election and in ACRS

<table>
<thead>
<tr>
<th>Party</th>
<th>% 1998</th>
<th>Number</th>
<th>%</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor</td>
<td>40.1</td>
<td>1,304</td>
<td>40.7</td>
<td>+0.6</td>
</tr>
<tr>
<td>Liberal</td>
<td>34.2</td>
<td>1,322</td>
<td>41.3</td>
<td>+7.1</td>
</tr>
<tr>
<td>One Nation</td>
<td>8.4</td>
<td>119</td>
<td>3.7</td>
<td>-4.7</td>
</tr>
<tr>
<td>National</td>
<td>5.3</td>
<td>96</td>
<td>3.0</td>
<td>-2.3</td>
</tr>
<tr>
<td>Democrats</td>
<td>5.1</td>
<td>202</td>
<td>6.3</td>
<td>+1.2</td>
</tr>
<tr>
<td>Greens</td>
<td>2.1</td>
<td>96</td>
<td>3.0</td>
<td>+0.9</td>
</tr>
<tr>
<td>Other</td>
<td>4.8</td>
<td>64</td>
<td>2.0</td>
<td>-2.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>3,203</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

themselves as working class were very likely to follow the ‘party line’ while upper class Liberals were not. Labor supporters from the upper class were very likely to vote Yes in accordance with the party line while those from the working class were not nearly as likely to do so. (Incidentally some 1,500
Table 8.12: Social class cross tabulation: ACRS

<table>
<thead>
<tr>
<th>Social Class</th>
<th>Party voted for in 1998</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Liberal</td>
<td>%</td>
<td>Labor</td>
<td>%</td>
<td>Total</td>
</tr>
<tr>
<td>Upper Class</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>17</td>
<td>47.2</td>
<td>6</td>
<td>66.7</td>
<td>23</td>
</tr>
<tr>
<td>No</td>
<td>19</td>
<td>52.8</td>
<td>3</td>
<td>33.3</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>36</td>
<td>100.0</td>
<td>9</td>
<td>100.0</td>
<td>45</td>
</tr>
<tr>
<td>Working Class</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>146</td>
<td>30.2</td>
<td>389</td>
<td>53.6</td>
<td>535</td>
</tr>
<tr>
<td>No</td>
<td>337</td>
<td>69.8</td>
<td>337</td>
<td>46.4</td>
<td>674</td>
</tr>
<tr>
<td>Total</td>
<td>483</td>
<td>100.0</td>
<td>726</td>
<td>100.0</td>
<td>1,209</td>
</tr>
</tbody>
</table>

Table 8.13: Further social class cross tabulations: ACRS

<table>
<thead>
<tr>
<th>Social Class</th>
<th>If election today, who vote for</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Liberal</td>
<td>%</td>
<td>Labor</td>
<td>No.</td>
<td>National</td>
</tr>
<tr>
<td>Upper Class</td>
<td></td>
<td></td>
<td></td>
<td>No.</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>13</td>
<td>46.4</td>
<td>9</td>
<td>75.0</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>15</td>
<td>53.6</td>
<td>3</td>
<td>25.0</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>28</td>
<td>100.0</td>
<td>12</td>
<td>100.0</td>
<td>4</td>
</tr>
<tr>
<td>Working Class</td>
<td></td>
<td></td>
<td></td>
<td>No.</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>112</td>
<td>26.7</td>
<td>395</td>
<td>56.3</td>
<td>11</td>
</tr>
<tr>
<td>No</td>
<td>307</td>
<td>73.3</td>
<td>307</td>
<td>43.7</td>
<td>34</td>
</tr>
<tr>
<td>Total</td>
<td>419</td>
<td>100.0</td>
<td>702</td>
<td>100.0</td>
<td>45</td>
</tr>
</tbody>
</table>

Table 8.14: Income cross tabulations: ACRS

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Party voted for in 1998</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Above $80,000</td>
<td>Liberal</td>
<td>%</td>
<td>Labor</td>
<td>%</td>
<td>Total</td>
</tr>
<tr>
<td>Yes</td>
<td>146</td>
<td>53.1</td>
<td>157</td>
<td>81.3</td>
<td>303</td>
</tr>
<tr>
<td>No</td>
<td>129</td>
<td>46.9</td>
<td>36</td>
<td>18.7</td>
<td>165</td>
</tr>
<tr>
<td>Total</td>
<td>275</td>
<td>100.0</td>
<td>193</td>
<td>100.0</td>
<td>468</td>
</tr>
<tr>
<td>Below $80,000</td>
<td>Liberal</td>
<td>%</td>
<td>Labor</td>
<td>%</td>
<td>Total</td>
</tr>
<tr>
<td>Yes</td>
<td>413</td>
<td>36.6</td>
<td>714</td>
<td>60.5</td>
<td>1,127</td>
</tr>
<tr>
<td>No</td>
<td>716</td>
<td>63.4</td>
<td>466</td>
<td>39.5</td>
<td>1,182</td>
</tr>
<tr>
<td>Total</td>
<td>1,129</td>
<td>100.0</td>
<td>1,180</td>
<td>100.0</td>
<td>2,309</td>
</tr>
</tbody>
</table>

respondents called themselves middle class and their patterns, not surprisingly, lay between the two categories shown in Tables 8.12 and 8.13.)

This story is repeated for income, as shown in Table 8.14. For Liberals with incomes below $80,000 there were 716 No votes and 413 for Yes, a solid margin in support of the ‘party line’. However, Liberals with incomes above
$80,000 showed Yes in the majority. There were 146 Yes votes and 129 for No. For Labor voters with incomes below $80,000 there were 714 Yes and 466 No, a reasonable majority for the party line but by no means resounding. By contrast, Labor voters with incomes above $80,000 split 157 to 36 in favour of Yes. Party is statistically significant in both income levels, which means that the income effects are not being over-ridden by party. Table 8.15 shows the party voted for in the last election by employment status and vote in the referendum. Liberal voters who were employed were slightly less likely to vote Yes than No. However, Liberal voters who were unemployed were much more likely to vote No (68 percent) than Yes (32 percent). Two-thirds of Labor voters in both categories, however, voted Yes. For both parties, support for the republic was greatest among those undertaking their own education.

Questions of social class, income and occupation are essentially ones of socio-economic advantage and disadvantage. Included in the relationship also are educational attainment (or lack of it), levels of skill, property ownership (or lack of it) and race. For example, Aboriginal Australians and Torres Strait Islanders are the most disadvantaged, but renters and one-parent families are also disadvantaged. It is interesting, therefore, to measure the referendum vote against these criteria. Fortunately, the Australian Bureau of Statistics has measurements of socio-economic advantage, economic resources and education and occupation. Nearly a year before the referendum, the Parliamentary Library produced the *Socio-Economic Indexes for Electoral Divisions* (Department of the Parliamentary Library 1998a).

In Table 8.7 we ranked the 36 safe Labor seats by Yes vote and by relative socio-economic advantage/disadvantage. We show that, of the 36 safe Labor seats, Bonython was the most disadvantaged (36), Fowler the second most disadvantaged (35) and Chifley the third most (34). It should be noted that the ranks in the *Socio-Economic Indexes for Electoral Divisions* do not merely apply to safe Labor seats. Of all the 148 electorates Bonython, Fowler and Chifley are the three most disadvantaged. These three divisions were striking cases of Labor’s failure to persuade its own voters to say Yes. However, a look at the other end of the scale is, perhaps, more interesting.

Table 8.16 shows the 34 Electoral Divisions with the highest Indexes of Relative Socio-Economic Advantage, together with the party holding the seat on referendum day and whether it voted Yes or No in the republic referendum. (Notice the absence of Tasmania and the Northern Territory from the list.) A quotation from page 2 of the publication explains the index:
The Index of Relative Socio-Economic Advantage includes variables that measure relative social and economic well-being. Indicators included are: high income families; professional occupations; tertiary educational qualifications; dwellings owned or being purchased; dwellings with a large number of bedrooms and a large number of motor vehicles. A higher score on this index means that the Electoral Division has a relatively large proportion of people with the above attributes (i.e., high incomes, professional occupations, tertiary qualifications, etc.). Conversely, a lower score on this index means that the Electoral Division has a relatively low proportion of people with these characteristics (Department of the Parliamentary Library 1998a, 2).

Of these seats, 24 voted Yes (16 Liberal and 8 Labor) while only 10 voted No. In other words, whereas the 148 electorates Australia-wide split more than two-to-one in favour of No, the 34 ‘rich’ electorates split more than two-to-one in favour of Yes. It is no surprise to learn that all 10 No-voting high socio-economic electorates are Liberal-held. The totals for the 16 ‘rich’ Yes-voting Liberal seats (Bradfield, Kooyong, Ryan, Berowra, North Sydney, Menzies, Curtin, Higgins, Warringah, Goldstein, Wentworth, Bennelong, Aston, Boothby, Deakin and Sturt, mean index 1118.3) were 732,045 for Yes (56.5 percent) and 563,303 for No (43.5 percent). The totals for the 10 ‘rich’ No-voting Liberal seats (Mitchell, Tangney, Mackellar, Hughes, Cook, Mayo, Moore, Pearce, Moreton and Macquarie, mean index 1077.9) were 433,024 for

Table 8.15: Employment cross tabulation: ACRS

<table>
<thead>
<tr>
<th>Employment Status</th>
<th>Party voted for in 1998</th>
<th>Liberal</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td><strong>Employed</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>389</td>
<td>47.0</td>
<td>521</td>
<td>67.4</td>
</tr>
<tr>
<td>No</td>
<td>439</td>
<td>53.0</td>
<td>252</td>
<td>32.6</td>
</tr>
<tr>
<td>Total</td>
<td>828</td>
<td>100.0</td>
<td>773</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Unemployed</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>9</td>
<td>32.1</td>
<td>40</td>
<td>65.6</td>
</tr>
<tr>
<td>No</td>
<td>19</td>
<td>67.9</td>
<td>21</td>
<td>34.4</td>
</tr>
<tr>
<td>Total</td>
<td>28</td>
<td>100.0</td>
<td>61</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Retired</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>74</td>
<td>24.6</td>
<td>153</td>
<td>55.0</td>
</tr>
<tr>
<td>No</td>
<td>227</td>
<td>75.4</td>
<td>125</td>
<td>45.0</td>
</tr>
<tr>
<td>Total</td>
<td>301</td>
<td>100.0</td>
<td>278</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>School/University</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>19</td>
<td>51.4</td>
<td>38</td>
<td>76.0</td>
</tr>
<tr>
<td>No</td>
<td>18</td>
<td>48.6</td>
<td>12</td>
<td>24.0</td>
</tr>
<tr>
<td>Total</td>
<td>37</td>
<td>100.0</td>
<td>50</td>
<td>100.0</td>
</tr>
</tbody>
</table>
The total votes for the 8 'rich' Labor seats (Canberra, Fraser, Melbourne Ports, Jagajaga, Chisholm, Lowe, Sydney and Brisbane, mean index 1065.4) were 422,615 for Yes (61.1 percent) and 268,608 for No (38.9 percent). A crude analysis might be to say that the typical Yes voter lives in an inner metropolitan suburb of Sydney (say, in Lowe or Sydney), Melbourne (say, in Chisholm or Melbourne Ports) or Canberra, votes Labor, has a job with a 'high' income, a university degree, a middle-upper occupational status, is not old and was not born in the United Kingdom.

The eight electorates named in the two preceding sentences are Labor-held. Consequently, the federal member was advocating a Yes vote. Such was also the case for most of the Liberal Yes-voting seats where the member was advocating a Yes vote, for example Kooyong, North Sydney, Higgins and Curtin. Perhaps the most interesting cases, therefore, are the two Yes-voting upper SES Liberal seats held by the 'arch monarchist' members Tony Abbott and Howard. Warringah holds 10th place and 'the Republic of Bennelong' 16th place in Table 8.16, showing seats with the highest indexes of relative socio-economic advantage. In conversations with the present writers both Abbott and Howard made this claim: 'I estimate that about two-thirds of those who voted for me in October 1998 took my advice and voted against the republic in November 1999'. We agree with that estimate, which is based on the view that the Labor voters in that kind of seat voted so solidly Yes that each man could claim that a substantial majority of those who had voted for him at the general election took his advice and voted No at the referendum. Consider the case of Bennelong, where the two-party preferred vote in 1998 had been 42,075 Liberal and 33,013 Labor. At the referendum the Yes vote was 43,950 and the No vote 36,508. If nine out of ten of those 33,000 Labor voters did vote Yes, the Yes Liberal vote would have been, say, 12,000. About two-thirds of those who had voted for him at the election did take the Prime Minister's advice on the referendum.

Our analysis of voting at the 40 polling places within Bennelong and 34 within Warringah does nothing to undercut the claim of either man. If we take the nine polling places within Bennelon, where the general election vote was weakest for Howard, we find the Yes vote was 56.2 percent compared with 54.6 percent for Bennelong as a whole. If we take the seven polling places within Warringah, where the general election vote was weakest for Abbott, we find the Yes vote was 54.1 percent compared with 54.5 percent for Warringah as a whole. In Warringah, however, a pattern can be found which does not appear to exist in Bennelong. In Warringah, the further the polling place lay from the
Sydney CBD, the more likely it was to vote No. The outlying polling places of Allambie, Allambie Heights, Beacon Hill, Brookvale, Dee Why Central, Forestville East and North Manly voted No. By contrast, Mosman West was the only inner polling place to vote negatively.

Let us be colloquial and call the 34 seats in Table 8.16 'the Rich List' and make two further observations about it. The first is to compare Table 8.16 with

<table>
<thead>
<tr>
<th>Rank</th>
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<th>Party</th>
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</table>

Divisions appearing only in Table 16 are shown in italics. They are Fraser, Moore, Pearce, Moreton and Macquarie.
Table 8.4, which gave details of the 42 seats which voted Yes. That table listed 25 Labor seats voting Yes, of which only eight are also on ‘the Rich List’ (Sydney, Melbourne Ports, Fraser, Canberra, Brisbane, Chisholm, Jagajaga and Lowe). Table 8.4 gave 17 Liberal seats voting Yes, of which only Adelaide is not on ‘the Rich List’. The second observation about Table 8.16 is to notice how closely it correlates with Table 8.17, which shows all the seats where the Yes percentage in 1999 was higher than Labor’s share of the two-party preferred vote in 1998 (‘The Yes Gain Table’). There are only five seats of the 34 on ‘the Rich List’ in Table 8.16 not on ‘The Yes Gain Table’. (The seats are Fraser which voted Yes and Moore, Pearce, Moreton and Macquarie which voted No.) Conversely, there are only five seats on ‘The Yes Gain Table’ not on ‘the Rich List’ (Adelaide which voted Yes and Murray, Moncrieff, Hindmarsh and Casey which voted No).

At the other end of the scale it is possible to compile ‘the Poor List’. We have taken the 15 highest ranked seats from the table ‘Electoral Divisions Ranked by the Index of Relative Socio-Economic Disadvantage’ from the Socio-
Economic Indexes for Electoral Divisions. The 15 seats on ‘the Poor List’ comprise ten held by Labor (Bonython, Fowler, Chifley, Gellibrand, Port Adelaide, Oxley, Throsby, Reid, Blaxland and Braddon), four held by the National Party (Wide Bay, Cowper, Gwydir and Hinkler) and one held by the Liberal Party (Grey). Only two of these 15 seats voted Yes (Fowler and Gellibrand) and in all cases the Yes vote was well below the Labor share of the two-party preferred vote in 1998. If we look back to Tables 8.7 and 8.8 we notice that Bonython and Chifley were the two seats where the Labor Party most conspicuously failed to persuade its supporters to vote Yes. In Fowler and Gellibrand, too, the failure was there, but it was not enough to deny the republic a majority. What, then, are the characteristics of Bonython, Chifley, Fowler and Gellibrand (all safe Labor seats on ‘the Poor List’) that should produce such divergent results? We turn again to the Parliamentary Library and the Electorate Rankings: Census 1996 (Department of the Parliamentary Library 1998b).

On the referendum vote, Chifley is the one closest to the typical electorate. With an Australia-wide Yes vote of 45.1 percent, we find Chifley on 42.2 percent. By contrast, Gellibrand on 56.9 percent and Fowler on 51.9 percent were well above Australia as a whole. Bonython on 33.3 percent was well below. An examination of the rankings shows Chifley as the seat among the four usually closest to the median ranking number 74. However, that is not always the case. For example, the population of Chifley is notably young. Only 5.6 percent of its population was aged 65 years and over compared with seat number 74 at 12.4 percent. The median age of Chifley was 28, the third lowest
in the country. At seat number 74 the median age was 34. Another unusual characteristic of Chifley lies under the heading 'proportion of one parent families with dependent children'. The Chifley figure is 15.1 percent, the highest in Australia. Bonython comes in third at 14.4 percent.

The three safe Labor seats other than Chifley (Bonython, Gellibrand and Fowler) provide an interesting contrast. In Bonython only 19.9 percent of the population was of the Catholic religion. In Gellibrand and Fowler the figures were 33.8 percent and 32.2 percent, respectively. The proportion of persons of non-Christian religion in Bonython was 2.5 percent. In Fowler the figure was 20.3 percent, the highest in Australia. In Gellibrand the figure was 9.8 percent, the 11th highest. The proportion of persons of 'No Religion' in Bonython was 28.3 percent, the highest in the country.

In terms of place of birth Fowler was highest in Australia by proportion of persons born overseas. It was the only electorate where a majority of the population was born overseas. On that score the percentages for Fowler, Gellibrand, Chifley and Bonython were 51.3 percent, 40.1 percent, 30.6 percent and 28.1 percent, respectively. Every one of the top dozen electorates by birth in the United Kingdom and Ireland turned in a No majority. Bonython came in at number four. The proportions for Moore, Brand, Canning and Bonython were 22.4 percent, 19.8 percent, 18.2 percent and 16.3 percent, respectively. In Chifley, very close to the median, the figure was five percent. In Gellibrand and Fowler, the proportions were 3.7 percent and 2.4 percent, respectively. Gellibrand and Fowler were in the top 15 by birth in Southern Europe, Gellibrand (fifth) at 13.2 percent and Fowler (15th) at 8.9 percent.

However, where Fowler and Gellibrand really stand out are in the descriptions 'Proportion of Persons Born in South East Asia' (Fowler first, Gellibrand second), 'Proportion of Persons Born in Non English Speaking Countries' (Fowler first, Gellibrand eighth), 'Proportion of Persons Born Overseas and Australian-Born persons with Overseas-Born Parents' (Fowler first, Gellibrand 10th, with Fowler the only electorate where more than two-thirds of the population met the description), 'Proportion of Persons Not Fluent in English' (Fowler first, Gellibrand third) and 'Proportion of Persons Speaking a Language Other Than English at Home' (Fowler first, Gellibrand ninth, with Fowler the only electorate where more than 60 percent of the population met the description). The implications from these data are clear. Very poor electorates like Gellibrand and Fowler will vote Yes because of their high ethnicity and relatively high non-Christianity or (where Christian) Catholicity. By contrast, a very poor electorate like Bonython will solidly vote No because of high proportions born in the United Kingdom and low
Catholicity. Yet all three are among the four electorates with the highest unemployment rates. At the 1996 census the unemployment rates of Fowler, Bonython and Gellibrand were 17.9 percent, 16.2 percent and 16.1 percent, respectively. There was only one other seat with an unemployment rate above 15 percent, namely the National Party seat of Cowper (NSW).

These inferences might not be of so much value, were it not for the existence of survey data. Consequently let us now look at Tables 8.18 and 8.19.

### Table 8.17: The Yes gain

<table>
<thead>
<tr>
<th>Rank</th>
<th>Division</th>
<th>Party</th>
<th>Yes gain</th>
<th>% Labor 2PPV</th>
<th>% Yes</th>
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</thead>
<tbody>
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Divisions appearing only in Table 17 are shown in italics. They are Adelaide, Murray, Moncrieff, Hindmarsh and Casey.
which come from the ACRS data. Table 8.18 tells us that Liberal voters who were born in Australia were more likely to vote No (62.7 percent) than Yes (37.3 percent). However, Liberal voters born in the United Kingdom were the least likely to vote Yes in the referendum (35.8 percent). No wonder a ‘rich’ electorate like Moore (Liberal, WA) should vote so solidly No when its other characteristics suggested a Yes vote. Table 8.19 tells us that Liberal voters of the Catholic religion voted No over Yes in the ratio 55–45. That is 10 percent lower for ‘the party line’ than Liberal voters taken as a whole. The big contrast is with Orthodox Church Liberals, of whom 73.7 percent voted Yes.

What ultimate conclusions can we draw about the results of the 1999 Republic Referendum? In our view, three stand out. First, voting for the republic was an inner metropolitan phenomenon. Second, voting for the republic was correlated with income and socio-economic status, which to a considerable degree explains the failure of the ALP to successfully mobilise a decent majority of its 1998 supporters to vote for the republic in 1999 (we are not willing to call 57 percent ‘a decent majority’). To these factors we would add a third, which augurs poorly for future attempts to bring about a republic. This is that ‘republic’, in the abstract, is an expression of a nebulous concept. One of the reasons opinion polls show high support for a republic is that their questions are often cast in a nebulous form. In a referendum, however, it is always necessary to specify exactly what the term is to mean and, in 1999, this

Table 8.18: Country of birth cross tabulation: ACRS

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<th>Country of birth</th>
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<th>Labor No.</th>
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<th>National No.</th>
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very act of specification split republicans into two hostile camps: those concerned with national symbols and those concerned with popular empowerment.

The latter worked to defeat the brand of 'republic' on offer, since this was the only way to keep 'their' republic alive. Should 'their' republic one day be on offer, it is by no means certain that those who voted for a nominal republic in 1999 would support a substantive republic at that time. From this, a political scientist might conclude that the monarchical status quo is the Condorcet winner, namely that option which, even if not supported itself by a majority, can garner enough support to defeat any alternative. To put it another way (as one commentator did on the night of the referendum), one might fairly describe the republicans as a circular firing squad.

We have just introduced what many will think of as a new term. It is one we think should appear in any glossary of Australian electoral studies: 'Condorcet winner', after the French mathematician, philosopher, historian and republican

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politician, Marie Jean Antoine Nicolas de Caritat, Marquis de Condorcet (1743–94). Any significant work of international psephology includes a definition for this term, namely 'a candidate who can beat any other in a pairwise contest'. To be a Condorcet winner you need a decent level of minority support. If your support falls too much you then become a 'Condorcet loser'.

While the idea of the Queen as a candidate for election may seem strange, that is the Australian reality. Our picture of the future is that there will be a plebiscite some day in which, say, 75 percent of voters assert that they want 'a republic with an Australian head of state'. Then an actual republican constitution (with a popularly elected president) will be put to the people. Not only will that 'maximalist' model be more heavily defeated than its 'minimalist' predecessor, it will give Sir Robert Menzies joy from his grave. Having watched his beloved Kooyong give a 23,000 vote majority for the republic in 1999, he will laugh as Kooyong gives a 23,000 vote majority for the Queen in 2009.

Another term will then be added to the glossary: 'Neverendum'. Faced with the Queen's victory in Referendum One, then Referendum Two, people will switch off, muttering this new word. As the Americans would say, 'If it ain't broke don't fix it'.
Chapter Nine

Public Opinion on Britain, a Directly Elected President, and an Australian Republic

Jonathan Kelley, M D R Evans, Malcolm Mearns and Bruce Headey

The 1999 referendum on becoming a republic with a President selected by Parliament was the first — but probably not the last — time these issues came to a vote in Australia. The issues involved are far from novel. The Australian public has longstanding views on issues raised by the referendum. Most voters formed their opinions on these issues years before the referendum was called and few changed their opinion in the course of the referendum campaign. Our goal in this chapter is to describe the public's views on these issues, to show how these views combined to shape their vote on the question put to them in the referendum and to describe how opinion has developed in the first few years after the referendum. To do this, we examine the attitudes of the Australian public towards the Queen and the Royal Family, towards a republican future for Australia, and towards different methods for selecting the head of state.

This chapter draws heavily on our earlier article (Kelley, Evans, Mearns and Headey 1999). The 2001 data and the analyses based on them are new. Also, results from the 1999/2000 survey have been updated to include new cases that were not available at the time the earlier article was written. We draw on data reaching back more than 20 years, mainly from the International Social Science Surveys/Australia (IsssA) in which we have queried large, representative national samples of Australians about their views on social and political issues since 1984 (Kelley and Evans 1999; 2001). Details are provided in the Technical Appendix.
Background

Monarchy arose as a method of societal governance with the first large-scale societies, and the king’s authority in those societies rested on his success in warfare, his (sometimes brutal) intimidation of his own people, and his ancestry. He was hallowed both by tradition and by the supernatural, with the favour of the local gods towards him being tested and demonstrated on the battlefield. It was by far the most typical method of governing large scale societies for thousands of years, although there were notable exceptions such as the Roman republic. Recently, democracy has emerged as an alternative method of providing governance and peaceful transitions between governments, with its legitimacy derived from the people, specifically through the ceremony of voting. Does the English monarchy, with this patina of history, still enjoy a powerful legitimacy in the eyes of Australians? Is the will of the people the more appropriate authority for consecrating our head of state? Does the lack of pressure for direct democracy in public policy making (Uhr 1998a) mean that the populace would be content to delegate the choice of head of state to Parliament?

Referendums are often referred to by political scientists as a manifestation of direct rather than representative democracy (Lijphart 1984). However true this may be for policy referendums, it is misleading in respect of constitutional referendums (Galligan 1999). The Australian Constitution permits only the latter, not the former, so Australia has a peculiar ‘dualist democracy’ (Ackerman 1991): the people vote only in elections and to decide constitutional arrangements, while public policy decisions are taken by elected representatives, not directly by the public. Although the referendum is recent, it addresses a longstanding issue. Prior research shows that royalism versus republicanism is one of the few enduring non-economic issues in Australia’s political ideology, which is otherwise dominated by enduring economic cleavages and transient non-economic issues (Bean and Kelley 1988, 81–3; 1995; Kelley 1988).

Constitutional referendums on other topics have usually failed. There have been 44 proposed changes put to the people on 19 separate occasions, including the head of state and preamble proposals in 1999. Only eight proposals have passed and only two of these would generally be considered significant: the granting of power to the Commonwealth to pass social services legislation in 1946 and the granting of Aboriginal citizenship in 1967.
Figure 9.1: How important do you feel the Queen and Royal Family are to Australia?

![Bar chart showing the percentage of respondents feeling the Queen and Royal Family are "very important" or "fairly important" to Australia from 1967 to 2001.]

Queen versus republic

Don Aitkin's (1982) pioneering political science surveys inquired into Australians' feelings about the importance of the Queen, and found that the citizenry at this time felt the Queen was quite relevant, with a majority (54 percent) saying that she was 'very important' or 'fairly important' to Australia in 1967 and again in 1979 (Figure 9.1). The dismissal of the Whitlam Government seems to have had no immediate repercussions for the citizenry's feelings about the monarchy.

The majority finding the Queen 'very' or 'fairly' important plunged to a minority, 45 percent, by 1984–85 (Figure 9.1, see also Bean 1991). In a survey of 2,979 people in 1984, a small majority of Australians, 55 percent, felt that the Queen and the Royal Family were not too important to Australia — specifically saying that the Queen and Royal Family were 'not very important' (31 percent) or 'not important at all' (24 percent). By contrast, 28 percent felt that the Queen was 'fairly important' and 16 percent felt that she was 'very important'.

The decline halted in the mid 1980s, at least temporarily, and the relevance of the Queen held fairly stable for the rest of the decade. Even as late as 1990, 45 percent still found the Queen 'very' or 'fairly' important. The Queen’s importance declined to just 33 percent 'very' or 'fairly' important in 1994. It was 31 percent in 1995 and then fluctuated between 25 and 30 percent from 1996/97 to 2001. All in all, that is a remarkable decline: from a 54 percent majority feeling the Queen was at least moderately important to Australia in 1979, to only a small 25 to 30 percent minority holding that view now.
Even though support for the Queen had ebbed, that did not at first mean majority support for a republic. In 1984–85 we asked: ‘Do you think Australia should retain the Queen of England as head of state or become a republic?’ At that time, only 41 percent thought Australia ‘probably’ or ‘definitely’ should become a republic, although this was up sharply from 36 percent in the late 1970s (Figure 9.2). That balance of opinion then held steady through to 1990 (Bean 1991). Support for a republic skyrocketed to 60 percent by 1994. After that, support continued to increase, albeit at a slower pace, with 62 percent favouring a republic by 1995 and 66 percent the next year. Support for a republic has held steady at around 65 percent in favour in the referendum year (1999) and on into the beginning of the post-referendum era (2001). In all, this was a dramatic shift in favour of a republic, from 36 percent in favour in 1979 to 66 percent in favour less than two decades later.

It is noteworthy that support for the Queen had begun to fade before support for a republic rose: it is not so much that a republic displaced the monarchy as a public ideal, but rather that the monarchy was on the wane.

Table 9.1: 1984: Monarchy or republic?

<table>
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<td>Probably retain the Queen</td>
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<tr>
<td>Probably become a republic</td>
<td>20%</td>
</tr>
<tr>
<td>Definitely become a republic</td>
<td>21%</td>
</tr>
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</table>

(2,907 cases in 1984)

Figure 9.2: Do you think Australia should retain the Queen of England as head of state or become a republic?
before the republic’s star rose. It is also noteworthy that support for a republic was not fading in the year that the referendum failed, but rather was holding steady at a solid majority of around 65 percent. Moreover, the failure of the referendum induced no backlash against the republic, rather support continued to hold steady at least into the beginning of the post-referendum era.

Social differences in support for a republic

A multiple regression analysis shows which groups support and which oppose a republic (Figure 9.3). These data are from a large IsssA panel survey in 1995 and 1996. For simplicity, and to reduce measurement error, we combine the two questions on the Queen and a republic into a single measure (details are in the Technical Appendix). The figures shown in the graph (standardised partial regression coefficients) show the relative importance of each influence.

This analysis clearly shows that, by the mid 1990s, support for the republic was widespread, not just concentrated among a sophisticated, well-educated Melbourne-Sydney elite. Support was only a few percent higher in the cities

Figure 9.3: Sources of support for a republic, 1996:
IsssA 1995–97 panel survey
than in the country. It was equally common among the well-educated and the poorly educated, among those in routine, low status jobs, and those in management and the professions, among rich and poor, and (surprisingly) equally common among government employees and those in private enterprise. The self-employed were a little keener on a republic than were employees, perhaps because of a generalised preference for autonomy. Support was just a fraction higher among the young than the old. Trade union members were a little keener on a republic than non-members. These differences are all in the direction that stereotypes would lead us to expect, but the differences were small, with standardised regression coefficients under 0.10. In all, rather than sharp social cleavages, there was majority support for the republic in almost all social groups, but not overwhelming support in any one.

**Political differences in support for a republic**

Political differences were important, much more important than social cleavages (Figure 9.3). Labor supporters being a great deal keener on a republic than were Liberal supporters, who, in turn, were a little keener on a republic than were National Party supporters. Liberal supporters are the reference or comparison group, and so not shown explicitly in the diagram. The 0.24 for Labor supporters shows how much more supportive they are compared to Liberal supporters, while the —0.06 for National supporters shows how much less supportive they are compared to Liberals.

Political culture or ideology also played a very large role. These attitudes were almost all measured in 1995, a year or more before we asked respondents about their views on the republic in 1996–97. This panel survey contacted the same respondents twice, once in 1995–96 and once in 1996–97. Panel surveys are particularly useful for analysing change and stability over time. The survey found that:

- Citizens who are distrustful of politicians were substantially less keen on a republic (standardised regression coefficient of —0.16);
- Interest in politics matters too, although less so — the standardised regression coefficient of 0.08 shows that people who find politics interesting were more inclined to favour a republic;
- Interestingly, advocacy of citizen participation in politics is unrelated to republican attitudes. The republic was not seen as a way to give ordinary people greater voice in government;
Admiration for the British system of government had a strong anti-republican effect;
Admiration of the American system of government had a small pro-republican effect; and
Except for these other things, admiration (or not) of Australia's system of government was unrelated to republican attitudes. Opposition to a republic had little to do with Australian government per se, but much to do with British, and a little with American, models of government.

Finally, there is a substantial emotional current in views about a republic, but again more to do with Britain than with Australia. Hostility to Britain was an important source of republican support; conversely, people who have warm, positive feelings about Britain were less keen on a republic. By contrast, positive feelings about Australia had no influence on republican attitudes. People did not support the republic because they liked Australia, nor oppose it because of doubts about Australia. In short, emotion had a lot to do with attitudes to the republic, but it was emotion about Britain, not about Australia.

**Attitudes were mostly formed long before the referendum**

In the mid 1990s, there was a great deal of continuity in republican attitudes — this was not a new issue, but an old one on which people had, for the most part, already formed their views. By far the strongest determinant of republican attitudes in 1996–97 was republican attitudes a year or more earlier (Figure 9.4). Its standardised effect was a massive 0.80, dwarfing all other effects.

The results of this analysis (Figure 9.4), with its explicit measurement of past views on the republic and our earlier analysis (Figure 9.3) ignoring it, appear to be very different. The earlier analysis shows that various aspects of class position and ideological preference shape people’s views toward the republic. The later analysis shows that this mostly happened long ago, and its effects persist into the present mainly because, once formed, views on the republic are quite stable over time. This is true of many other political attitudes as well (Bean and Kelley 1988, 85–8).

Other than that, most change was almost random, being evenly scattered through the population rather than strongly concentrated in particular groups. It is especially interesting to note that the city versus country divide was not widening over this period. There were, however, a few small intensifying effects. The self-employed were slightly more supportive of a republic than one would have expected in light of their attitudes in 1995–96. Supporters of the National
Party were even less keen on a republic than their attitudes in 1995-96 would have predicted. People with warm feelings towards Britain and those who admire the British system of government both became more anti-republican than their prior attitudes about the republic would have predicted. All these effects are small, so the key point is that change was not particularly concentrated in any subgroups, but insofar as there was any change at all, it was widespread throughout society.

The referendum campaign

To examine the course of events during the referendum campaign, we narrow our focus to Canberra, where two Canberra Times/Datacol surveys collected the relevant data at the very beginning of the campaign in 1998 and again two weeks before the vote in 1999 (details are in the Technical Appendix). As one
would expect, support for a republic is higher in Canberra than in the rest of the country, in part because there are more Labor supporters in Canberra than in the nation as a whole and Labor supporters are keener on a republic. However, there is no reason to suppose that the patterns of change observed in Canberra would be any different in the country as a whole.

Support for a republic did not flag: there was no significant decline from the beginning of the campaign to the end (a regression analysis of a pooled dataset containing both surveys, controlling age, sex, political party, and interest in politics, shows no significant difference between opinion on the republic at the beginning of the campaign and the end, \( t=0.30, p=0.77 \) based on 1714 cases). There may have been a very slight polarisation of opinion, with slight growth in both support (growing from 68 percent to 73 percent) and a growth in opposition (from 13 percent to 14 percent), with fewer undecided (declining from 19 percent to 13 percent).

Over the campaign there was no significant change in the level of support for a directly elected president either, with over 60 percent favouring direct election by the voters both before and after (in the pooled regression analysis, \( t=-0.82, p=0.41 \), with 1,515 cases). Canberrans' views on this closely parallel those of the country as a whole (Figure 9.5). By contrast, support for the referendum fell substantially, from 69 percent in favour before to 53 percent after the campaign (in the pooled regression analysis controlling age, sex, political party and interest in politics, \( b=-15.6 \) (s.e.= 2.6) with \( t=-5.89, p<0.0001 \), based on 1,711 cases). A small fall is usual in Australian referendums, but this may be rather more than usual.

The usual pattern for referendums in Australia is support at the outset of the campaign for general principles of reform, but then decline as the details of proposals are attacked by the party in opposition. Only if both parties agree on the referendum does it succeed, and even then there is some slippage of support over the course of the campaign.

Thus, there was a dramatic shift during the campaign, but not on the basic issues of republic rather than a monarchy, nor on how a republican head of state should be chosen. Rather, there was a change in the way these attitudes were linked to views on the referendum. What happened? Those in favour of a republic were hugely more supportive of the referendum at the beginning of the campaign (89 points). By the end of the campaign, that enormous gap had shrunk by about 25 points (to 66) — still by far the main factor but not as overwhelming as earlier.

Looking into these differences in more detail shows that some groups hardly changed their views about the referendum, but others changed
Regression based estimates controlling for age, sex, and political party indicate that support for the referendum was near zero both before and after the campaign among those opposed to a republic, as one would expect. Support for the referendum was overwhelming both before and after the campaign among citizens who favour a republic and prefer a head of state chosen by parliament. There was just a slight decline — from 96 percent pro-referendum to 89 percent — in the course of the campaign.

An important collapse of support occurred among people who were undecided on the republic per se. At the beginning of the campaign, a near-majority of them, 46 percent, favoured the referendum, but only 23 percent did so by the end of the referendum campaign. The most dramatic collapse of support was among supporters of a republic who wanted the head of state to be chosen directly by the people. Support for the referendum was running at an impressively high 89 percent before the referendum campaign, only fractionally lower than support among pro-republicans who favoured parliamentary appointment of the President. Support for the referendum among these 'people's choice' republicans plunged to 57 percent, a decline of 32 percentage points over the course of the campaign. This is still majority support, but a small majority rather than a huge majority.

The way the head of state was to be chosen became a much more salient issue. By the end of the campaign, the gap between the 'people's choice' republicans and the 'parliamentary selection' republicans was over 4 times as
large as at the beginning. It was originally only 96 percent versus 89 percent, a gap of just 7 points, but rose to 89 percent versus 57 percent, a gap of over 30 points. It is tempting to speculate that at the beginning of the campaign, this group's views were dominated by their general enthusiasm for a republic but, as they thought over whether a republic with a head of state chosen by Parliament was superior to the current monarchy, they turned against the referendum. In the aftermath of the referendum, it has been suggested that it was the word ‘President’ rather than the method of selection that turned voters off the referendum. However, our 1995 question asked about the method for choosing Australia's 'head of state', and found equally strong support for direct election. The word ‘President’ is not the explanation: Australians overwhelmingly favour direct elections, whether the position is called 'President' (as in recent polls) or 'head of state'.

This referendum result is rather different from its predecessors. What has killed prior proposals for constitutional change? The answer is political parties, maverick state premiers and 'the devil in the detail' (Galligan 1995, 1999). Disciplined parties and an electoral system that makes majorities easy to attain perhaps promote deliberative democracy and 'responsible' policy making. They also certainly perpetuate divisions and, one might argue, mindless team loyalty.
When Australia goes to a referendum, what happens is usually this: the party in Government proposes, the Opposition party and some state Premiers oppose and the proposal goes down. Quite often the Opposition party has earlier indicated general support for the principle behind a mooted change, but it does not want to give the Government a success to crow about, so it finds a way of opposing the specifics of actual proposals in order to secure an electoral win.

1999 was rather different. The main proposal for change was favoured more strongly by the Opposition than the Government, and the Prime Minister was vigorously negative. The situation was reversed for the secondary preamble proposal. The devil was again in the detail. Powerful party leaders who may attract team loyalty opposed change in principle (Howard) or opposed the specifics (for example opponents of indirect election of the President and of the wording of the preamble). The gap between what the citizenry wanted (a republic with direct election) and what they were offered (a republic without direct election) was the subject of well-designed advertising campaigns by opponents of the referendum towards the end of the campaign. There is some evidence for the traditional factor of party discipline, with the gap between Labor and Coalition supporters (net of their own attitudes about the republic and the Queen) growing over the course of the campaign (Technical Appendix Table 9.3).

One could read the 7 percent decline in support for the referendum (from 96 percent to 89 percent) among those who favour a republic and prefer a head of state chosen by parliament as the 'normal' level of decline for a referendum. If support had only declined by this amount among the undecided and among those favouring a direct-election republic, the referendum would have passed. But the much greater than 'normal' collapse in support among these groups led to the failure of the referendum.

What if the referendum had offered a directly elected President?

We have seen that the head of state issue appears to loom very large among supporters of a republic. What, then, would have happened if the referendum had offered a republic with a President elected by the voters, instead of chosen by Parliament? That was one of the possibilities considered, but rejected, when the referendum was drawn up.

To estimate how such a referendum would have fared, we begin with the parameters of a regression model estimated on the Canberra data. There are two key assumptions. Firstly, we assume that the links between party, attitudes to a republic, preferences for how the head of state is chosen, and referendum
vote found in Canberra are similar to those for Australia as a whole. In effect we assume that, for example, a middle aged, male Labor supporter who favours a republic and lives in Canberra would vote on the referendum in much the same way as a middle aged, male Labor supporter who favours a republic but lives in Melbourne. Applied to the Australia-wide distribution of party preference, the Canberra equation correctly predicts the Australia-wide vote on the referendum. That gives us confidence that the pattern of relationships (the parameters of the model) for Canberra applies to the country as a whole.

Secondly, we assume that the degree to which voters who wanted an elected President (but were not offered it) turned against the actual referendum tells us the degree to which voters who want a President selected by Parliament would turn against a hypothetical referendum offering an elected President. With these assumptions, we can then use the Australia-wide distribution of party preference, attitudes toward a republic, and preferred way of selecting the head of state to estimate what would happen to a hypothetical referendum offering an elected President. These calculations imply that a referendum offering a republic with a head of state elected directly by the people would have won easily in Australia as a whole. According to this micro-simulation, the vote would have been about 55 percent in favour and 45 percent against.

**Who prefers direct election of the head of state?**

It is not just any republic that the Australian public wants. It is a republic with a head of state elected directly by the people. As we have seen, the majority favouring this was already huge, 71 percent, as early as 1995. That represents a degree of consensus rarely seen in electoral politics. Indications are that those views held steady up through the referendum, with a Datacol poll in Canberra just days before the referendum yielding a virtually identical percentage in favour of direct election.

Who is it that favours a directly elected head of state? Our multivariate regression analysis shows that there are few differences among social or economic groupings (Figure 9.7). A harbinger of future views on this issue is the significant age difference, with the young being significantly more in favour of direct election than the old. There is also a significant education effect, although not a yawning gulf, with early school leavers being somewhat keener on direct election than are their more highly educated peers. Importantly, city folk and country folk are equally supportive of a direct election, as are rich and poor, and as are those at the top of the occupational ladder and those at the bottom.
Desire for a directly elected head of state was therefore not a ‘revolt of the battlers’ — the battlers mostly support direct election, but their more prosperous fellow citizens are equally supportive. Nor is it a ‘battle of the bush’: city and country people alike strongly support direct election. Instead, it is attitudes and values that most seriously divide Australians on the issue of direct election:

- Mistrust of politicians is substantially the most important source of support for direct election, as shown by the standardised regression coefficient of 0.20;
- About two-thirds as important is valuing citizen participation in politics: Australians who greatly value individual involvement in politics are more supportive of direct election, with a standardised regression coefficient of 0.14;
Having a positive assessment of the American system of government also contributes to support for direct election (standardised regression coefficient of 0.12), but assessments of Australia's system of government and of the British system do not affect views on direct election;

Those who find politics interesting are a little less supportive of direct election;

Labor voters are a little less supportive of direct election than are National and Liberal partisans;

Emotional patriots, those with warm feelings about Australia, are no more likely than those with cooler feelings to support (or oppose) direct election; and

In contrast to the issue of favouring a republic per se, on the matter of direct election feelings about Britain play no role: Anglophiles and Britain-bashers are equally strongly supportive of direct election.

In short, support for direct election was already running at over 70 percent in 1995, was equally strong in all social classes, and was heavily fuelled by distrust of politicians and by highly valuing citizen participation. The importance of citizen participation suggests that there is an important legitimacy issue here, that in the eyes of most Australians, parliament does not have the moral authority to 'consecrate' or 'anoint' a head of state. Australians may not yearn for direct democracy in policy making (Uhr 1998a), but many do place a value on citizen participation, and those who do apparently see direct election of a head of state as a legitimate and desirable form of citizen participation. The strong effect of political distrust suggests that had prior generations of parliamentarians behaved in a more public-spirited and exemplary manner, the outcome might have been different.

After the referendum: Opinion in 2001

At the dawn of the post-referendum era, there has been no backlash against the republican ideal, with around 65 percent continuing to support it (Figure 9.2). Who supports it and who opposes? Our multiple regression analysis (details in the Technical Appendix) provides some clues (Figure 9.8).

There are few socio-demographic differences in support for a republic in 2001. Age has no effect. Gender has a small significant effect with men being slightly more in favour (as shown by the small positive standardised regression coefficient of 0.09). Education is of about the same importance, with highly educated people slightly keener on a republic than early school leavers (as
Figure 9.8: Support for a republic in 2001, after the referendum

shown by the small positive standardised regression coefficient of 0.10). Neither government employment nor trade union membership has a significant effect on support for a republic in 2001.

Interestingly, support for the republic seems to have little or no connection with views on economic reform. Supporters of privatisation of government-owned enterprises are neither more nor less republican than are opponents of privatisation. Nor do perceptions of the balance of economic good and harm done by the corporatist economic system that held sway in Australia in the early postwar period matter: those who look favourably on the traditional economy are neither more nor less likely to look favourably on the traditional head of state. Nor are those in favour of Australia's present, more market focused economic system either more or less likely than their opponents to view the republic favourably.

There is a moderately important party-political element in support for a republic. Warmth towards the Liberal Party has a small pull, reducing support for a republic (standardised regression coefficient of -0.11). Attraction to the National Party also has a moderately important influence, reducing support
By contrast, positive feelings towards Labor have a moderately important effect, increasing support for the republic (standardised regression coefficient of 0.14). Positive feelings towards the Australian Democrats also have a moderately important effect, increasing support (0.14).

Interestingly, Australian national identity is not strongly implicated in supporting or opposing a republic. Feeling that being Australian is important to one's identity has a slight, statistically significant influence, encouraging support for a republic (standardised regression coefficient of 0.07). Neither pride in Australia's system of government, nor pride in Australia's economic achievements, nor pride in Australia's cultural achievements (arts, literature, science and sport) has a significant impact on support for the republic. It seems fair to say that there is no one Australian identity that necessarily pulls one for or against the republic, but rather that the varieties of national identity common in Australia today encompass both republican and monarchical varieties.

Attitudes towards Britain are quite another matter: anti-British feelings is the single most important source of support for a republic (standardised regression coefficient of 0.39). Indeed, anti-British sentiment is more than twice as important as any other variable in the model. This may prove a growing impetus for a republic, for as Britain gets drawn closer to Europe by ceding authority to the European Union, it will probably become increasingly foreign to Australians.

**Conclusion**

The public's preference for an elected President, for a 'people's choice' republic — already well known at the time the referendum question was being drawn up — is the principal reason the referendum failed. Perhaps the large size of the majority in favour of a republic may have given a feeling of invincibility to elites favouring the referendum, tempting them to try to impose their preference for a head of state chosen by Parliament. The public, however, distrustful of politicians, was not willing to be imposed on in 1999.

The failure of the referendum did not produce a backlash against the republican ideal. A strong majority (65 percent) are still in favour of a republic in 2001, so support for a republican future still runs high. If this level of support holds, there could well be a republic in Australia's future, provided the Australian people are offered one with a directly elected president. The motive for the republican push is partly party political, with Liberal and National supporters tending against, while Labor and the Democrats tend to be
favourable. Pride in Australia is not a motive for supporting a republic. Rather the most important motive, albeit a largely unspoken one, is hostility toward Britain.
On 6 November 1999, Australians were seemingly faced with a simple choice: become a republic with an Australian as head of state, or retain the Queen and remain a constitutional monarchy. The results were clear and decisive. Australians rejected the proposed change and kept the Queen. This chapter explains why Australians voted against what might be seen as an obvious and desirable step forward in their constitutional development. Certainly, many remain perplexed as to just what went wrong. Much of the answer lies in how constitutional history has played out in contemporary debates, and the way in which Australians are alienated from their public institutions. This chapter has been developed from previous work on the same subject (Williams 2000b).

The Constitution as enacted

The Constitution that came into force in 1901 was not a people’s Constitution, but ‘a treaty between States’ (La Nauze 1972, 190). Customs duties and tariffs, and the capacity of the upper house of the federal Parliament to veto money bills, were of far greater concern than the protection of human rights. According to one historian, the drafters ‘wanted a constitution that would make capitalist society hum’ (Clark 1977, 18). The framers were certainly not prepared to insert a Bill of Rights, and instead sought to give the new federal Parliament the power to pass racially discriminatory laws (Williams 1999a, 33–45). This is clearly demonstrated by the drafting of certain provisions. For example, the Constitution, as drafted in 1901, said little about Indigenous peoples, but what it did say was entirely negative. Section 51 (xxvi) enabled the federal Parliament to make laws with respect to the ‘people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws’, while under section 127 ‘aboriginal natives shall not be counted’ in taking the census.
Section 51 (xxvi), the races power, was inserted into the Constitution to allow the Commonwealth to take away the liberty and rights of sections of the community on account of their race. By today's standards, the reasoning behind the provision was clearly racist. Barton stated at the 1898 Convention in Melbourne that the power was necessary to enable the Commonwealth to 'regulate the affairs of the people of coloured or inferior races who are in the Commonwealth' (Official Record of the Debates of the Australasian Federal Convention 1986, vol 4, 665). One framer, Andrew Inglis Clark, the Tasmanian Attorney-General, supported a provision taken from the United States Constitution requiring the 'equal protection of the laws'. This clause might have prevented the federal and state Parliaments from discriminating on the basis of race, and the framers were concerned that Clark's clause would override Western Australian laws under which 'no Asiatic or African alien can get a miner's right or go mining on a gold-field' (Official Record of the Debates of the Australasian Federal Convention 1986, vol 4, 228—9).

Clark's provision was rejected by the framers who instead inserted section 117 of the Constitution, which merely prevents discrimination on the basis of state residence. In formulating the words of section 117, Henry Higgins, one of the early members of the High Court, argued that it 'would allow Sir John Forrest [the Premier of Western Australia] ... to have his law with regard to Asians not being able to obtain miners' rights in Western Australia. There is no discrimination there based on residence or citizenship; it is simply based upon colour and race' (Official Record of the Debates of the Australasian Federal Convention 1986, vol 5, 1801). In a 1967 referendum Australians chose to strike out the words 'other than the aboriginal race in any State' in section 51 (xxvi) and to delete section 127 entirely.

Constitutional monarchy

The Constitution entrenched the monarchy at the apex of Australian law and the Queen as Australia's head of state. Section 2 provides that the Governor-General, 'appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him'. The monarchical system permeates the text of the Constitution. The preamble to the British Act that sets out the Constitution begins: 'Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one
indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: legislative and executive power are conferred upon the monarch. Section 1 provides that 'legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives', while under section 61 executive power 'is vested in the Queen and is exercisable by the Governor-General as the Queen's representative'.

The Constitution also incorporates references to the monarchy in a way that reflects Australia's status in 1901 as a Dominion of the United Kingdom. Section 59 provides that the Queen 'may disallow any law within one year from the Governor-General's assent'. This power has never been used and is now obsolete. Its continuing presence in the Constitution is a reminder of the initially limited scope of Australian independence. It also highlights the ongoing ambiguity of Australia's constitutional status.

Although the Australia Acts 1986 marked the end of the power of the British Parliament to legislate for Australia, the Australian Constitution has never been formally repatriated. In official reprints, the Constitution is prefaced by the Commonwealth of Australia Constitution Act 1900. This might suggest that the British Parliament is the continuing source of the sovereignty of the Constitution. Sir Owen Dixon, a Chief Justice of the High Court, stated in 1935 that the Constitution 'is not a supreme law purporting to obtain its force from the direct expression of a people's inherent authority to constitute a government. It is a statute of the British Parliament enacted in the exercise of its legal sovereignty over the law everywhere in the King's Dominions' (Dixon 1935, 597).

More recently, judges of the High Court have developed the concept of popular sovereignty. In 1994 in Theophanous v Herald & Weekly Times Ltd (1994 182 CLR 104 at 171), Justice Deane attributed the validity of the Constitution 'exclusively [to] the original adoption (by referenda) and subsequent maintenance (by acquiescence) of its provisions by the people'. In 1999 in Sue v Hill (1999 199 CLR 462), a majority of the High Court held that, for the purposes of the Constitution, the United Kingdom should be considered a 'foreign power'. This finding was reached despite it being recognised by Justice Gaudron at 523 that 'at federation, the United Kingdom was not a foreign power'. The High Court has acknowledged the reality of Australia's political and legal independence, despite the text of the Australian Constitution. It has recognised that Australia is an independent sovereign nation that has shed its status as a Dominion of the United Kingdom. This shows that recent debate
on a republic is not about whether Australia should amend its Constitution to become an independent nation. The debate is about whether the text of the Constitution should be altered to reflect what has already occurred and to make the final symbolic shift of replacing the Queen with an Australian President.

The republic debate

Australians have debated the idea of becoming a republic for many years. The debate can even be traced back to before federation. At the 1891 Constitutional Convention, George Dibbs, a former Premier of New South Wales who possessed ‘a slight tinge of republican notions’, described ‘the republic of Australia’ as ‘the inevitable destiny of the people of this great country’. Sir Henry Parkes, then Premier of New South Wales, replied: ‘I have no time to talk of this question of republicanism which has been so ungraciously launched amongst us’ (Official Record of the Debates of the Australasian Federal Convention 1986, vol 1, 185–6, 323).

The republic only recently emerged as a central political issue. It was one of the political issues of the 1990s. Contemporary republican models have focused mainly on politically pragmatic ‘minimalist’ change, that is, a republic created by the ‘minimal constitutional changes necessary to achieve a viable federal republic of Australia while maintaining the effect of our current conventions and principles of government’ (Republic Advisory Committee 1993, vol 1, 1). Minimalist change might mean no more than altering the Constitution to delete references to the Queen and to replace the office of Governor-General with a President appointed by the Prime Minister. Other minimalist options involve slightly more change in that they propose that the President be appointed by some other method consistent with the existing system of responsible government, such as by the federal Parliament.

Minimalism has been sharply challenged on several fronts. Some have argued for a stronger form of republicanism that would involve radical constitutional and political change aimed at enhancing the citizenship of the people. Non-minimalist models have, in particular, incorporated a greater role for the Australian people in the selection of the President by, for example, providing for the President to be directly elected by the people or even through the establishment of a United States style presidency with full executive power. Other models have moved outside the narrow terrain of head of state issues and have included changes such as a Bill of Rights or reconciliation between Australia’s Aboriginal and non-Aboriginal people.
The non-minimalist option of direct election of the President has considerable popular support. It has, however, been opposed by many of Australia’s political leaders because it may amount to a radical revision of the political system that would be inconsistent with responsible government. Direct election would certainly add a new ingredient to the Australian system and has the potential to create a new, and potentially destabilising, centre of political power with a popular mandate. A directly elected president might be in a position to challenge the political leadership of the prime minister. This could be avoided if the powers of the president were carefully defined and limited. However, minimalist republicans argue that codification of the powers of the President would be too difficult. Codification may also be politically unachievable because it would mean reopening still divisive questions about the use of the reserve powers by Governor-General Sir John Kerr to dismiss the Whitlam Government on 11 November 1975.

The debate over republican models revealed many misconceptions about what it means to be a republic, and that the concept of a republic is itself hotly contested. It has been argued that Australia is already a republic in all but name ("a crowned republic"), while others stressed that many of the proposals for a ‘republic’ would represent nothing more than ‘cosmetic constitutional change’ that may not amount to a ‘genuinely republican movement at all’ (Fraser 1993, 37). A republican system of government must, as a minimum, possess two core features (Winterton 1994, 2). First, sovereign power must ultimately rest with the people. Second, the head of government must be directly or indirectly chosen by the people, and cannot be a hereditary monarch. Australia is clearly already a republic except as to the latter criterion. In order for Australia to become a republic, the Queen must be replaced by a person who, at a minimum, is indirectly chosen by the Australian people. This would transform Australia’s constitutional status. However, it would amount only to a weak form of republicanism. A stronger version requires more than a head of government chosen indirectly by the people. It demands a high level of popular engagement with the political process. Minimalist proposals, which do not enhance popular involvement in the political process and merely make a switch at the highest level from a monarch to a President chosen by the Prime Minister or the Parliament, may bring about an Australian republic, but do not satisfy a more robust republican agenda.
The republic runs aground

The republic model put to the Australian people was opposed by a strong and well-organised coalition of interests. The No coalition was made up of two extremes: monarchists who opposed any change, and direct election republicans who opposed this change on the basis that it did not go far enough. Despite the obvious conflict in their positions, they had enough in common to wage a coherent and effective campaign. Both wished to see this model defeated. Caught in the middle were the proponents of the minimalist model, most notably the Australian Republican Movement, who had to convince the Australian people to vote Yes to a model that lacked bipartisan political support (or even the support of the Prime Minister), that had obvious weaknesses in design and that had been unable to gain an absolute majority on the floor of the 1998 Constitutional Convention.

The No coalition was effective in tapping into a cynical and negative reaction in the electorate to the referendum. It was able to reinforce a growing perception among many Australians that the whole constitutional reform process was dominated by politicians to the exclusion of community views and aspirations. The experience with the preamble made this difficult to refute. Even monarchists were prepared to argue that the failure of the republic model to involve any direct popular participation meant that this would be a ‘politician’s republic’. Community concerns were also fed by misinformation and by fostering fears that a Yes vote might lead to the succession of one or more states from the federation.

The task of comprehension was made more difficult for Australians by the complex legal issues raised by the republic and preamble. The official advertising stated that ‘there is currently no preamble in the Australian Constitution itself’. While strictly correct, this was misleading. There is already a preamble to the British Act, which precedes the Constitution. This preamble has always been seen as prefacing the Constitution, and it is included when the Constitution is printed for sale. The official advertising material masked deep problems with the new preamble, including that a Yes vote to this question would insert a new preamble while also retaining the old version, thereby leaving the Constitution with two preambles. This would have caused serious anomalies if both the preamble and republic had been passed at the referendum. The current preamble states that the Australians ‘have agreed to unite in one indissoluble Federal Commonwealth under the Crown’. The reference to the Crown should obviously not have been retained if Australia became a republic.
A Yes vote on the preamble question would not only have inserted a new preamble, it would also have added a new section 125A. That section provided that the preamble ‘has no legal force and shall not be considered in interpreting this Constitution or the law in force in the Commonwealth or any part of the Commonwealth’. This would not have applied to the existing preamble, with the result that judges could continue to take account of values in the original preamble, including the reference to the Crown, but could not similarly use the newer version. Sir Harry Gibbs, a former Chief Justice of the High Court, argued that, in any event, section 125A would not prevent the new preamble from having a legal effect. Sir Harry argued that the preamble could amount to evidence of the connection between Indigenous peoples and the land, and that this might be used in cases raising questions about land ownership. The counter argument was that, even if the preamble could have legal effect, in recognising the ‘deep kinship’ of indigenous peoples with the land, it failed to go as far as decisions of the High Court in cases such as *Mabo v Queensland (No 2)* (1992, 175 CLR 1). The basis for section 125A was, in any event, misconceived (McKenna, Simpson and Williams 2001, 401). A similar provision does not find a place in other constitutions, and it would have demeaned the values set out in, and the symbolic force of, the proposed preamble. The fear that it would be used inappropriately by judges was misplaced. Having no textual foundation in the Constitution proper, the preamble could not have been used to imply substantive rights.

The legal debate created by the proposed new preamble was of minor significance compared to the questions raised by the republic. Much was made of the fact that the republic involved 69 separate changes to the Constitution, as if to suggest that the mere number of changes reflected a radical revision of the Australian system of government. In fact, apart from five major changes designed to establish the new office of President, the remainder of the changes were largely consequential, and many merely replaced ‘Queen’ or ‘Governor-General’ with ‘President’.

The Prime Minister entered the fray in the last days of the campaign. He strongly supported a No vote, arguing that Australia is already an independent nation, and stating that the proposed model was unsafe and flawed. He criticised the dismissal mechanism and the public nomination process for candidates for the office of President, correctly stating that the latter would give Australians no real say. He also sought to undermine the Yes case argument that the republic was necessary to give Australia an Australian as head of state. Howard adopted the monarchists’ position that the Governor-General, and not
the Queen, is effectively Australia's head of state and thus, the shift to a republic was unnecessary.

It is true that the Governor-General performs the functions of the Queen in Australia and hence, the functions of the head of state. It is also true that the Constitution does not mention the concept of a head of state. However, so long as Australia remains a constitutional monarchy, the Queen must be head of state. The Constitution makes it clear that the Queen lies at the apex of government. She is expressly vested with executive power by section 61. Where the Governor-General is granted power, he or she exercises those responsibilities as the Queen's representative. Hence, section 61 states that while executive power is vested in the Queen, it is also 'exercisable by the Governor-General as the Queen's representative'. Section 2 also states: 'A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth'. If the Governor-General is the head of state, it would leave Australia in the anomalous position of having a head of state who is the representative of a foreign power. The suggestion that the Governor-General is head of state is factually incorrect. It was, however, very effective. It created doubt as to why the referendum was being held in the first place. For many people, the process came to be seen as a very expensive waste of time.

Why did Australia keep the Queen?

The republic debate exposed deep, entrenched problems in Australia's system of government that suggest why this referendum failed and why any future referendum on the republic may also fail. Two main weaknesses were brought to light. First, many Australians are alienated from the political process, and from the people who represent them in Parliament. In a context of uncertainty and insecurity brought about by rapid social and economic change, it is not surprising that there is distrust of political leaders and the system of representative government that has produced them. It is not easy to feel part of a system that is not understood and in which there are very few opportunities for participation. This has led to problems such as a lack of confidence in the political system. The symptoms of this can be seen in the drop in support for the major parties (and consequently, in the high number of minority governments at the state level), and in the rise of protest parties such as Pauline Hanson's One Nation. There has also been an increase in proposals for schemes that would give Australians a greater say in government, such as citizens' initiated referenda.
Second, Australians lack basic understanding and knowledge of their system of government. The republic model put to the people in the 1999 referendum was supported by a $24.5 million Government-funded advertising campaign ($9.5m for 'neutral' advertising, with $15m divided equally between the Yes and No campaigns), a 71 page Yes and No case booklet sent to every voter, and saturation coverage in parts of the media. Despite this, most Australians had little or no idea of what a republic would mean, let alone how the proposed model would have worked. The referendum 'debate' generated considerable confusion, as well as strongly differing opinions on issues ranging from the mechanism for the dismissal of the president to who is currently the head of state. Such disagreement took place at a high level, and even produced a clash between former Chief Justices of the High Court.

This high level of disagreement obscured the fact that the proposed model remained impenetrable to many Australians. The central reason for this was that Australians have little understanding of how the current system of government works. The evidence bears this out. A 1987 survey conducted for the Constitutional Commission found that 47 percent of Australians were unaware that Australia has a written Constitution (Constitutional Commission 1987). Similarly, the 1994 report of the Civics Expert Group (1994) found that only 18 percent of Australians have some understanding of what their Constitution contains. Significantly, only one in three people felt reasonably well informed about their rights and responsibilities as Australian citizens.

These figures show why republicans faced an uphill battle. They had the task not only of informing Australians about the merit of the proposed changes, but also of providing enough information about the current system to allow the changes to be evaluated. This proved an impossible task in the heated and partisan atmosphere of the campaign, and, given the split in their own ranks, between minimalist and direct election republicans. Rather than being an example of informed deliberation, the debate was more an exercise of each side seeking to gain the support of celebrities and other notable figures in the expectation that this would attract voters to their side.

The central arguments of the No case were 'Vote No to the Politician's Republic' and 'Don't Know — Vote No'. These slogans effectively exploited Australians' lack of engagement with, and knowledge of, the political process. However, this is not to say that in voting No Australians cast their votes stupidly. The most rational choice when faced with a change to a system that seems to work at least tolerably well, but of which little or nothing is known, is to reject that change. This will be particularly true where it seems that those promoting the change may have a vested interest in the result. It also does not
mean that Australians are, as a rule, apathetic about how they are governed. Rather, it suggests the need to provide an entry point into such debates.

Two weeks before referendum day, a ‘Deliberative Poll’ (Fishkin 1997) on the republic was held in Canberra. The Poll allowed 347 Australians, randomly chosen from all walks of life and from many regions, to listen to, and question, experts and the supporters of each side. It created dialogue and deliberation amongst attendees so as to allow them to assess the proposed changes. The results were dramatic. As a result of the Poll, over 50 percent of participants went from knowing little or nothing about issues such as the proposed dismissal mechanism and the powers of the Governor-General to having a good level of understanding. Support for the Yes case jumped from 53% to 73%, while support for a direct election model as a first preference dropped from 50% to 19%. The Poll showed how the republic could, and should, be a topic of serious and considered debate at a community level, and that disinterest and confusion need not be the hallmark of Australian political life. The Poll demonstrated that the onus lies on policy makers and Parliaments to do more to involve the Australian people in government.

Where to now?

Australians emphatically rejected the proposed republican model. However, the result on a republic in general was ambiguous. Over the campaign, the debate shifted from whether Australia should be a republic or monarchy, to what sort of republic it might become. Many Australians voted No because they were convinced by the No Coalition that the best way to achieve a directly elected president would be to defeat this proposal. The monarchy drifted to last position on people’s list of preferred models. The result, then, did not amount to a vote of confidence in the current system. Indeed, it suggested the opposite. Australians did not want this republic, but are strongly in favour of some form of republic in the future. The questions now are just how distant that future is likely to be and whether monarchists will be successful in continuing to delay the transition by taking advantage of disagreement between minimalist and direct election republicans.

It should first be realised that the 1999 republic referendum, and indeed the focus on the republic as the sole issue of constitutional reform over the last decade, has hidden the need for other reform (Williams 2001, 35). The wider problems in the Australian political system exposed by the debate show that the reform agenda must also include issues other than merely a change to the head of state. Minimalism failed as a strategy to achieve a republic because it did not
address the underlying reasons why Australians were likely to reject any such change. It also neglected the legitimate aspirations of Australians for more significant reform of the political system and, in particular, change that would give them a greater say and sense of involvement in their governance. The republic campaign also revealed an obvious need for continuing improvement of the education system. However, the teaching of civics will not in itself be enough. More must be done to engage the community in the political process.

Over the longer term, Australia needs a process of constitutional renewal. The Constitution fails to explain how the current system works. The text does not mention the Prime Minister, and suggests that all power is vested in the Queen and her representative, the Governor-General. The Constitution also remains bound by the intentions of the framers of the 1890s, which are now out of step with the values of contemporary Australians. The need for reform is highlighted by the continuing presence of the races power in the Constitution and its potential to support racist laws.

The scope of the races power was raised before the High Court in 1998 in the *Hindmarsh Island Case* (1998, 195 CLR 337). On the one hand, it was argued by a group of indigenous women that the power only allows the Parliament to pass laws that are for the benefit or advancement of a particular race. In response, the Commonwealth asserted that there are no limits to the power so long as the law affixes a consequence based upon race. In other words, it was not for the High Court to examine the positive or negative impact of the law. The federal Solicitor-General, Gavan Griffith QC, suggested that the races power 'is infected, the power is infused with a power of adverse operation'. He also acknowledged 'the direct racist content of this provision using “racist” in the expression of carrying with it a capacity for adverse operation'. The following exchange then occurred between the Solicitor-General and the High Court Bench:

**Justice Kirby:** Can I just get clear in my mind, is the Commonwealth’s submission that it is entirely and exclusively for the Parliament to determine the matter upon which special laws are deemed necessary or whatever the words say or is there a point at which there is a justiciable question for the Court? I mean, it seems unthinkable that a law such as the Nazi race laws could be enacted under the race power and that this Court could do nothing about it.

**Mr Griffith:** Your Honour, if there was a reason why the Court could do something about it, a Nazi law, it would, in our submission, be for a reason external to the races power. It would be for some wider over-arching reason.
Of course, in the absence of a Bill of Rights or express constitutional protection from racial discrimination, there was no such over-arching reason. When the High Court handed down its decision, it was divided. The Court split on whether the races power could be used to discriminate against Indigenous peoples. This fundamental question remains unresolved.

The *Hindmarsh Island Case* is just one demonstration of how the Constitution was not written as a people's Constitution, and remains out of step with contemporary Australian society. It does not expressly embody the fundamental rights of the Australian people, nor any spirit of reconciliation with Australia's Indigenous inhabitants. It has a chapter on Finance and Trade, but only a few scattered provisions dealing with human rights. As Lowitja O'Donoghue, former Chairperson of the Aboriginal and Torres Strait Islander Commission, has stated:

> It says very little about what it is to be Australian. It says practically nothing about how we find ourselves here — save being an amalgamation of former colonies. It says nothing of how we should behave towards each other as human beings and as Australians (quoted in Brennan 1994a, 18).

In the shorter term, Australians should focus on pragmatic options to re-engage people with the political system. In *A Bill of Rights for Australia* (Williams 2000a), I argue for the drafting of a statutory Bill of Rights at the federal or state level. There is strong community support for a Bill of Rights, with one survey showing 72% for, 7% against, and 21% undecided (Galligan and McAllister 1997, 149). A Bill of Rights enacted by Parliament would engage the community in a reform process without the need for a referendum. Carefully drafted, it could be a document that sets out the place of Australians within the political system, without transferring the power to solve pressing social and political concerns from Parliament to the courts. Rather than merely establishing legal rules, the aim would be to foster a culture of liberty, including a tolerance and respect of difference.

**Conclusion**

Organisations such as the Australian Republican Movement are already shaping up for round two of the republic debate and another referendum. As yet, the timing of any change is unclear. Another referendum is not likely while Howard remains as Prime Minister, or even in the first term of any new Government. Hence, another referendum is unlikely within the next five years.
More groundwork must be undertaken before Australians are again asked to vote on the republic. Plebiscites, or some other form of non-binding vote, might work well as a way of determining what type of republic Australians would prefer, and of marshalling support behind a particular model before another referendum. However, this would need to be carefully managed so that it does not produce constitutional deadlock with support evenly split between competing models. The task is to construct a model that is seen as being drafted other than by a politician dominated process, allows a direct say by the Australian people in the selection of the President, and improves on the safety of the defeated model. Hence, the next model for an Australian republic should be a popularly created, direct election model that is more secure than the minimalist model defeated on 6 November 1999.

The challenge is not confined to the issues raised by an Australian republic. The recent republic debate had too narrow a focus on the head of state. It exposed more fundamental problems with the democratic system. This suggests that other reforms, such as the enactment of a statutory Bill of Rights, should be undertaken now, before any future republic debate. After all, a republic will be of little value unless it takes root within a system of government, known to and understood by the people, that fosters their participation.
Chapter Eleven

The Australian Republic:
Still captive after all these years

Mark McKenna

On the evening of Thursday 18 November 1999, less than two weeks after the republic referendum was lost on 6 November, Prime Minister John Howard stood on a chair under a chandelier in the dining room of Kirribilli House in Sydney. In his speech of thanks to Kerry Jones, head of Australians for Constitutional Monarchy (ACM), the Prime Minister appeared 'happy and ebullient' as he described his own role in the campaign as 'respectful and dignified'. The guests who had gathered at the Prime Minister's invitation had come to celebrate the defeat of the republic. At dusk, looking across the blue-green waters of Sydney Cove towards the Opera House, they sipped their chardonnay and gave thanks that the British Crown remained the sovereign power in Australia's Constitution. In the words of the Prime Minister, 'the good sense of the Australian people' had prevailed. Australia would remain a constitutional monarchy and her people could sleep safe in the knowledge that the dire consequences of a republic had been avoided — at least for the time being (Australian, 19 November 1999, 1).

Missing from Howard's drinks party were the many republicans who had bedded down with the monarchists during the campaign. Chief among them Ted Mack and Phil Cleary, the two Independent MPs who had advocated a No vote on the grounds that the republic model on offer made no provision for a directly elected President. They had argued that a No vote would see a subsequent referendum on a directly elected President, knowing that the immediate result of this strategy would see Australia continue as a constitutional monarchy. But now, when it came to drinks, this loveless marriage of monarchists and republicans was over before the reception began. Only the monarchists could bring themselves to raise their glasses in triumph. Republicans of all persuasions were left to sift the ashes and contemplate the rebuilding of the Australian Republican Movement.
Who were the winners?

In attempting to understand the referendum result, there are some explanations that come readily to mind and over which few would quibble. The history of referendum questions in Australia is notoriously bleak — at least if one favours constitutional change. Only 8 out of 44 have been successful since federation. There seems to be little or no prospect of achieving the necessary double majority of states and voters without bipartisan support at least ameliorating the damage caused by misinformation and scare campaigns (see John Uhr's contribution to this collection for possible solutions).

The referendum on the republic was opposed by the Prime Minister and a convenient union of constitutional fundamentalists and democratic republicans. A union which made sense politically because the referendum combined two questions in one — did Australia want to become a republic — and did the electorate wish to embrace a president appointed by a two-thirds majority of federal Parliament? The referendum took place in a political context that could only be described as indifferent. Like many other liberal democracies in the late twentieth century, Australian political culture is marked by a deep cynicism towards elected politicians and their meeting place; in this case Canberra, Australia's national capital. When this trend is combined with the traditional hard-nosed pragmatism of Australian politics, a tradition that is not renowned for its receptivity to symbolic arguments for change, it might seem remarkable that five million Australians voted Yes on 6 November 1999.

In such a political climate, it is difficult to see how any republic proposed in a national referendum might avoid being condemned as one initiated by self-serving politicians. As a monarchist might read the result on 6 November 1999, a republic for the politicians, by the politicians and of the politicians was sensibly rejected by the people. In the words of Kerry Jones on 8 November, 'The No campaign was the people's protest' (Australian, 8 November 1999). While it might be tempting to see the republic referendum as a contest between the forces of popular sovereignty and parliamentary sovereignty, the truth is more elusive.

The bald facts of the result tell several stories. The referendum was lost nationally by an approximate margin of 10 percent (55/45). The state breakdown was not encouraging — not one state voted Yes — although Victoria was lost narrowly. New South Wales, long seen as the strongest support base for the republic, struggled to reach a Yes vote of 46 percent. In Queensland, South Australia, Tasmania, and Western Australia, a 20 percent gap separated the Yes and No vote. Only in Canberra did the Yes vote reach
the resounding level of 64 percent: evidence perhaps that contempt for politicians increases steadily with every additional kilometre one drives away from Parliament House (Financial Review, 8 November 1999).

Of 148 federal seats, only 42 voted yes: 23 of these seats were Liberal held, while 19 were held by Labor. Every National Party seat voted No. Aside from two seats to the north of Melbourne and Sydney, all the Yes seats were based in the inner suburbs of the major cities. Measured in terms of tertiary education, 19 of the 20 best educated electorates voted Yes while 93 of the 100 least qualified voted No (Financial Review, 8 November 1999). Similar trends were evident in relation to income. It was not until income rose above $50,000 per annum that the Yes vote managed to rise above 50 percent (Weekend Australian, 13–14 November 1999).

The geographic distribution of the Yes vote is equally startling. All but 9 of the 42 Yes seats were in NSW and Victoria, and all but 11 were in the metropolitan areas of Sydney and Melbourne. In the words of Sydney Morning Herald columnist Alan Ramsey, those who voted No most resoundingly were among ‘the country’s least educated, most isolated, most insular, most uninformed, lowest paid, most prejudiced, and more than likely, hardest working anywhere’ (Sydney Morning Herald, 13 November 1999). Some safe Labor seats did vote Yes, while others lost narrowly, except in Sydney. In addition 25 out of 35 of those seats with high ethnic populations voted Yes. However, the Yes campaign did not place great emphasis on multicultural support for the republic — perhaps many were fearful of alienating the so-called mainstream and One Nation.

In the wake of the referendum result, a consensus has emerged among Australia’s political commentators in explaining the extent of the No vote. The headline on the front page of the Australian on the Monday after the republic referendum neatly captured the now generally accepted interpretation of the vote: ‘One Queen two nations’ (Australian, 8 November 1999). This view emphasised the sharp divide between city and country, inner city and outer suburbs, rich and poor, the constitutionally informed and the blissfully ignorant. The referendum result cut across party allegiances. The traditional home of Labor, the outer suburbs of the major cities, voted against the republic. With some irony, voters in the Prime Minister’s own seat of Bennelong in Northern Sydney voted Yes. It was the letterboxes of John Howard’s constituents in the ‘Republic of Bennelong’, which had received the Prime Minister’s personal letter explaining his reasons for voting against the republic (Australian, 27 October 1999; Bob Hawke made the ‘republic of
Bennelong’ remark on ABC TV, 6 November 1999). Despite these facts, we should still be wary of accepting the Australian’s ‘two nations’ analysis.

As soon as we divide the Australian nation into two categories — the ‘elites’ and ‘ordinary people’, as if there were five and a half million bright ‘high flyers’ who voted Yes and seven million unwashed dullards who voted No — we have adopted the categories of populism. This is little different from journalists and intellectuals dutifully employing the Howard Government term ‘mainstream’ to describe Australian society. When we use the language of populism to understand political behaviour, the populists have won. It is also worth remembering that after every referendum, both the victors and the vanquished tend to believe that their supporters cast a ‘sensible’ and ‘informed’ vote, while those who voted against them were ‘misled’ or ‘uninformed’. For example, when asked to explain the vote on the republic he had opposed, Howard praised the good sense of the Australian people, yet when he was asked to explain the poor Yes vote on the preamble which he had personally proposed, he blamed the apathy and ignorance of the people (Sydney Morning Herald, 8 November 1999).

Another factor which complicates a simplistic reading of the republic vote is the many reasons voters may have had for voting Yes or No, reasons which do not necessarily coalesce obediently in tidy geographic clusters. The first group of Yes voters were republicans who were willing to replace the Queen as head of state with a President appointed by a two-thirds majority of federal Parliament. Some in this category believed it would be the first step towards future constitutional reform, such as a directly elected president, a Bill of Rights, or a new Constitution. Others believed a Yes vote would act as a safeguard against further reform, arguing that it was far better to approve the more conservative change now, rather than risk the possibility of a complete change to the system in the future. The latter group would have included both conservative republicans and a sprinkling of small ‘m’ monarchists fearful of direct election. Other Yes supporters may not have cast their vote with the future in mind. They were willing to accept the model, perfect or flawed, in order to get the republic through.

Contrary to the belief that all the informed voters were on the Yes side, many of those who voted Yes would have done so without necessarily understanding the fine detail of the bipartisan appointment model. They might simply have believed that the time had come — the monarchy had had its day — out with the old and in with the new. Some may also have voted Yes because they felt it was the only refuge for a patriot, others because they didn’t want to agree with Howard, and a minority perhaps because they didn’t like the No
campaign leader Kerry Jones or the sound of the word No. Finally, there were those who voted Yes for combinations of the above, or for none of the above — some of them fully informed, some partially informed, some misinformed, some not carrying information of any particular relevance to the polling booth.

No voters comprised at least seven different groups. First came the hard core monarchists who would vote No to any republic. We might describe them as the ‘monarchy or death’ clique. Close on their well-polished heels come the constitutional fundamentalists. They are the ‘1901ers’ — while not attached deeply to the monarchy, they dread the prospect of any change to the sacred text of the founding fathers. While the former may be able to draw the Windsor family tree from memory, the latter are more likely to be found at public meetings with well-thumbed copies of Australia’s Constitution at hand, dutifully protecting ‘the word’ of the fundamental law.

There were also No voters who were republican but who voted No because they did not like the model, either because they were sympathetic to direct election, perhaps without necessarily understanding the constitutional ramifications of a president elected by popular vote, or because they were committed to a particular form of direct election, such as the models which exist in the Irish, American, Austrian or French republics. This group were republicans who were not willing to compromise. There may also have been republicans who voted No because they preferred a President appointed by Parliament, but were unhappy with certain features of the bipartisan appointment model put before them on 6 November, such as the dismissal mechanism or the public nominations procedure.

While some No voters in the previous categories might also have harboured contempt for politicians, there may have been some who voted No out of spite. They may have seen the republic referendum as an opportunity to register a protest vote against politicians. After all, it was the politicians who had ‘wasted’ 120 million dollars on the referendum when there were ‘real’ needs in thousands of local communities across the country. These politicians now wanted to appoint the President! There could only be one answer: ‘Vote No to the politicians’ republic’ (Sydney Morning Herald, 6 November 1999; see also Australian, 11 October 1999). Journalists who ventured into the bush at the time of the referendum came back with confronting reports of alienation. The comments of one former Mayor of Gunnedah in NSW were typical:

Our electorate is the classic, they hate politicians; they absolutely hate them. They blame them for the downturn in the rural economy and it’s every politician, every party ... rural people never had a chance to be part of the republic process, it was
railroaded through by the likes of Malcolm Turnbull and his ilk' (Sydney Morning Herald, 13 November 1999).

Some No voters may also have been attracted by the various homilies and clichés of the No campaign, which encouraged ignorance and exploited fear. Slogans such as ‘Don’t Know? Vote No’ and ‘If it ain’t broke don’t fix it’ struck a chord with those who could not find the capacity, space, or time to understand the issues involved, as well as those who were suspicious of change per se or simply apathetic (Sydney Morning Herald, 29 October 1999). The stark reality may be that many voted against the republic without understanding the proposal for change and with little or no idea of the system they were pretending to protect.

While it may be true that the more wealthy inner metropolitan areas tended to support the republic, whereas the outer suburbs of the cities and the bush were largely opposed, the ‘two nations’ analysis is still far too simplistic. Given the well documented ignorance of the Constitution in Australian society, and the numerous reasons that voters may have held for voting Yes or No, reasons which sometimes cross the city/bush divide, we should not assume too readily that those who voted Yes did so because they were more informed than those who voted No (see, for example, Turnbull 1999, 249 who argues Yes voters are more informed). We should also refrain from casting Yes voters as an elite. So far as the Constitution is concerned, the wealthy may be no more informed than the poor.

The reasons why university educated, upper middle class Australians of the inner cities were more likely to support the republic may lie elsewhere. Perhaps it is this class that is more persuaded by the symbolic arguments for a republic, more convinced of the need for a republic as image, brand, identity, and an internationally recognised label of independence. Perhaps it is this class which is also more in touch with the production of information, new technology and the continual process of change and invention in a global market place: a class which does not hold politicians in contempt precisely because it has benefited materially from the economic reforms of the last two decades. Perhaps the high Yes vote in affluent areas of the inner cities is explained not by the fact that these voters were more informed about the Constitution, but rather by the fact that they have come to see change as a positive process, while others have come to fear it.
Who supported the republic?

The Yes case was backed by a wide cross section of leading figures from the political, legal, corporate, clerical and media environments (Financial Review, 29 October 1999 on business leaders; Sydney Morning Herald, 4 November 1999; also Catholic Archbishop George Pell, ex Chief Justices Brennan and Mason, and ex Governor-General Cowen in the letters page of the Australian, 23–24 October 1999). The Murdoch press, which comprises almost 70 percent of the mass circulation major metropolitan daily newspapers in Australia, supported the republic. News Corporation Chief Executive Rupert Murdoch and his son Lachlan both made public interventions in the campaign that were critical of the stance of Howard and supportive of the republic (Sydney Morning Herald, 4 November 1999).

The Murdoch broadsheet the Australian, Australia’s only national daily, led the way with regular pro-republic editorials and comment. The Australian even sold car stickers for the Yes case, and organised its own public forums on the referendum, which were naturally given maximum coverage (Australian, 2 August 1999). On the day of the referendum, the Australian’s front page carried a large banner in full colour urging readers to ‘Vote Yes’. The day after the referendum, the Murdoch tabloid the Daily Telegraph lamented ‘Long to reign over us. Queen lives but our republic dies’ (Australian, 6 November 1999; Daily Telegraph, 7 November 1999).

The Fairfax stable, most notably the Sydney Morning Herald and the Age, supported the republic with considerable enthusiasm. Like the Australian, the Herald and the Age advocated a Yes vote largely on two grounds: firstly, because the model was conservative, involved minimal change to the Constitution, and was allegedly safe; and secondly, because the monarchy was no longer an appropriate or meaningful symbol for Australia in the twenty-first century (see the series of weekly Sydney Morning Herald editorials on the republic beginning 11 October 1999 and finishing 4 November 1999). These arguments were supported by the Australian Labor Party, a majority of Australian Democrats, approximately 35 to 40 percent of the federal Liberal Party, every state Premier except Western Australia’s Richard Court, and every state Opposition leader except Queensland’s Rob Borbidge (Australian, 3 August 1999; only 10 out of 29 of the Howard Cabinet support the republic). Despite all the powerful forces working in favour of the Yes Case, however, the ‘manufacturing of consent’ could not be arranged.
‘Vote No to the Politicians’ Republic’

Four days before the referendum on 6 November, the *Australian* carried a photograph of one of the final No campaign rallies in Sydney. The photographer’s eye chose to fall on a small group of elderly monarchists. Seated on green plastic chairs, they floated their No balloons and held a placard that read ‘Vote No to the Red Republic’. In the bottom right hand corner of the placard was the unmistakable sign of the hammer and sickle, coloured appropriately in bright red (*Australian*, 2 November 1999).

If the caption below the photograph had read ‘Loyalists rally in favour of Menzies’ attempt to outlaw the Communist Party’, the photograph might have seemed entirely credible. The photographer had caught a fossilised form of opposition to an Australian republic — more relevant to the formative years of the generation holding the balloons than the 1990s — and one which had virtually no bearing on the result of the referendum. The success of the No vote was not explained by popular support for the monarchy but by popular disdain for politicians. The No vote succeeded because it tapped into the widespread contempt for politicians in Australian society: ‘Vote No to the Politicians’ Republic’. Combined with this empty slogan were a number of contradictory but highly effective messages.

Firstly, the No campaign cast republicans as elites, as friends of the politicians, the media, lawyers, academics and other ‘high flyers’. All republicans were enemies of the people — enemies of the ‘ordinary Australian’ — except those republicans who intended to ‘Vote No to This Republic’, such as ‘politicians’ Ted Mack, Phil Cleary and Peter Reith, and ‘lawyer’ Jocelyn Scutt. These ‘elites’ were the friends of the people: at least until 7 November 1999. The populism of the No case emanated as much from the direct election republicans as it did from the monarchists (see Peter Reith’s article in the *Australian*, 3 August 1999, 13. Reith employs the phrases ‘high flyers’ ‘backroom committees’ and ‘ordinary Australians’. Also see *Sydney Morning Herald*, 2 August 1999, where Reith states his reasons for voting No; and *The No Case Papers*, especially Cleary 1999, 9-15 and Mack, 1999, 95–103).

To convey this populist message, the No side were aided by Tony Abbott, Minister for Employment, Rhodes scholar, and the product of a struggle town on Sydney’s north shore. More than any other federal Minister, Abbott exploited the class card, fanned fear of the disastrous consequences of the model and encouraged community loathing of his profession. His was an outstanding contribution (see Abbott in the *Australian Financial Review*, 6 August 1999. Abbott likens members of Conservatives for an Australian head of state
to aristocrats whom Lenin once called ‘useless fools’. Also see any of the last three weeks before 6 November 1999 in the opinion pages of the Australian, where Abbott appears with alarming regularity).

Hounding the elites wasn’t enough. The No campaign also concentrated on painting the republic as the end of Australian civilisation. If a Yes vote succeeded, they claimed, the Australian flag would change, Crown land would be handed back to the Aborigines, the Weimar Commonwealth of Australia would become a fascist republican dictatorship, and Perth businesswoman Janet Holmes a Court would be free to ‘buy the Australian Presidency’ (Australian, 3 March 1999; Geoffrey Blainey claims the republic model risks a dictatorship, Australian, 20 August 1999; Reith claimed the republic would inevitably lead to a change in the flag, Australian, 23 August 1999; Kerry Jones made the claim that Holmes a Court would buy the Presidency on ABC Radio National, PM, 1 November 1999; the Crown Land claim came from One Nation Senator Len Harris, Australian, 11 October 1999).

The language employed in this fear campaign relied cleverly on analogies that evoked the everyday experience of ordinary Australians: cars and their drivers. The leaders of the No campaign argued that under the bipartisan appointment model, the Prime Minister could sack the President more easily than ‘he could sack his driver’. With a thousand television commercials penned by second hand car dealers ringing in their ears, they asked the electorate a pertinent question — ‘would you buy a used car without driving it first?’ — ‘with no kilometre guarantee?’ — ‘just drive away and hope for the best?’ (see the formal No Case in the pamphlet Yes/No Referendum 99, produced by the Australian Electoral Commission). This clever mixture of deceit and scare campaign emanated from a range of voices across the political spectrum — from the right wing One Nation party to former High Court judges, monarchists and radical republicans — something which made the task of the Yes case infinitely harder. They were attacked from right and left, and from within their own ranks.

The No campaign was also able to exploit the belief that the referendum would not be the last and only opportunity to vote on the republic. In the middle of the campaign, ACM leader Kerry Jones, a monarchist who opposed all republics, suggested that after the referendum failed, ‘a better republican model, based on a popularly elected President, should be drafted by a new convention and submitted to the people at a subsequent referendum’ (Australian, 13 October 1999). Jones was caught by Gerard Henderson (Sydney Morning Herald, 19 October 1999). During a TV debate, a colleague sitting next to Jones claimed she was opposed to ‘this model’ because ‘we don’t get the right
to vote'. When she was asked by the BBC presenter David Dimbleby whether she did in truth support the removal of the Queen for a directly elected President, she appeared uneasy. Jones then whispered in her ear, 'Just say you like Australia the way it is'. Her colleague then dutifully spoke the words.

Since Justice Michael Kirby instigated the formation of Australians for Constitutional Monarchy in 1992, the organisation had claimed to be a staunch defender of Australia's current system of government, a system which its members frequently described as 'the Westminster system'. The essential feature of the Westminster system is the supremacy of Parliament. Elected representatives are accountable to the people through Parliament. Ironically, while monarchists claimed to defend this system, a system which places enormous trust in politicians and the institutions of parliamentary democracy, they based their campaign on slogans which sought to denigrate politicians.

The only notable exception to this crusade came from the monarchist Howard. In his 3,000 word decree on the republic, which was widely published in the press and covered extensively in the electronic media, Howard made it clear that he did 'not support a directly elected Presidency'. He stressed the benefits of Australia's stable democratic system and side-stepped the issue of anachronistic symbolism by claiming the Governor-General was Australia's effective head of state. He concluded: 'Even among many who intend to vote Yes there is a ready acknowledgement that there are far more important issues on the national agenda. In these circumstances Australians are right to be sceptical about the need for change. I hope they reject the republic. It will not produce a better Australia' (Australian, 27 October 1999). Howard's strategy was not to argue against a republic, but to make the issue appear inconsequential and trivial, as if the republic would only have legitimacy when thousands marched in passionate rage on Capital Hill.

Regardless of the merit of Howard's arguments, they differed significantly from those presented by the No campaign. Not only had the monarchists abandoned the monarchy throughout the campaign, they also reviled the core features of the very system they claimed to defend: Parliament and its elected representatives. Their slogans did not promote the protection or understanding of the current system of government in Australia. In fact, they suggested that Australia should depart from its current system of government and opt for a republic with a directly elected President. The No campaign failed to articulate a conservative case for retaining Australia's constitutional monarchy. The defenders of Australia's current system of government were the leaders of the Yes campaign. The bipartisan appointment model allowed for greater popular
involvement through a public nomination process, yet still retained the supremacy of Parliament.

**‘Vote Yes for an Australian Head of State’**

From 1991, until his fall from power in March 1996, Labor Prime Minister Paul Keating led the republic debate with a singular passion and determination, but at the time of the republic referendum three years later, the man who had done more than any other political leader to push the republic to the top of the national agenda was absent. By 1999, with monarchists keen to cash in on the pejorative overtones of ‘Keating’s republic’, Keating was a political liability. The only service he could perform for the Yes campaign was to remain silent. Silence did not come easily to Keating. On the one occasion he entered the referendum debate, he managed to provide one of the more memorable lines of the campaign. With the same sharpness of wit and eye for vulnerability in an opponent’s position that he had demonstrated when Prime Minister, Keating described the No side’s failure to defend the monarchy as ‘the love that dare not speak its name’ (*Australian*, 28 October 1999). Oscar Wilde would have been pleased.

During the referendum campaign in October and November 1999, Labor leader Kim Beazley stepped into Keating’s shoes with limited success. Whereas Keating had made the republic his own, Beazley had never believed the issue should occupy the central position in ALP policy it had claimed under Keating’s leadership. After the election of the Howard Government in March 1996, the republic debate fractured, losing the clear focus it had maintained under Keating’s leadership. The sentiment for direct election increased at the same time the populist Pauline Hanson and her One Nation party rose to prominence. While the Constitutional Convention of February 1998 captured the public imagination for a brief moment, by the time of the referendum campaign in November 1999, Australians no longer seemed to accept that they were about to vote on a republican model that made no provision for direct election.

The Constitutional Convention, and the compromise model that emerged from it, always struggled for legitimacy. With 50 percent of Convention delegates appointed, and only 45 percent of the Australian electorate participating in a non-compulsory vote to return the remaining 50 percent of delegates, the Convention was destined to be painted as a device engineered by ‘elite politicians’ in order to deny the people their right to choose the republican model they desired (see McKenna 1998, 82–4). When the referendum debate
began in earnest in October 1999, the context of the debate had shifted significantly from that of March 1996. Born of a process that could claim only partial legitimacy, hobbled by the necessary compromises forced on the ‘Keating-Turnbull republic’ by the competing interests of the Convention delegates, and lacking the Prime Ministerial support it had enjoyed from 1991-96, the republican model put to the people in November 1999 was weighted with a handicap it could never hope to carry to victory (for one perspective on the Keating-Turnbull republic see Flint 1999, Chapter 6).

The dismissal mechanism in the republican model which allowed for instant dismissal of a President by a Prime Minister, while replicating the existing system, still proved to be the Achilles heel of the Yes campaign, together with the method of parliamentary appointment. The proposed public nomination system was also little understood, either pilloried as a half hearted attempt to involve the people, or misunderstood as a feature which would be entrenched in the Constitution (an all-party parliamentary committee found that the public nomination system is not understood by the electorate, Australian, 10 August 1999).

Added to these factors was the failure of republicans of various persuasions to find common ground before 6 November 1999. Those republicans who supported the bipartisan appointment model could not manage to persuade enough of their comrades who favoured direct election to vote Yes (see McKenna 1999, 24—9). Much of the referendum debate was drawn to focus on hypothetical scenarios. When would the next referendum be? Would there be another referendum? What would a Yes or No vote mean for the prospect of a further referendum on a republic with a directly elected President?

Predictably, the No case claimed there would be another referendum, while the Yes case stressed that ‘No meant No’, at least for the foreseeable future. Here was the rub. To attract direct election republicans to vote Yes, supporters of the model were forced to hold out some hope of another referendum in the near future. The result was a contradictory message. On the one hand, they claimed ‘No meant No’ for a very long time. On the other hand, they also suggested a Yes vote did not exclude the possibility of a later referendum on the question of direct election. Beazley’s attempt to capture Labor’s traditional ‘battler’ support base, where sympathy for direct election was strong, and his frequent stumbling over the question of future referendums, revealed the impossible position in which the Yes case found itself (Sydney Morning Herald, 27 September 1999. For an interesting analysis of the flaws in the Yes campaign see Kirby 2000). There were too many olive branches to hold out and too many fears to allay.
Consistent with the ARM's campaign since 1991, the Yes campaign relied heavily on nationalism and the anachronistic nature of the monarchy. On one occasion in July 1999 Malcolm Turnbull, leader of the ARM, argued before a Senate Committee that the ARM preferred no mention of the word republic in the referendum question. He was mocked by the media (Turnbull 1999, 96–101). Funding and campaign management were controlled from the Sydney headquarters of the ARM. The public face of the campaign was a cavalcade of media-friendly faces that included ex-Prime Ministers Whitlam, Fraser and Hawke, all of whom qualified in their different ways as celebrities. This procession of fading stars failed to have the expected impact. As the Yes case wheeled out more and more celebrities, it seemed merely to reinforce the 'elite' persona of the republican movement painted so menacingly by their opponents. The Yes campaign's decision to employ the 1972 'It's Time' slogan of the Whitlam Labor Opposition demonstrated both the paucity of original ideas in republican ranks, and the historical origins of the movement's nationalism.

Perhaps it was the last star of the Yes campaign that best reflected the tenor of plan A: photo opportunities for celebrity republicans. On 4 November 1999, a bull stood in front of Sydney Town Hall with an appropriately dull, blank and bullish look on his face. He was led ably by republican stockmen before any available camera or microphone. He was there to tell the world that Prince Charles had just been appointed British beef ambassador. The media spin went as follows: when this Australian bull was put to death, the Prince of Wales, as ambassador for British beef, would be somewhere in Europe representing dead British bulls. Australia needed to become a republic so it would have its own head of state to represent its own dead bulls. It is difficult to tell just how many voters were won over by this strategy (Canberra Times, 5 November 1999).

While the television image of the republican case was one-dimensional and simplistic — replete with saccharine patriotic tunes and the shallow slogans of grab nationalism — the model was explained in detail in other mediums. In the print media and on ABC radio, there was much detailed discussion of the model, both its merits and its flaws. For anyone willing to find the time to read and listen, there was ample opportunity to come to an informed decision. To claim that there was not enough information concerning the referendum proposal is misleading. There was a surfeit of information, buried in amongst the increasing cascade of information that already inhabits our daily lives. The truth is not that we were given too little information, but that we failed to find the time or interest to read and digest the information before us. For any advocate of constitutional reform in Australia, it is not only necessary to raise
community awareness and understanding of the Constitution, but to create the public space and time for voters to concentrate on the detailed arguments involved.

To achieve a more informed vote, the nation might be advised to take a collective tea break, empty the mailbox, shut the door on the background noise of advertising, news and entertainment, turn off the TV, the radio and the stereo, take the phone off the hook, log off and sit down. Then, there might be some ‘quality time’ for the details of referendum questions to be closely examined and calmly discussed. Can Singleton, Ogilvy and Mather, the firm employed to market the Yes case in the media for the referendum, offer us any advice?

Where to now?

On 13–14 November 1999, the broadsheet that had done more than any other daily paper to push the republic debate in Australia had reached the point of exhaustion. The editorial on this day insisted that the *Australian* was still a ‘republican newspaper’ but that it was time to press ‘the pause button on the debate’. ‘Enjoy the summer’, said the *Australian* — a flippant comment which perhaps begged a more serious question — just how long would the summer of Australia’s constitutional monarchy last? Although Australia’s love affair with the monarchy is certainly over, their presence will be difficult to remove, because it is perceived largely as benign. After the failure of the referendum, the anachronism of the monarchy on Australian soil will clearly not be enough to solve the dilemma that Australia now finds itself in: knowing what it is not but not knowing what it wants to become. In some ways, the old paradigms of the republic debate have passed us by. The future debate will probably be less focused on symbolism, oaths of allegiance, and British beef. In this sense, the referendum has been a crucial turning point.

The history of Australian republicanism has been dominated by the Labor image of a republic. This was the republic championed throughout the 1990s by Keating and the ARM. The argument is familiar. Australia needs to become a republic to demonstrate its independence, its identity, and its maturity. This nationalist republicanism emerged gradually as a response to the history of Australia’s colonial relationship with Britain. The change to a republic was represented frequently as ‘breaking away’, ‘casting off’, crucifying the cringe, rejecting British pomp, strutting some barrel-chested vision of national confidence or simply wallowing in ‘Australianess’.
Prolonged repetition of similar themes during the referendum in November 1999 failed to convince enough Australians to support the republic, and when it was defeated, the Labor tradition of republicanism, which had reduced the republic to a symbolic expression of national identity, was defeated as well. The long-held belief that the Australian republic promised a new national identity for Australia — a casting off from the imperial motherland towards a new, uniquely Australian identity — had been tested and failed. Not enough Australians were persuaded by the traditional republican argument that Australia's identity, confidence and independence is diminished by the monarchical thread.

For the majority of Australians, the precise nature of the constitutional change involved in becoming a republic matters more than the symbolism associated with the change. As always, Australians seem to assess the merit of proposals for change by placing their heads under the bonnet — the practical machinery matters more than the glossy concept. When the republic resurfaces, it is likely to be a more interesting, potentially more invigorating debate. The November 1999 referendum proved that a nation that has never sought to attach its national identity to political institutions still refuses to do so. The referendum defeat also suggests that it is time for republicans to bury the old Labor arguments for a republic and place less focus on nationalism and identity, and more emphasis on democratic republicanism.

A brief guide of how to argue for an Australian republic in the wake of the referendum result might begin with the following list of negatives. Do not say:

- Becoming a republic will make Australia more independent. This argument was relevant when Australia was a colonial society. The declaration of an Australian republic today will have no effect on our national independence, but it could have an enormous effect on the fabric of our democracy;
- We need to become a republic to be more Australian. This immediately becomes a personal attack on all those who might be persuaded to vote for a republic, but who feel no less Australian if they do not do so;
- We need to become a republic to establish our identity on the world stage. The world stage exists only in the theatre of the Australian republican's imagination. The republic is not a performance for a domestic or foreign audience;
- We need to become a republic to be more confident, more inventive culturally, or more clever. In short, do not use the metaphor of maturation. While the prospect of a republic may have been about 'coming of age' in
1901, since the 1970s, Australia has come of age so many times we should now release ourselves from a state of perpetual adolescence; or

- We need to become a republic to reject British pomp and ceremony, demonstrate we are no longer part of Britain, or that we have 'moved on'. All of these arguments are now redundant. We have 'moved on' without becoming a republic.

To give up these arguments for a republic will not be easy. Australian republicans have cast their vision of a republic in such terms for a century or more. If the republic is to have any chance of being approved at a referendum, republicans must thwart the belief that the republic is a child of the elite. Clinging to the fantasy that the electorate will approve a republic that denies the Australian people the right to vote can only mean that republicans are left to do battle with the same hackneyed arguments. Advocating a minimalist republic denies republicans the opportunity to cast their vision of change in terms of popular sovereignty, the one path that holds out the possibility of allowing the republic to partially address the current dilemmas plaguing the body politic.

Popular support for a republic will not be garnered until there is a sense of popular ownership of the republic. This requires a decision-making process that is democratically legitimate, such as a fully elected constitutional convention and sufficient public space and time for public deliberation. Ultimately, it can only mean a republic with a directly elected President. Over time, this republic will come to be associated in the public imagination with the popular festival of an election day — a pageant which might contribute something unpredictable and original to our political culture and provide the sense of ownership that the Australian people demand.

Despite all of the misplaced and poorly conceived notions currently attached to the idea of a directly elected presidency, for many Australians it is still the only model that carries the potential to connect and involve them directly with the process of change. George Winterton, the architect of the first minimalist constitution, now acknowledges that a directly elected presidency is the only viable future for an Australian republic. There are, however, many hurdles to overcome (Winterton 2001b). In the federal and state Parliaments of Australia, there is a political class that is largely opposed to direct election, while in the electorate at large there is widespread ignorance of the Constitution. In addition, there is the undoubted potential for scaremongers to sharpen their knives once more on the many constitutional changes necessary to introduce a popularly elected presidency.
The powers of any future Australian President elected by popular vote must surely be codified in the Constitution. The great balancing act required of lawyers and politicians will be to deal effectively with the 1975 crisis when codifying the President’s powers. Will a new republican Constitution deny the Senate’s power to block supply, a course of action that would seem destined for political defeat? Will it entrench the Senate’s power to block supply and insert the unpredictable office of a directly elected president as the arbiter of constitutional crises? Or will it leave the issue of the Senate’s powers untouched and allow current constitutional conventions to be interpreted by a directly elected President? Any of these courses of action is fraught with political obstacles. Even if Australia were to adopt the Irish system, and arrange for a council of state to advise the President in certain circumstances, this might still be portrayed as an ‘elite’ attempt to control the power of the people’s representative.

Finally, there is the experience of the deliberative poll held in Canberra in October 1999, which suggests that support for direct election may well evaporate in the face of prolonged scrutiny. The poll registered a 73 percent yes vote, an increase of 20 percent, and support for direct election fell from 51 to 19 percent (Australian, 25 October 1999). There is every chance that a direct election model will also suffer defeat in a national referendum when subjected to sustained analysis. Future republican models will emanate from the existing players, lobby groups and politicians who have so far been involved in the debate. Any compromise model that emerges from these competing interests can always be depicted as an elite conspiracy.

There is no one answer to the problems ahead for republicanism in Australia, but some things are clear. The future debate needs to be more inclusive and relevant, especially to women and younger Australians (for the gender gap in support for a republic see Australian, 3 November 1999; for youth see Australian, 28 July 1999). It also needs to make the republic more meaningful, to write a republican preamble, to forge a republican position on reconciliation and human rights and to make these issues central to the republican platform. A version of direct election alone, most probably designed and vetted by politicians, will not be enough. The essence of our republican democracy is not the nationality of our head of state, it is the democratic process we put in place to discuss issues of constitutional change. From this perspective, the way in which we become a republic matters as much as the model we eventually choose.

Republicans will also need to foster a community spirit that is more receptive to constitutional change and more convinced of the benefits that
change might bring. The only way this can be done is to abandon minimalism and to think more broadly. Then the promise of a new national identity might be more believable. The alternative is a long hot summer for 'the captive republic'.
Chapter Twelve

Australia Deliberates? The Role of the Media in Deliberative Polling

Rachel K Gibson and Sarah Miskin

On the weekend of 22–24 October 1999, two weeks before the referendum on the republic, nearly 350 Australians gathered in Canberra to take part in an ‘imaginative innovation in democracy’ that was designed to be an important indicator to all those Australians about to vote on the republic. The ‘experiment’, Australia’s first ‘deliberative poll’, was organised primarily by Issues Deliberation Australia, a private non-profit organisation based in Adelaide. Australia Deliberates aimed to show how Australians would vote on the republic if they had considered the issues in depth. It was promulgated as superior to ordinary opinion polls of popular feeling in that its result would reveal ‘what informed Australians thought about an Australian republic when given the opportunity to consider the facts away from campaign rhetoric and sound bite advertising’ (Issues Deliberation Australia 1999, 26). The ‘representative Australians’ were polled six weeks before they assembled in Canberra and again on 24 October after their weekend of deliberation. The result was a dramatic increase in support for the model on offer in the 6 November referendum, and a dramatic decrease in support for direct election of a President.

Organisers claimed that the poll had revealed ‘the voice of Australia’ and would act as a ‘recommendation to everyone else’. We contend in this chapter, however, that the poll failed to optimally educate participants and failed to act as a recommending force to the wider public, and that changes in poll participants’ views were more the result of emotive identification with the idea of a republic than rational deliberation over the issues. These failures, we argue, were primarily due to the presence of the mass media at the poll and their use to disseminate the results. During the proceedings, media constraints constantly intruded upon, and shaped the timing and organisation of, the deliberations of the participants. After the event, coverage was limited and that which did occur
turned the poll's message into sound bites and headlines, detracting from any educative effects that organisers claimed would occur. Our evidence for this argument comes from our observations of both the group discussions during the poll in our role as group managers throughout the weekend, and from the newspaper and television coverage during and after the event.2

Australia Deliberates and deliberative polling

The organisers of the Australia Deliberates poll claimed that it 'was intended as a public education exercise — an attempt to air the informed voice of a representative sample of Australian citizens on the complex issue of constitutional reform' (Issues Deliberation Australia 1999, 11, emphasis in original). It represented another application of the deliberative polling concept, developed by James Fishkin in the early 1990s and used previously in the United States and the United Kingdom. Modelled on ancient Athenian democracy, the deliberative poll works by bringing statistically representative citizens together to debate the various merits of an issue before coming to a collective decision (Fishkin 1991, 1995).

The logic of the deliberative poll is premised on two basic assumptions. The first, a philosophical one, is that face-to-face deliberation by citizens is a necessary component in any meaningful democracy since it prompts the rational thinking that produces informed and, therefore, legitimate decision making (Dryzek 1990; Gutmann and Thompson 1996; Elster 1998). The second, an empirical one, is that such deliberation rarely, if ever, takes place in contemporary society, and certainly not to the widespread extent necessary for true democratic legitimation. While the practical issue of population size clearly mitigates such deliberation in society today, citizens' orientations to politics are central to this problem. As Fishkin argues, most democracies are full of 'disconnected' citizens who are disengaged from political issues and who 'show little in the way of knowledge, sophistication, or consistency in their beliefs and opinions' (Fishkin 1991, 82). At best, he contends, the public can be considered as a collection of 'rationally ignorant' individuals who lack the requisite knowledge to make informed judgments on many issues of national policy.3

Given these deficiencies, the dilemma arises of how the true will of the people can be known. Ordinary polls are practically useless as guides to public opinion, since they elicit only a series of 'non-attitudes' or uninformed 'top-of-the-head' responses. Fishkin argues that, most of the time, 'the public may not be thinking very much [about an issue] or paying much attention' (Fishkin 1995, 162). The results of such polls, therefore, often have 'quite limited relation to
the views people would hold if they had the chance of learning, thinking, and talking about the issues' (Fishkin and Luskin 1999a, 4).

Into the breach, Fishkin offers the deliberative poll, in which a representative group of citizens is exposed to the information and debate necessary to develop optimally ‘informed’ opinions on significant policy matters. The resulting outcome is quite different to that of an ordinary opinion poll. According to Fishkin, ‘An ordinary poll models what the public thinks, given how little it thinks, how little it knows, how little it pays attention. A deliberative opinion poll, by contrast, models what the public would think, if it had a better chance to think about the questions at issue’ (Fishkin 1996, 134).

The intensive period of knowledge accumulation and debate that lies at the heart of the deliberative poll provides ‘both opportunity and incentives for the participants to behave more like ideal citizens’ (Fishkin and Luskin 1999a, 4). Participants discuss the issues in small groups, and come up with questions that they then put to expert panels. As with other deliberative microcosms, the result is that, ‘at least temporarily’, it becomes ‘less rational’ for the individual participants to be ignorant because their vote is not just one among millions, but one voice among 10 or 20 in the small group and a few hundred across the poll group (Fishkin and Luskin 1999a, 4). The participants in the deliberative poll are surveyed in advance of the proceedings and again afterwards. The later survey, therefore, offers ‘a representation of the considered judgments of the public — the views the entire country would come to if it had the same experience of behaving more like ideal citizens immersed in the issues for an extended period’ (Fishkin 1995, 162). The outcome of the deliberative poll is ‘the kind of public voice that merits special attention’ (Fishkin and Luskin 1999a, 8).

The role of the media

In addition to offering a more authentic version of vox populi, deliberative polling has the broader aim of public education. To achieve this goal, the media are assigned an integral role in the process. National broadcasting of the deliberations to the wider audience at home is seen as crucial to the entire enterprise, since this brings substance to the particular debate and thus to the public’s decision-making. Fishkin argues that through ‘survey research, we can select the sample and formulate and tabulate the questions. Through television, we can attract the citizens and the candidates and disseminate the conclusions of the deliberative microcosm’ (Fishkin 1996, 140).
Media involvement is clearly seen as a key selling point for the poll in attracting individuals to take part. The media ‘dramatize the process so much that most citizens would be glad of the opportunity to play a serious role in important historical events’ (Fishkin 1991, 9). Further, Fishkin notes that because they will be in the news, participants show increased interest in the issues before gathering for the deliberations, which he considers aids the deliberative process:

Knowing that they will be on national television, and knowing that the issues are important, they are likely to read the materials, discuss the issues with friends and family, and pay more attention to the media. From the moment they are invited, they begin to become unrepresentative of mass opinion as it is. But they begin to become representative of our ideal public (Fishkin 1995, 172).

In summary, deliberative polling appears to have two main aims: firstly to act as a ‘social science experiment’ that tests whether exposure to information and debate leads to a change in individuals’ opinions; and secondly to use the resulting opinion change to educate the public as to how they would vote if they, too, had had the opportunity to join with others for in-depth deliberations. Clearly, these were the aims of the Australian poll’s organisers. In their own words, ‘Australia Deliberates was an experiment in deliberative democracy: an attempt to facilitate an informed vote for a representative group of Australian voters. Through wider media coverage, it was also an attempt to facilitate a more informed vote for the general public’ (Issues Deliberation Australia 1999, 26).

While criticisms have been made of the deliberative polling method, thus far, the role of the media in the process has escaped scrutiny. We contend that the central role assigned to the mass media in the Australian deliberative poll invariably led to decisions that compromised the level of information and debate to which participants were exposed, and thus the internal validity of the experiment. In our position as observers of formal and informal group discussions, and our attendance at plenary sessions, it became clear that media demands drove the process and, more crucially, acted as constraints on the level of knowledge that it was possible for participants to acquire. In addition, the media’s methods for disseminating information to the wider public relied on the very sound-bite culture that deliberative polling was designed to counteract, thereby corrupting the message the public received and frustrating the broader educational ambition.

Our critique of deliberative polling as represented by Australia Deliberates is in two parts. The first part examines the Australia Deliberates poll itself and
the role played by the media in reducing the quantity and quality of information disseminated to the participants. The second part looks at how the media were used in an attempt to achieve a broader education of the public at large and argues that this was unsuccessful. While we accept that media presence may serve to encourage individuals to attend the poll and take an interest in the issue, based on our observations of the Australia Deliberates poll we argue that the media can also have a discordant and decidedly negative effect on poll proceedings.

The Australia Deliberates poll: The facts

Australia Deliberates was organised by Pamela Ryan (managing director, Issues Deliberation Australia and research fellow at the Hawke Research Institute, University of South Australia), Professors James Fishkin and Bob Luskin (Center for Deliberative Polling, University of Texas) and Professor John Higley (Clark Center for Australian Studies, University of Texas). The poll brought 347 representative citizens to Canberra for one and a half days of discussion on the weekend of 22–24 October 1999. The participants were part of a broader sample of 1,220 voters polled in a random digital-dial telephone survey in early September 1999 about the forthcoming republic referendum. Of these 1,220, 770 interested respondents were contacted and asked to attend the deliberative weekend. Those who agreed to travel to the national capital were sent briefing documents in early October.

On arriving in Canberra on Friday, 22 October, the participants were randomly assigned to one of 24 groups that met for deliberation three times, twice on Saturday and once on Sunday (see Appendix for program details). Each discussion session was scheduled to last an hour and 30 minutes, and was designed to generate questions for a televised plenary question and answer session with a panel of experts that followed immediately afterwards. (In effect, the sessions lasted an hour and 20 minutes because questions had to be delivered to a selection team.) Groups were guided in their deliberations by moderators (group facilitators), who could not prompt questions or inform participants in any substantive way. Deliberations and the subsequent plenary sessions were centred on a set of preordained topics: (1) The head of state role; (2) If Australia became a republic, what would change? What would stay the same?; (3) Why vote Yes? Why vote No?

After these sessions, the participants were surveyed again before leaving on Sunday. The main results were:
• Support for a Yes vote increased from 53 percent before deliberation to 73 percent after deliberation;
• Support for a No vote fell from 40 percent to 27 percent;
• Support for a President appointed by Parliament increased from 20 percent to 61 percent;
• Support for direct election of a President fell from 51 percent to 19 percent;
• The proportion of those who believed the president should be non-political ('someone from outside of politics') increased from 53 percent to 88 percent; and
• The proportion of those who believed that the Australian flag would change as a result of a Yes vote at the referendum fell from 59 percent to 8 percent.

The education of poll participants?

While we do not dispute the facts emerging from the deliberative poll as listed above, we do question how far the basis for these shifts in opinion was the result of informed and rational debate by participants. Our central contention is that the media reduced the level of information that would otherwise have been made available to Australia Deliberates participants, both directly and indirectly. Directly, the demands of media coverage vis-à-vis location and scheduling significantly affected the quantity and quality of information available during the event. Indirectly, the media coverage negatively affected the manner in which plenary speakers, particularly the advocates on either side, conveyed their case, and also the propensity of participants to listen to the messages being conveyed.

Direct media constraints

The first and most obvious media-driven constraint on participants' knowledge-gathering was the choice of venue, which organisers appeared to have selected for its media impact rather than its suitability for the purpose. Old Parliament House reinforced the gravity of the occasion, providing old-style political imagery both for participants and the viewing/reading public, as well as a strong visual link with the earlier Constitutional Convention on the republic question. However, it was too small to host the event. Just over one-third of the participants could fit into the plenary sessions held in the 150-seat House of Representatives. While four viewing galleries upstairs could hold another 150, three of these areas were taken up by the media and observers.
To combat the space problem, a large television screen was placed in the 150-seat Senate chamber for the remaining participants, and a system of rotation into the one available upper gallery of the House was operated for the first session (on Saturday morning). The rotation system, however, resulted in considerable gaps in participants' ability to hear the discussion as they were being moved in and out of the chambers. An estimated 150 of the participants were without adequate access to the answers being delivered in the House for at least 15 minutes of the one and a half hour plenary session. Of those, up to 45 people were without proper access for up to 40 minutes. Given that the first plenary session was arguably the least advocate driven and most substantive of the three, this lack of access was of substantial detriment to a significant number of participants.

Decisions about scheduling were clearly made in deference to media concerns, rather than for optimal knowledge gathering and deliberation on the part of the poll participants. Plenary sessions were the organising focus of the weekend, with three live ABC television and radio broadcasts of between one-and-a-half and two hours taking place, as well as a separate session for a commercial television station's current affairs programme. The explicit goals of each group discussion were to generate up to four questions and to nominate a questioner for the plenary session that followed immediately afterward. The questions were to be submitted to an ‘editorial team’ of poll organisers 40 minutes before the live coverage began. This team selected a ‘representative’ sample of the questions to be put to the experts on the plenary panel, and primed the group questioners for the session. ‘Editorial team’ members were not involved in the deliberations of the groups and thus, when selecting questions, could not know what was most important to the groups.

The constraints here were twofold. First, this schedule meant that groups spent the final 20–30 minutes of their discussions prioritising questions and choosing representatives, rather than deliberating the issues. These requirements restricted the amount of time available for participants to discuss the issues with their peers (supposedly a primary purpose of the weekend), especially given that ‘where questions of fact arose’ in the group discussions, they could not ask the group facilitator, but had to refer to their briefing documents or hold the question for the plenary session (Issues Deliberation Australia 1999, 12). Of course, the former option took time and the latter could not be guaranteed to supply the information because of the number of questions to be asked and the ‘mediated’ process for asking them.

Second, the editorial team selecting the questions to be put to the expert panels faced a pool of nearly 100 questions but had, at most, 25 minutes to
select a representative sample of approximately 25 that would be asked, because the group nominees had to be primed with their questions and seated in the chamber 15 minutes before live coverage began. Given this timeframe, it is doubtful whether sufficient attention to balance and relevance in choosing the questions could have been exercised, especially given that these selectors were not involved in the small-group discussions and were, therefore, having to exercise their own judgment as to the reason why the questions were being asked and how important they were to supplying information to the groups.

**Indirect media constraints**

The first two plenary sessions were designed as more neutral ‘information gathering’ exercises, and only the third session was supposed to provide opportunities for partisan pleas by the Yes and No campaigns. The presence of the media, however, resulted in an increasing degree of grandstanding and proselytising by the advocates from either side, rather than meaningful debate. The first session was most informative (but the least watched by participants, due to rotation problems). The panel included former Prime Minister Malcolm Fraser, former Governor-General Sir Zelman Cowen and former Secretary to three Governors-General Sir David Smith. In terms of ability to speak to the issues, clearly these individuals constituted the ‘voice of experience’ and were presented as such. The later sessions, however, became increasingly ‘one-sided’ affairs, more riotous and ill-tempered, with speakers from either side using the time on camera as a soap-box to reach the entire country, rather than engaging in genuine debate with one another or the seated audience.

The media presence meant that the individual participants focused on media attention, that is, whether ‘their’ group was able to ask a question on television, rather than the substance of the actual response and whether it added to their knowledge. Whether the group was seated in the House to listen to the expert panels or watching the televised version in the Senate, participants paid most attention to whether ‘their’ question would be chosen and whether ‘their representative’ would get to have his or her say. Thus, whether ‘the group’ would get its 15 seconds of fame became a competing focus of interest with the relevance and importance of the question being asked and the answer given. This syndrome also operated at the individual level when participants were given the opportunity in the plenary sessions to intersperse their own questions from the floor among those being asked by their group representatives. A few participants took advantage of the chance to grab the microphone to ask questions that were of little relevance to the debate, but
were good for media attention and raising laughter. Examples of this include the participants who asked whether an Australian President could be expected to have an affair and what would happen if a President turned out to be insane.8

The media's presence and requirements placed direct and indirect constraints on knowledge accumulation, and thus also on the quality of participant deliberation in the poll. The unsuitable location limited the amount of information participants received and led to 'mediated' rather than 'live' panel discussions for the majority of individuals. Further, the scheduling was too tight to allow for in-depth discussion in the groups or for serious consideration of the selection of questions to be asked of the panels. Question-and-answer sessions suffered from experts 'playing to the camera' rather than giving information and participants being distracted by their desire to appear on television. These constraints clearly compromise the poll's claims to be a provider of an optimally informed microcosm of the public, and its power as a recommending force to society as a whole. While the direct constraints could be viewed as unique to the Australia Deliberates poll, the indirect constraints would appear to be endemic to the deliberative polling process. These problems raise questions, particularly about the organisers' claims that 'political information increased dramatically among the participants' and that this was 'a major factor underlying the changes in opinions' (Issues Deliberation Australia 1999, 18).9

The education of the public?

In addition to the media's disruptive effects on the education of poll participants, we also argue that its use to educate the broader public fell short of the organisers' ambitions. One of Fishkin's key reasons for advocating deliberative polling is to avoid traditional 'horse race' coverage of issues, in which one side wins and the others lose. In deliberative polling, the idea is to move from sound bites and headlines to serious deliberation of the issues. Sound bites limit 'the ability of public discourse to produce serious deliberation' (Fishkin 1995, 42; 1991, 62–3). While voters may pick up certain 'cues' from political candidates on where they stand and, from these, come to conclusions about how to vote (Fishkin 1995, 22), the 'production of cues comes from such an inevitably incomplete, manipulated, and accidental process of media and campaign coverage that it is hard to credit the prospects for rational analysis of the outputs when the inputs have such limitations' (Fishkin 1995, 85). Deliberative polling facilitates 'more rational cues' (Fishkin 1995, 86). When ordinary citizens see people like themselves on television and in the
newspapers questioning experts and having their concerns discussed, there will be an educative effect that will eliminate rational ignorance and 'non-attitudes'. The results of any such poll 'provide a critical supplement to the thinking of ordinary citizens' by giving voice to a 'deliberative microcosm of the country in a dramatic event available to all viewers who cared to tune in' (Fishkin 1996, 135).

It is ironic, therefore, that the very media that Fishkin sees as producing 'headlines' and 'shrinking sound bites' (Fishkin 1996, 135) are then trusted to convey the poll's message to the wider community. Such a stratagem is clearly contradictory. The overall result of the poll (in the Australian case, a big swing to a republic and away from direct election of a President) in fact becomes one of those very sound-bites and headlines. Further, the broadcast of plenary sessions, rather than group deliberations, means that viewers simply see a few people questioning experts. Given that Fishkin himself has argued that 'electronic town meetings', in which 'eclectic collections of voters' question candidates directly, fail to provide significant deliberation (1996, 135), it is hard to see how his method improves on this. How, for example, is the viewing public to discern between 'eclectic voters' and a deliberative sample, especially given their alleged rational ignorance and disconnection from the issues? When Fishkin says that 'simply watching the proceedings of the deliberative poll on television ... or reading about it in newspapers can jump-start the often moribund deliberative process among the people' (1996, 135), it is far from clear how that broader educative process is to occur.

For a deliberative poll to have an impact on the political process, the results need to be 'widely disseminated' (Merkle 1996, 613). The mass media, therefore, has an important role, both in terms of a television network providing extended coverage of the deliberations and in terms of news coverage of the event itself. However, television coverage of Australia Deliberates was neither extended nor extensive. The ABC aired the two 90-minute plenary sessions on Saturday and the two-hour session on Sunday. These broadcasts were 'mediated' in that the camera cut from speaker to speaker and across the audience, thus raising the question of just how different this type of coverage was to that of ordinary televised debates between experts and, say, a studio audience. In terms of their educative effects on the wider community, the broadcasts were screened neither at popular viewing times nor on a commercial television channel, limiting the number of potential viewers.

The only 'extended' commercial channel coverage, a Channel 9 60 Minutes current-affairs segment that was taped after the poll's final survey and broadcast a week later during a peak viewing period, followed a different and non-
deliberative format. From the outset, the 15 minute segment emphasised the winner/loser nature or ‘horse race’ aspect of the referendum, with the No side described as ‘narrowly ahead’ in the regular opinion polls. The presenter then introduced the deliberative poll with the statement that Australia Deliberates showed that, ‘when fully informed, few Australians have any doubt what’s best for our country’; that is, they voted overwhelmingly in favour of a republic. In making such a claim, however, the 60 Minutes coverage ignored the fact that 27 percent of those who were ‘fully informed’ after considering the republic issue in depth voted against it, and some of those who voted No might previously have been Yes voters who came to see flaws in the republic. The wider public were not given the more complicated story that lay behind the overall results.

The 60 Minutes segment then presented a general picture of the poll, tracking participants as they arrived at the airport and settled into their hotels, before showing a session in the House of Representatives chamber. This was not footage of the poll’s expert panel answering questions from the groups; instead, celebrity host Ray Martin encouraged participants to stand up and give their views on the deliberative weekend and the proposed republic. Only two ‘experts’ were present (one from either side of the campaign, preserving the ‘horse race’ nature of the debate), and their opinions were secondary to those of the audience.10

Although the station taped an hour’s worth of comment, only a few minutes of that was aired, allowing 60 Minutes to select what it saw as the more ‘newsworthy’ or ‘interesting’ comments.11 These included some that may well have had an educative effect, with several participants noting that the weekend had been informative and had allayed their fears to the extent that they would now vote Yes to a republic. The comments also included remarks from those who warned that in Germany, ‘first we have the Kaiser, then we have the Fuhrer’, who noted that ‘the No case is so full of red herrings, I thought I was in a fish shop’, and who gushed that the young Yes case representative would make an ideal first Australian President. Such sound-bites were not confined to the audience. One of Yat-Sen Li’s comments warned against the prospect of a ‘King Charles and Queen Camilla’, while Leeser said that if half the effort that had been devoted to the republic debate had been devoted to jobs and education, ‘we’d be in a better place’.

The item concluded with Martin holding a straw ‘stand-up’ poll of those in the House on the basis that ‘you 300 or so people represent 12 million voters’. This showed overwhelming support for a republic, but was misleading in that the House held only half of the 347 participants, and that some of those in the chamber at the time who spoke and took part in the stand-up poll were not part
of the representative sample, but were volunteer group organisers. Such coverage does not fit within Fishkin's parameters of the wider electorate seeing people like themselves having questions answered by experts. It is not information so much as soap-box rhetoric that provides dozens of sound bites.

Looking at general media reports on the poll, the only newspaper that could be considered to have offered extensive coverage was the Australian, which was one of the poll's sponsors. Organisers themselves noted the minimal coverage of the poll in the weeks before it was held, which they noted had occurred despite 'a concerted effort to inform journalists and the public about the concept of Deliberative Polling and what to expect of Australia Deliberates' (Issues Deliberation Australia 1999, 9). They engaged a public relations firm, which 'found the task difficult — with press release after press release receiving little attention until the very last week' (Issues Deliberation Australia 1999, 9). Coverage in newspapers and on commercial television networks was limited to short news items about the poll and its aims, and interviews with participants on why they chose to attend and what they thought of the process. Again, these tended to follow the old journalistic adage, 'man bites dog is news, dog bites man is not news'. That is, while those whose pictures and comments appeared in the newspaper were undoubtedly 'ordinary' Australians, their presence at the poll could be considered exceptional for reasons of age or family and career commitments: the 79 year old retiree, the 25 year old labourer and father of two, the mother of a six week old baby, the full-time student and mother of seven, and the 52 year old computer expert. The Australia Deliberates organisers were themselves guilty of this, noting in that the 'occupations' of those attending the poll included a diverse range 'and even an unemployed ex-convict' (Issues Deliberation Australia 1999, 13).

Of course, sound bite and photo opportunity manipulation was not all one way, with some participants recognising the opportunity that the media presence provided for attracting attention to themselves. The 'it's me' syndrome resulted in some participants taking advantage of the media presence to play for attention. Also, one participant, having told her home town sewing circle before leaving for Canberra that the poll would be televised, wore a bright yellow outfit — all the better for them to see her. It worked, in that that evening's ABC news carried footage of her putting her group's question to panellists.

Extensive coverage was given to the results of the poll, which neatly fit within the traditional 'horse race' format. The media could report that there was a big swing to a republic and a larger swing away from the direct election of a President, a winner and a loser. Headlines included 'Poll unlocks yes vote:
347 Australians show how education is the key to republic’ (Steketee 1999d) and ‘Weekend talk-shop results in huge swing to republic’ (McDonald 1999). Again, poll organisers were themselves guilty of perpetuating ‘horse race’ coverage, having arranged for what they termed ‘headline results’ to be released at 5.30pm on Sunday (in time for evening television and morning newspaper deadlines) and for a news conference at 11am on Monday.

However, after the reporting of the overall results and a minor skirmish between the organisers and the No campaigners over accusations of ‘brainwashing’, the deliberative poll received little attention in either the print or electronic media in the following two weeks before the vote.13 By 8 November, when the newspapers (most of which did not publish on 7 November, a Sunday) carried their major reports on the results of the referendum, deliberative polling had all but faded from view. Only the *Australian* made mention of the poll, with a single sentence near the end of a story on page 10 noting that the ‘republicans did not start to turn the campaign around until the final two weeks, in the wake of the positive result for the Yes case in the deliberative poll in Canberra’ (McGregor and Marris 1999). In terms of its ‘educative effects’, the deliberative poll cannot be said to have made enough of an impact in the media for it to have fulfilled this aim.

**Conclusion**

This discussion has pointed to a number of ways in which the media’s presence at, and their reportage of, the Australia Deliberates poll compromised knowledge acquisition by poll participants and the wider citizen body.14 Several factors relating to the media’s presence at the poll and the organisers’ focus on media requirements combined to reduce the quantity and quality of the information imparted to participants. Australia Deliberates aimed both to reveal what Australians thought about the move to a republic after considering all the issues and to educate the broader public as to how they would vote if they had an opportunity to fully consider the issues. These aims suggest that organisers believed the Australia Deliberates poll would have considerable impact on the outcome of the referendum vote. However, we believe that the weaknesses outlined in our discussion contributed to the deliberative poll having no noticeable impact on the referendum result. Despite the fanfare surrounding the weekend and its result, the deliberative poll cannot be claimed to have had any broader educative effect on the Australian public. The result may have been a temporary addition to the Yes campaign’s arsenal, but the weekend and the poll quickly sank without trace.
Chapter Thirteen

Rewriting the Referendum Rules

John Uhr

This chapter draws on the experience of the 1999 republic referendum to argue for reform of the underlying referendum process. It is not my purpose to canvass the merits of the 1999 republican model or of any alternatives. My focus is on the merits, and more particularly the lack of merits, of the referendum process — as distinct from the merits or defects of any proposed referendum outcomes. Regardless of when or whether Australia adopts a republican head of state, I think that it is timely to revise the way we conduct referendums. The process of constitutional change is just as important as the content of proposed changes. Generally, the rules for referendums have changed very little over the centenary of federation, apart from repeated attempts by early reformers to separate the routines of referendum campaigns from those of ordinary elections. The aim of the reformers was to give voters an opportunity to participate in a genuine deliberative process, protected to some extent from the partisan ploys experienced in general elections. As I show in this chapter, not all of those attempts were successful.

A number of welcome changes to the referendum process in 1999 have opened up the renewed possibility of rewriting the rules to strengthen the deliberative potential of referendums. In this chapter I sketch out one possible reform model. The first step is for Parliament to accept its special responsibility and establish a dedicated all-party committee on referendums and constitutional change. The next step is the establishment of a broadly representative Referendum Commission to manage the conduct of referendums, including the prior organisation of national plebiscites where appropriate, followed by popularly elected constitutional conventions to work through the details of possible constitutional changes. This reform model would help to generate a greater sense of public legitimacy around any referendum topic, including an Australian republic. It is also fitting at the centenary of federation that this anniversary of achievement be accompanied by debate over 'constitutional renewal', including the renewal of the processes
of constitutional change. Such a debate might bring unforeseen community benefits if the focus is not exclusively on the wrangling over alternative models of a head of state but includes an examination of how best to promote the integrity of public determination of constitutional change.

The problem with referendums

Democracy is very demanding of process. As referendums illustrate, democracy is more than just a matter of registering the view of the majority. Minorities too have rights, including the right to be heard. Many majorities are really coalitions of a number of minority viewpoints, each deserving separate consideration. Australian referendums show the difficulty of obtaining a fair hearing for all antagonists in democratic decision making. A referendum is an important experiment in the capacity of a political system to foster the levels of rational political deliberation expected in ideals of deliberative democracy, where all interested citizens should have opportunities to participate in public decision making (Uhr 1998a and 1999b).

Referendums test the patience of the political elite. They rely not only on the capacity of voters to pay attention to referendum activists, but also on the ability of activists to hear voters and to respond to the issues that they might want discussed. The 1999 referendum left many people — minimalist republicans, direct electionists, even monarchists — with the feeling that they were not given an opportunity for their case to be fairly considered.

What can be done to improve the referendum process? A standard view among many political analysts is that the Australian electorate is generally apathetic about public affairs and particularly ignorant when it comes to the merits of constitutional change. In this view, voter apathy and ignorance stack the deck in favour of the opponents of constitutional change. Cynics can argue that Howard relied on this conservatism when allowing the republic referendum to be put to the people, even though that same conservatism meant that the people would not support his proposal for a new preamble. The loss of the preamble, the cynics say, was a small price Howard was prepared to pay to see the republic defeated.

A version of this view is now commonplace in the political science literature on Australian referendums (consider Miles 1998; Uhr 2000a). This view notes that the Australian electorate is historically unsympathetic to constitutional change, the conventional interpretation holding that the referendum system gives too much weight to voter apathy and ignorance. One possible reform might be the abolition of compulsory voting, as was experimented with in the
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partially elected ‘ConCon’ of 1998, designed in part to restrict participation to those genuinely interested in the debate over constitutional change. I do not favour this option.

This temptation to relax the rules for compulsory voting is ironic, given that they were first introduced at national level precisely to help generate greater community interest in debate over constitutional change. The initial, limited reform was made by the Hughes Government in 1915 (introduced but in fact never used), nearly a decade before being introduced in 1924 by the Bruce Government for general elections (Uhr 2000b, 110–11). This chapter identifies a range of other possible reforms to the referendum rules clear of abolishing compulsory voting. The legitimacy of the referendum process is just as important as the legitimacy of the constitution or the head of state. A more open and honest referendum process can do much to ensure that the debate over republican options strengthens rather than weakens civic trust in the Australian system of government and constitutional change.

My position is at odds with the standard reform complaint, which holds that the country requires greater consensual leadership and bipartisanship from the political elite. Sympathetic critics of the constitutional change process frequently complain that the basic deliberative defect of Australian referendums is the lack of bipartisan agreement within Parliament. The usual evidence produced is the positive result accompanying open support from opposition parties for a government’s change proposals, such as in 1967 when electors gave overwhelming approval to a constitutional change to delete racially discriminatory provisions from the Constitution. One lesson arising from the 1999 referendum results is that bipartisanship is not a guarantee of referendum success. The preamble question was defeated even though it had the support of the prime minister and the leaders of not only the official opposition but also of the third party with the balance of power in the Senate (the Australian Democrats). In point of fact, cross-partisan involvement in both sides of a referendum question might be just as conducive to a Yes vote as bipartisanship was once thought to be (Mulgan 1999).

Describing the deliberative deficit

Firstly, I will provide some illustrations of the ‘deliberative deficit’ often evident in Australian referendum practice that is unusually prominent in the case of the republic referendum. Generally, the deliberative deficit refers to the imbalance between, on the one hand, resources available to strengthen community deliberation and, on the other hand, the deceptions and misrepresentations of
many referendum activists which weaken the deliberative process (consider Uhr 2000b, 99–111). Despite the federal Government’s commitment to many new procedures to inform the community about the referendum options, this imbalance was starkly evident in the months leading up to the vote in November 1999. It is important to acknowledge that both sides were at fault in allowing various degrees of misrepresentation to muddy the referendum waters.

Two very important sources of evidence of a deliberative deficit come from two of the most dispassionate protagonists in the republic debate. I refer to Justice Michael Kirby of the High Court of Australia and Barry Jones, former Labor Minister and immediate past President of the Australian Labor Party. Each illustrates the degree of reasoned argument that the two opposed camps were capable of marshalling. Each has also spoken out in protest against the unworthy elements that were allowed to dominate their own camp’s public strategy. While both Kirby and Jones have identified many annoying defects of argument found in their opponent’s strategy, here I want to draw on what each has said about the defects of their own side’s public case.

The relevance of Kirby’s contribution cannot be underestimated, given that he was perhaps the main driving force in the original formation of the Australians for Constitutional Monarchy (ACM). In his 2000 Menzies memorial lecture, Kirby suggested two reasons why the Yes case might reasonably have expected to win the republican referendum in 1999 (Kirby 2000). First, all the polling data has consistently shown that a majority of Australian voters are republican in principle, with only a minority registering as monarchists. Second, in the only really fair test of the 1999 republican model during the Australia Deliberates ‘deliberative poll’ held at Old Parliament House, Canberra, on 22–24 October (Kirby 2000, 45; for a report on the deliberative poll see Issues Deliberation Australia 1999; see also Uhr 2000b, 95–6, 115–16; see also Chapter 12 of this volume), the minimalist model won when the sample of voters were given an opportunity for genuine political deliberation.

The Australia Deliberates experiment demonstrated that the 50 percent of the voting community supporting a direct election alternative to the 1999 republic model collapsed to less than 20 percent after the experience of the deliberative poll, thereby securing a comfortable if notional victory to the model on offer. To promote really effective public deliberation requires that the tendency of referendum activists to engage in partisan misrepresentations of their opponents is held in check or neutralised through the intervention of a regulatory authority capable of injecting balance into the political debate. This ‘check and balance’ activity need not require cumbersome bureaucratic
‘community information’ campaigns but can be achieved more simply through ‘smart regulation’ that minimises deceit and misrepresentation: examples include arrangements for public retractions, rights of rebuttal, and the promotion of countervailing opinions.

Australia Deliberates experimented with such elements to try to establish a level playing field for political contest, but the real referendum was quite different. Kirby hoped that it would be, and he could see good reasons for the No side to win, but he was honest enough to report that part of the explanation was that the No case played on voters’ fears through deceptive misrepresentations and unworthy distractions from the core issues. Three examples of defective or dishonest argument mentioned by Kirby are: that a Yes result would mean that Australia might not be invited to rejoin the Commonwealth of Nations; that crown land might revert to Aboriginal ownership; and the false contention that the Governor-General was the Australian head of state (Kirby 2000, 45–7).

Perhaps it is easy to acknowledge one’s campaign weaknesses after one has won the war. Barry Jones went one step further and openly declared his side’s campaign weaknesses even before the war was over. A few days after the Australia Deliberates victory for the republic, and a few days before the actual referendum vote, Jones told an audience at the Academy of Humanities that the republic case had itself to blame for the looming inevitable loss (Jones 2000, 115–29). He had shared the role of presiding officer for Australia Deliberates with former National Party leader Ian Sinclair. He understood that in an ideal debating environment, where partisan misrepresentation was held in check and voter misunderstanding was given time to gather information and repair itself, the republic case could win. He also knew that the Yes case held itself back by ‘dumbing down’ the referendum campaign with distracting appeals to show business celebrity and flag-waving patriotism. Three of Jones’ examples of the defective or dishonest political argument made by the Yes case include: the comparative brevity of the official Yes case in the AEC pamphlet, with comparatively little effort to respond in substance to the extensive No case; the ‘lack of intellectual rigour or substance’ associated with the appeal to sentiments of national pride and Australia’s international standing; and the disastrous distraction of the use of the very dated ‘It’s Time’ sloganeering from the 1972 Whitlam election victory (Jones 2000, 126–8).

The testimony of Kirby and Jones highlights the structural weaknesses of the current referendum framework. There is nothing to stop the widespread use of deception and misrepresentation, and little to encourage the use of substantial argument that honestly airs political disagreements over the
debateable merits of constitutional change. My worry is not the lack of consensus but the absence of structures to facilitate productive debate and disagreement. Democracy is all about acknowledging and sorting through our disagreements. Effective democracy requires decision making procedures that give decision makers, whether they be members of Parliament or the voters themselves, every opportunity to take stock of the merits of alternative views (Uhr 2000c; see also Saunders 1984a).

Democracy and disagreement

I am confident that in a properly managed referendum system, electors can make their way through political disagreement. The Australia Deliberates experiment shows not simply that we can do better but also that we owe it to our political community to devise a better system. The international experiments in what founder James Fishkin calls ‘deliberative polling’ show the power of ‘citizen juries’ gathered together as representative samples of their society to deliberate over policy options under strictly-controlled conditions of balanced exposition of contentious policy arguments (Fishkin 1995). The Australian instance dramatically illustrated the deliberative gains made by sample citizenries when given opportunities to think through policy options in ways that differ quite fundamentally from the partisan wrangling experienced in normal politics. Part of the point of Fishkin’s ‘deliberative polling’ is to demonstrate the deliberative deficit that exists in an unacknowledged way in what routinely passes for the democratic deliberative process. For our purposes, the gap between the deliberative ideal of that interesting experiment and traditional referendum debate shows how much distance has to be covered to bring the real closer to the ideal. This chapter identifies one possibility for beginning to bridge the gap.

I acknowledge that the ideal of deliberative democracy sounds too abstract and distant from the everyday realities of Australian politics. In some very high-minded theories of deliberative democracy, there is an unreal expectation that citizens and political activists can be measured against the strict standards of ‘public reason’ (see Rawls 1999, 132–40). As used by theorists like John Rawls, this standard is only reached when political disagreement converges on a shared framework of justifications held to be appropriate to a properly constituted democratic order. Think of this as an issue of standing: political recognition will only be given to those who abide by civil argument addressing the authorised public agenda. Thus an example of illegitimate deliberation in this view might be the disruptive conduct of a member of a political assembly who
works to a separate agenda, explicitly calling into question the good faith of other members and justifying his non-compliance on the basis of the higher value of his particular mission or calling. The assembly can work as a deliberative forum only when all members, including those in opposition, play by the rules.

To those of us who are not so high-minded, the rules of the deliberative game must also protect the rights of reformers and challengers. These civil rights of political participation include the right, civilly, to challenge the reigning norms of ‘public reasoning’. Rawls’ most recent case for deliberative democracy is heavy on deliberation but light on democracy. His model deliberators abide by ‘public reason’ by favouring reasons that meet the highest deliberative standards of ‘public’ reasoning about regime interests, which trump ‘private’ reasoning about individual or group interests. In this view, democratic deliberation operates as an exchange of different estimates about how best to promote constitutional democracy, with standing given only to those arguments that meet the form of public reasoning; that is, with principles of policy justification that are open to acceptance by all participating citizens. Although many in the public might not find all arguments acceptable on their merits, the possibility of acceptance is proof of compliance with the formal standards of public reason.

Of course, in practical politics many disputes over fundamental values can never really converge on any agreed principles of value or morality. Deliberative theorists like Rawls contend that democracy works best when there is a consensus on procedural or constitutional forms of argument and justification that comprise this ideal of ‘public reasoning’. It abstracts from many contentious substantial values in the hope of arriving at an agreed formal value, where citizens agree to accept as politically valid only those forms of reasoning that satisfy what Rawls calls the test of reciprocity (Rawls 1999, 14; D’Agostino and Gaus 1998). This test holds that, ideally at least, one’s argument should be potentially open to free and unforced acceptance by others. It is up to them whether they are persuaded by the substantial merits of one’s arguments. The ‘public reason’ seal of approval is a test of product quality and public acceptability, but not a record of community choice.

In this scheme, arguments that comply with public reason satisfy an important test of political legitimacy. Even where others are not persuaded by one’s case, the weight of argument remains free from domination and coercion, and thus the decision making process generates legitimate and therefore acceptable results. Under such a framework, republicans would only criticise current constitutional arrangements with justifying principles that they honestly
believe that their monarchist opponents could also accept as politically reasonable, given their shared commitment to constitutional democracy. Monarchists' defences of the current arrangements would equally be justified by reference to the sorts of 'public reasons' open to acceptance by citizens sharing the rights and responsibilities of a constitutional democracy.

This idealised model of political argument is not my standard for deliberative democracy. It would transform the referendum process into a stylised legal dispute over appropriate institutional principles to give effect to constitutional democracy in Australia. Issues of national identity and sovereignty would be harder to format than issues of minimal republicanism. In many ways, Rawls' model of public reasoning is that of the impartiality of the judge, whose determination holds sway not because it reflects any particular set of personal interests or values but because it reflects a more general set of agreed conditions about problem-solving and fair dealing. Rawls asks ordinary citizens to conform to a judicial model of impartiality. More appropriate, I suspect, is that political debate have space for the checks and balances of judicious process, short of the stricter requirement for judicial formality. For my purposes, standing need not be so narrowly defined, and reasoning need not be so restrictively reciprocal to contribute to better political deliberation.

I will return to some of the policy and legal issues later in this chapter, after reviewing the track record of referendum reform. Contemporary observers of referendum practice should be aware that there is a long Australian tradition of reformist interest in improving referendums. Regrettably, there is also a long Australian tradition of disquiet over allowing the people to get too close to things like constitutional change, which the political elite think that the people are unlikely to understand. A preoccupation of referendum reformers has been the attempt to structure public debate around the highest standards of sound argument as distinct from the usual standards of low politics. This requirement for open public argument is potentially one of Australia's great contributions to the practice of deliberative democracy (Uhr 2000b, 101-11).

**The importance of argument**

The earliest set of referendum reformers were those constitutional framers who struggled during the 1890s to entrench the referendum provision in the constitution. Their task was far from easy, as they had to combat traditional prejudices against direct popular participation in government. The political elite in the decade of constitutional debate leading to federation included many prominent constitutionalists who had fundamental misgivings about the
prudence of entrenching the referendum provision in the Constitution. These foundational reservations about the wisdom of popular referendums reflect a widespread elite view, still circulating, about the unsuitability of voters to the task of constitutional change.

The constitutional right for change through popular referendum had to be fought for, against well-argued opposition in defence of the rights of elected representatives, either in Parliament or in special conventions, to decide things on behalf of the community (Crawford 1992, 177–92). As I have detailed elsewhere, the advocates of referendums had to overturn at least three deeply-held prejudices against referendums as incompatible with responsible party government, with parliamentary sovereignty, and with majoritarian democracy (Uhr 2000b, 102–4).

Thankfully, there were champions of wider public deliberation who worked hard to reduce the deliberative deficit of the emerging national political system. The progressive view was put early by Alfred Deakin, who defended the emerging referendum practice because it promised ‘an assistance to Parliament if they desire to obtain distinctly and without the introduction of foreign matter the verdict of the people on any particular question’. Note this emphasis on turning directly to the people ‘without the introduction of foreign matter’ (Uhr 2000b, 102–4). Deakin appreciated that the success of referendums depended on the ability of Parliament to keep the arena of public debate free from ‘foreign matter’: partisan misrepresentation about either the intent or effects of change proposals.

Deakin was one of those referendum reformers who carried their struggle over into the early years of federation. Under the Constitution, Parliament has power to legislate for the machinery of referendums. The system that has emerged is one of compromise, reflecting the remarkable tenacity of political elite opinion about voters’ lack of deliberative capacity. The original 1906 legislation establishing machinery for the conduct of referendums showed very little signs of the influence of those reformers worried about how to protect voters against the conventional political tricks of deception and misrepresentation. As the Prime Minister sponsoring the legislation, Deakin’s aim was to equip the electorate with impartial advice about what would change under any given referendum: impartial here meaning free from partisan wrangling of the type routinely experienced among the parliamentary elite, with allegations and imputations about the hidden partisan purposes of disputed proposals.

Referendum proponents like Deakin feared that referendums would work only if elected representatives gave the people an effective opportunity to
deliberate and arrive at what he called their ‘verdict’. Just as a jury’s verdict is preceded by an impartial process of cross-examination of disputed evidence, so too the people’s verdict at a referendum should be preceded by some sort of impartial process of weighing of the pros and cons. Deliberation literally means weighing up options, as on a set of scales. Those who warmly supported the principle of referendum began to search for new ways in which Australian citizens could be assisted to participate positively. Two strategies emerged: first, protecting public deliberation from total reliance on the sorts of debating practices common in Parliament; and second, providing citizens with impartial information on the core arguments of the pro and con case surrounding referendum proposals.

The original 1906 legislation was silent on voter education. The next wave of reformers were more successful. In 1912 the referendum legislation was amended to include, for the first time, provision for the preparation of a booklet containing the Yes and No cases as authorised by their parliamentary supporters for distribution to all interested voters. The use of the term ‘argument’ to describe the content of this voter education material is relevant here. The electoral officer was given responsibility for making available to each elector ‘a pamphlet containing the arguments together with a statement showing the textual alterations and additions proposed to be made to the Constitution’ (Referendum [Constitution Alteration] No 2, Act no 35 of 1912, section 2; see Lenaz-Hoare 1984).

Then and now observers wondered how legislators might ensure that voters are provided with genuine ‘arguments’: credible reasoning as distinct from clever but specious rhetoric? Debate in Parliament canvassed possible independent umpires capable of preparing impartial statements of the opposed arguments, including High Court judges, the Attorney-General, and parliamentary clerks. Eventually, Parliament dropped the search for external authority and turned directly to the authors of each case: the warring political parties in Parliament, allowing them to resort to whatever form of ‘argument’ they thought appropriate, subject only to a limit of 2,000 words.

Deakin never gave up the struggle for a better deal for voters. From the opposition benches in 1912, he reflected on the experience of earlier referendums with their ‘wide sway of mistaken opinions’ resulting in the situation that ‘a very large section remained very imperfectly informed’. Deakin held that it was ‘our duty to them’ to assist electors to ‘form an independent judgment’. The 2,000 words would not be burdensome for ‘any person who is really interested in the fate and future of this country’. In his view, the contents should not be allowed to duplicate parliamentary debate since ‘there are to be
no personal reflections or imputations', with the arguments entirely addressed to 'the merits of each question' (Uhr 2000b, 109). It is worth emphasising that this important qualification never made it into the legislation, despite a subsequent attempt by the Hughes Government in 1915 to once again amend this provision to ensure that the arguments focused on the constitutional merits and not extraneous matters.

The beginnings of compulsory voting

The next round of reform was the adoption of compulsory voting (Uhr 2000b, 110-11). In 1915, Parliament slowly edged sideways towards a rather novel safeguard against voter misunderstanding and partisan misrepresentation: compulsory voting. With the defeat of its attempts to legislate to provide voters with information free from partisan misrepresentation, in August 1915 the Hughes Government devised a novel approach to electoral responsibility: an experiment with compulsory voting. It was not until 1924 that compulsory voting was introduced for general elections and permanently for referendums. Parliament legislated in 1915 to provide for compulsory voting for a series of referendum questions that, given the changing conditions associated with Australian involvement in the first world war, were never put to the people.

The conventional wisdom about the Australian introduction of compulsory voting is that it was introduced to make life easier for political parties, which is probably true to some extent. It is also important to recognise that in its very first national phase, compulsory voting was explicitly designed to repair the deliberative deficit. The idea was simple: if citizens knew that voting at national constitutional referendums was a legal duty, then perhaps they would pay greater attention to the debate over the merits of the proposals. The stated idea behind the proposal for enforced civic responsibility was that put in these terms: 'The majority are able to discuss football records, and make an accurate calculation of the time in which 6 furlongs can be done at Flemington, but, in many cases, those men have not had their attention sufficiently directed to the affairs of their country to be persuaded to exercise their franchise' (Uhr 2000b, 110-11; the author is Senator Russell, assistant Minister in charge of introducing the bill for compulsory voting. See Commonwealth Parliamentary Debates, 13 August 1915, 5755).

Critics have suggested that this is a device designed not so much to bolster public deliberation as to lift the referendum approval rating, which would suit reformist parties like Labor. There is a supposition that Labor voters have traditionally been among a majority of those who have failed to turn out when
elections have not been compulsory. While this might be true, it is still the case that compulsory voting might simply reinforce the conventional bias against constitutional reform by ensuring that the legions of reactive Australian voters turn out to register their disapproval. For years, referendum critics have believed that there is a link between compulsory voting and No voting. One bit of evidence that should confirm this would be a high incidence of informal voting (deliberately spoilt ballots), but this is not in fact the case (Mulgan 1999, 177–8).

What can be said in defence of compulsory voting? The defences at the time were all related to giving electors a spur to deliberation. For example, it was held that constitutional referendums were too important to be decided by a minority of the participating electors, and that compulsion will encourage electors to find out what a referendum really turns on. The responses at the time also addressed the deliberative deficit, contending against ‘compelling persons to give a judgment, which may affect important decisions, on matters which they have not studied, and in which they take so little interest that, if let alone, they would not record their judgment’. Compulsion alone would not generate voter diligence: compulsion ‘will not insure the predominance of intellect in the council of a nation’s affairs. It does not follow that everybody will cast a philosophic and intelligent vote’ (cited in Uhr 2000b, 111). Compulsory voting stayed and was, as its critics feared, later extended to general elections.

Capturing the momentum for change

Between 1915 and 1999, referendums were held on 15 occasions, roughly half at the time of a general election and half separately. Of thirty-one individual proposals put to voters, six were successful: two at the time of general elections and four when held separately. In many ways, the two referendum proposals put at 1999 simply confirmed the historical trend in which 80 percent of proposals are defeated (for details, see House of Representatives Standing Committee on Legal and Constitutional Affairs 1997, 59–114). Trends can be bucked: the 1999 losses were a much closer thing than the four losses suffered in 1988, which so far mark out the bottom of the referendum barrel. I want to identify a number of important differences in the 1999 referendum process which point the way to reform (Uhr 2000b, 112–15). The momentum from these 1999 rule changes can be used to bring in further sets of changes, in the event that we desire a more effective deliberative process.
Elected conventions

The first and in many ways most fundamental issue is the potential value of elected constitutional conventions. The referendum trigger was the partly elected 1998 Constitutional Convention, which generated greater public interest and participation than traditional referendum triggers, such as the 1985–88 Constitutional Commission, which prepared some of the ground for the four unsuccessful 1988 referendums (Uhr 1998b, 13–15). The holding of the Women’s Constitutional Convention in Canberra a few weeks before ‘ConCon’ is proof of the benefits of taking even a half-step towards a fully elected constitutional assembly. The women’s convention arose from a determination by interested women’s groups to take seriously the Howard Government’s commitment to a more open and representative community process of constitutional deliberation. This pre-convention served to strengthen public interest in ‘ConCon’, and both conventions made it significantly more difficult for referendum activists on both sides to get away with the rhetorical simplifications of past referendum practice. Importantly, the resolutions of the 1998 Constitutional Convention called for reform of the constitutional change process to ensure greater public participation as part of a larger agenda of constitutional renewal — an agenda that is independent of the fate of the minimalist republican model (Uhr 1999b, 191–6).

The potential role of popularly elected constitutional conventions has the authority of that great constitutional expert, Robert Garran, whose views should carry weight at the time of the centenary of federation. Speaking 50 years ago at the mid-point of that century of constitutional development, Garran advised a group of non-Labor activists interested in constitutional amendment that popularly elected conventions promised valuable legitimacy for any scheme of constitutional change (Garran in Bland 1950, 181–3, 187–97; on the history of constitutional conventions, see also Louat in Bland 1950, 164–77). He reminded his audience of the pre-federation struggle for popularly elected conventions to take forward the issue of preparing a national constitution, and of the legitimacy that came from the equally important commitment to a series of colonial referendums to adopt the draft constitution. At earlier times in our national history, governments have opened the door to elected conventions as a way of mobilising public interest in constitutional change: in 1921 the Hughes Government introduced legislation for a partly elected convention, which now appears to be a model for the 1998 Constitutional Convention. In 1925 the Bruce Government nearly opted for an elected convention, but turned instead to appoint the Peden Royal
Commission. In 1931, the Lyons Government considered an appointed convention but declined to proceed, perhaps because it recognised that a non-elected body would not carry public legitimacy.

Garran repeated his call for elected constitutional conventions in his memoirs entitled *Prosper the Commonwealth* (Garran 1958). This later, more considered, view is even stronger in its insistence on popularly elected conventions. Garran acknowledged that the version of referendum contained in the Australian Constitution was ‘a conservative institution’ with many restraints against the ‘undue facility of amendment’, such as the rules in s. 128 insisting on parliamentary passage by absolute majorities in each house and on popular confirmation through the double majority mechanism. Two solutions were possible. First, one could either relax some of these rules to make it easier to get constitutional change approved, for example by replacing the requirement for majorities in more than half the states with a new rule requiring simply a majority in half the states, to cite the example favoured by Garran. Alternatively, one could revert to the spirit of the original constitutionalists and insist that change proposals be developed through popularly elected conventions before the referendum proposals are authorised by Parliament. Garran argues that in ‘Australia, it was the people who put the seal of assent on the Constitution, and it seems to me that the best chance of getting assents to a systematic plan of amendment is to go back to the people’. Constitutional amendments ‘framed and proposed to Parliament by a convention elected by the people for that purpose, would have a far better chance of acceptance at a subsequent referendum than any amendment framed and introduced by the Government of the day’ (Garran 1958, 168–9, 207–14).

Garran’s warning was that any scheme for constitutional change would be greatly strengthened by first convening an elected assembly to test public interest in reform priorities. That warning about the importance of generating public interest still stands. The very limited impact of the six appointed Constitutional Conventions from 1973–85 highlights the paradox that carefully selected constitutional expertise is no guarantee of effectiveness. Australia still has no agreed approach to a standing process of constitutional revision. The 1998 ‘Con-Con’ concluded its final communiqué with a call for ‘ongoing constitutional review process’ involving a new convention with two-thirds of its members popularly elected (Uhr 1999b, 195–6). That is a good starting point for those still cautious about a fully elected convention.
The role of Parliament

A second pointer was the enhanced role of Parliament in the development of the referendum process. A distinctive feature of the 1999 referendum was the decision of the Howard Government to allow considerable public contribution to the detailed definition of referendum options. The package of legislative bills was released early for public comment and the government particularly invited contributions to its draft preamble. This was an unusual but very welcome invitation to greater public participation in the referendum process. Fortunately, it went further than simply public concessions granted by a tolerant government: another distinctive feature of the 1999 process was the role of the parliamentary select committee especially established to examine the legislative bills containing the referendum proposals. These small but welcome parliamentary contributions should be strengthened and built into the standard practice for referendums. The select committee chaired by Government backbencher Bob Charles performed a very valuable task in two ways: it took mountains of evidence all around the country and it produced a report that had enough influence to force the Government to modify and clarify the precise wording of the head of state question (Joint Select Committee on the Republic Referendum 1999). That report stands as the best single resource for those wanting to revisit the great debates of the 1999 referendum when next we come to examine the details of a republican option: disputes over the presidential nomination process, powers of the president, and the dismissal provisions.

It is hard to overstate the importance of a parliamentary involvement in a referendum process. The usual practice is that many individual members of Parliament participate, but without any sustained institutional involvement by Parliament, or its committees taking responsibility to provide a prominent public forum for debate over the merits of the legislative proposals. The 1999 select committee demonstrated the value of a forum established by Parliament as distinct from the government of the day. Legislators have a special role in the Australian referendum process: the Constitution confines the initiation of constitutional change to Parliament and nothing can happen until our elected members are convinced of the merits of allowing voters their opportunity to vote. There have been recommendations to widen the scope of initiators to include, for example, the states as well as the Commonwealth Parliament, and perhaps even popular initiative (see Constitutional Commission 1988, 856–72; Hughes 1984, 34–76). Whatever the merits of these suggestions, my contention
is that Parliament has room to demonstrate greater initiative in its own right, given that it can prevent as easily as it can promote a referendum proposal.

Parliament already has one committee with dedicated responsibility to watch over the general state of electoral law and practice: the existing joint committee on electoral matters should now be supplemented by a new committee with dedicated responsibility for referendum policy and administration. The committee should have representation from all parliamentary parties and operate with a community consultative council comprising a fully representative spread of perspectives on constitutional change, assembling differences in regard to gender and region as well as party. Such a committee need not sit back and wait for referendum business to come its way, but could prove its worth right now by anticipating how a better process of community debate and decision making could be prepared well before we get close to the next round of referendum voting. Establishing such a committee in the year of the centenary of federation would send a positive signal that Parliament was ready to protect and promote the spirit of popular participation that made federation possible.

Community information

The third and final reform pointer relates to public instruction. The report of the 1999 parliamentary committee acknowledged the need for greater public resources to be directed to community information during referendums (Joint Select Committee on the Republic Referendum 1999, 6–7, 97–9). Another unusual parliamentary pointer to reform was the amendment of the referendum law to overcome the severe limitations on public expenditure available for government use in promoting the referendum. As an experiment, the law was amended to permit the government to spend substantially more than any earlier referendum and so generate a higher level of reliable information to voters. The main beneficiaries were the government-appointed Yes and No campaign committees, each given $7.5 million. This is welcome because the traditional reliance on the official pamphlet is clearly past its use-by date. The pamphlet alone cannot be expected to stay the hand of partisan manipulation, particularly as it is prepared by the interested parliamentary partisans.

A related reform pointer was the Government's decision to establish, with a budget of $4.5 million, an experts' group chaired by Sir Ninian Stephen to direct a 'neutral public education campaign'. The 1999 experience was that this mechanism was not capable of 'neutralising' the deceptions of many
One important lesson is that this very traditional model of non-partisan public education might have reached its limits: what works for, say, community health campaigns is not necessarily appropriate for political contests over constitutional change. The committee was too far removed from the real action: the simplistic and possibly misleading referendum media publicity escaped the close scrutiny or the arm's-length control of the experts' group. Even if the experts had wanted to intervene, as constitutional lawyers they would have taken particular note of the High Court's narrow reading of the provisions in referendum law designed to prohibit material that is 'likely to mislead or deceive' electors (see for example Evans v Crichton-Browne, 147 CLR 169 [1981]).

Many potential reformers doubt that much can be done to regulate misleading or deceptive campaigning. There is a conventional assumption that all forms of political speech are in a special zone beyond the reach of ordinary regulation. I disagree and can point to emerging new models of appropriate regulation. One precedent is the Howard Government legislation called the Charter of Budget Honesty Act 1988, the stated purpose of which is to ‘facilitate public scrutiny of fiscal policy and performance’. Given that elections turn substantially on competing claims over fiscal policy, the Charter legislation authorises the leaders of the two major political groupings (Government and Opposition) to request the Commonwealth departments of Treasury and Finance to prepare a costing of any of its publicly announced policies if a general election is called. The costing will then be publicly released before the date of the election (s. 2, para. 6, and s. 22). The Charter is welcome because it opens the way for citizens to have competing political claims tested against what the legislation terms ‘the best professional judgment’ of Treasury and Finance officers, i.e. independent and impartial public servants (s. 25).

Surely it is not impossible to devise a similar scheme that could subject political claims about constitutional alteration to independent review by a non-partisan public authority or specialist referendum commission. Another model or precedent is the South Australian Electoral Act, which is a leader in the campaign against misleading advertising. This legislation authorises the state electoral commissioner to take action against parties publishing ‘a statement of fact that is inaccurate and misleading to a material extent’ (s. 113 para. 2). Usually, the electoral commissioner simply arranges for a public retraction by offending parties, but there is nothing to stop such a scheme from going further and arranging rights of reply or rebuttal from those misrepresented. Note that this scheme targets only statements purporting to be factual, and is quite permissive about statements of opinion. The state Supreme Court has
upheld the constitutional validity of this restriction on political communication as consistent with the legitimate public interest in protecting the rights of electors to exercise a free vote, uninfluenced by misleading information. The Court has drawn attention to the importance of 'a truly informed elector', ruling that a 'democratic election requires that the electorate be informed so that the electorate can exercise an informed vote' (Cameron v Becker 64 SASR 238 [1995]; Lander J at paras 16, 18).

Another precedent derives from the determination of the then leader of the Opposition, Kim Beazley, who in 2000 introduced the Government Advertising (Objectivity, Fairness, and Accountability) Bill to draw up new rules in the wake of the Howard Government's allegedly improper use of public money when promoting the GST changes (introduced into House of Representatives, 26 June 2000). Relying on a new regulatory framework devised by the Auditor-General, the Beazley bill identifies minimum standards of objectivity, fairness and accountability appropriate to government advertising campaigns. My point is that what can be done for government advertising can also be done for publicly-funded referendum campaigning. Referendum authorities can attach terms and conditions when providing public moneys to Yes and No teams for the promotion of their particular perspectives.

The search for appropriate terms and conditions regulating the use of public assistance began in a modest and not altogether successful way in 1999, with a welcome if limited focus on the financial accountability and reporting requirements of recipients of public assistance. To be successful, referendum authorities must go much further and devise a version of the minimum standards of objectivity and fairness used in the Beazley bill. For instance, material 'should not directly attack or scorn the views, policies or actions of others such as the policies and opinions of opposition parties or groups'. There are other models of a regulatory regime that might be extended to cover the conduct of referendums. For instance, Australian Democrat Senator Andrew Murray's bill to establish a Charter of Political Honesty is also designed in part to attack the misuse of public funds in government advertising campaigns (introduced into Senate, 10 October 2000; see also Senator Murray's Electoral Amendment [Political Honesty] Bill introduced the same day). Murray's bill draws on earlier provisions of the Commonwealth Electoral Act that have since been discarded, which attempted to prohibit untrue, misleading or deceptive political advertising.

The current Murray bill has come forward because earlier attempts by Australian Democrats Senators to restore this provision have been unsuccessful (see Standing Committee on Electoral Matters 1997, Senator Murray's minority
The standards of political honesty contained in the Murray bill relate to the promotion of materials ‘in an unbiased and equitable manner’, designed to promote ‘information in a way that makes facts clearly and easily distinguishable from comment, opinion and analysis’. Clearly, the momentum is gathering for closer public scrutiny of the honesty of political communication made by political parties when using public funds.

The importance of a Referendum Commission

I turn finally to my proposed Referendum Commission as the operational centrepiece of my plan for a more effective referendum process. While our deliberative deficit is bad for the prospects of an Australian republic, the existence of a deeper structural deficit in the referendum framework is even worse for the prospects of Australian democracy. My reform plan aims to strengthen community deliberation through a new form of consumer or voter protection against the impact of deception and misrepresentation by referendum activists. Australian referendum practice still has plenty of potential for measures giving consumers or voters opportunities for better informed choices when deliberating and voting.

It is not feasible to strike at every instance of partisan misrepresentation by referendum activists or to respond to every reported instance of voter misunderstanding. Nonetheless, one can bring greater balance to the deliberative process by reserving public space for a more considered and measured exchange of contending views for those voters wanting to hear and contribute to a more informative process of public deliberation. Strengthening the opportunities for public participation and information exchange can do much to advance Australia’s claims as a deliberative democracy. Effective democracy presupposes an institutional framework or set of rules to facilitate open, free, and fair public decision making (Uhr 1998a, 213–31). The rules of the game most certainly matter, particularly when it comes to electoral contests and voting exercises. Effective political deliberation at referendums requires a new institutional framework and set of rules to protect public space against the ‘market domination’ and predatory partisanship of referendum activists bent on deception and misrepresentation. The solution is not to outlaw anti-deliberative politics. A better strategy is to invest in balancing mechanisms capable of carving out a space for fairer exchanges of political views. Think of this as a kind of reserved or slow lane (slow in the sense that deliberation suggests the importance of a lack of haste) for those interested in participating in a more open community dialogue.
It is worth noting by way of comparison that the US approaches to referendum law and policy permit greater public regulation of the content and format of taxpayer-funded 'voters' pamphlets' containing political statements and arguments. For instance, Oregon referendum law allows the election authorities to withdraw any proposed statement from a referendum activist that contains, for example, defamatory or hateful speech (see for example Oregon Revised Statutes, 251.055). It is therefore mistaken to suggest that it would be impossible to balance the competing requirements of free and fair political speech. Current Australian practice allows the producers of so-called free speech to trample on the rights of the consumers of fair speech. A Referendum Commission could help redress the balance.

Such a Referendum Commission should be established and funded, not by the government of the day, but by an all-party parliamentary committee on referendums and constitutional change. As mentioned earlier, the current arrangement where the administration of referendums is the responsibility of the Australian Electoral Commission (AEC) has proved worthwhile, but is no longer keeping pace with international standards. When considering fundamental constitutional change, a democratic political community has a right to expect that the change process will be conducted with a degree of honesty and fairness typically absent from electoral contests over who should form the government of the day.

This is not to deny the importance of promoting more open and fairer electoral contests. My focus here is solely on referendums. To cite another instance, the 1996 Nairne Commission in the United Kingdom investigated the feasibility of referendums for future British practice (Nairne 1996, 26–34). It recommended that responsibility for referendums be separated from responsibility for everyday electoral administration. Again the case was that the sort of community decision-making expected of referendums was unlike that expected or tolerated in routine electoral contests. This recommendation for an impartial public authority to manage referendums was also taken up by the UK Committee on Standards in Public Life in 1998, at the same time as a similar recommendation by the UK Jenkins Commission on electoral reform (Committee of Standards in Public Life 1998; Independent Commission on the Voting System 1998).

In these reports, there is no suggestion that electoral administrators are anything but impartial in their management of electoral rules, even-handedly applying the law to all parties and electors. The issue is that rule-bound impartiality does not quite capture the form of public management required to facilitate effective public participation in referendum debate and decision-
making. Electoral administration involves a largely reactive process of party registration, candidate approval, vote counting and, where it exists, the distribution of public funding according to voter support. A Referendum Commission reporting to an all-party parliamentary committee could effectively engage in more appropriately proactive activities to stage a balanced public contest addressing the issues and the merits as understood by the spread of protagonists. Staging a fair hearing of alternatives will not guarantee that voters converge on a rational consensus, but it can help provide for public access to a fairer debate among all the available perspectives (Uhr 2000c, 206–10). The distinctive competence of a dedicated Referendum Commission would be its broadly representative (rather than neutral or impartial) character and, flowing from that, its capacity to stage debate and public exchange involving all segments of community opinion.

This Referendum Commission would take over responsibility for funding and managing the public process of the referendum once the proposed constitutional alteration leaves Parliament. One of the most important of these responsibilities would be to work with the all-party committee to arrange, where necessary, for plebiscites followed by popularly-elected constitutional conventions to replace the partly elected ‘Con-Con’, to allow for greater public participation in developing the details of any agenda of constitutional change. Other responsibilities closer to the holding of a referendum would include public assistance to Commission-appointed Yes and No committees, neutral public education programs, including provision of the contending arguments traditionally distributed by the AEC (the Yes/No booklet), and regulation of the content of publicly funded contributions to referendum debates to protect its basic integrity, fairness and honesty.

Conclusion

There are limits to what can be expected of rational deliberation. What holds for referendums does not necessarily hold for other democratic practices. Referendums are exceptional, and any reform of referendum rules does not imply that routine politics can also be reformed along deliberative lines. The Australian constitutional framers appreciated that referendums were exceptions to the normal rules of Australian parliamentary politics. Special rules were devised to protect voters’ rights to use their infrequent referendum exercise of sovereignty to make an informed decision on constitutional change. My call for a Referendum Commission is consistent with this recognition of the distinctive importance of constitutional sovereignty. It is unrealistic and perhaps unwise to
hope that routine parliamentary politics can attract similar protections against non-deliberative action. Theorists of deliberative democracy occasionally show impatience with what appear to be the unreasonable strategies of minorities, whose rights of protest, direct action and civil disobedience illustrate valuable dimensions of democratic political deliberation (Rawls 1999; compare Uhr 1998a, 13–29).

I also want to emphasise that my call for reform is not a republican case of sour grapes. My belief in the importance of overhauling the referendum rules would hold even if the republic referendum had won popular approval. As a committed republican favouring greater democratic participation in government, I am convinced that the move towards an Australian head of state should be accompanied by moves to protect citizens’ rights to a free and fair process of constitutional change through referendum. Even those who want Australia to retain the current system of constitutional monarchy should be interested in maximising the opportunities for open and honest public decision making when using the referendum provision in s. 128 of the Constitution. My motivation does not rest on a desire to increase the rate of referendum approvals. The fact that only 8 of 44 referendum proposals have won popular approval is not really evidence that the referendum system is broken. Voters have probably had good reason to withhold their approval except where the initiators of constitutional change have fairly and openly responded to, first, the unavoidable instances of voter misunderstanding and, second, the less excusable instances of partisan misrepresentation by referendum activists.

Earlier generations of rule reformers have included some who hoped that changing the referendum rules would indeed increase the rate of popular approval of constitutional change. Some reformers have even sought to alter the terms of the constitutional provisions regulating the referendum process. For instance, the Whitlam Government put a proposal to the people in May 1974 to alter s. 128 to reduce the measure of a required majority from a national majority involving majorities in four states (i.e. a majority of states) to a national majority involving majorities in three states (i.e. half of the states). Under these revised rules, three past referendum questions might have been carried: two for Labor in 1946 and one for the Coalition in 1977. This 1974 proposal failed to pass, scoring a majority in one state only and not securing a national majority overall (House of Representatives Standing Committee on Legal and Constitutional Affairs 1997, 99–100).

My argument is directed more towards a healthy process of democratic deliberation than to any particular scorecard or end result. The processes of democratic deliberation and good governance have value in their own right, as
ends in themselves proving that a people have the capacity to carry on self-government. Australia has a long history with much to teach the world about democratic governance. A century ago, the constitutional entrenchment of a popular referendum was a daring experiment based on an Australian belief that popular government was as viable in practice as it was admirable in principle (consider Garran 1958, 187–97; Uhr 1999b, 187–90). Referendum history shows that the regulatory framework has lagged well behind the capacity of the people to make a greater contribution to Australian self-government. A century ago, national referendums were the exception to the parliamentary rule. Over that century, considerable progress has been made in giving greater voice to the people, so that we can expect that the new century will continue to widen the scope of popular participation in government. There is no better way of putting democratic theory into practice than by rewriting the rules for referendums.
Chapter Fourteen

Insights from the Experience of the Constitutional Centenary Foundation for a Future Republican Movement

Cheryl Saunders

The Constitutional Centenary Foundation was established in 1991 to encourage and inform debate on the Australian constitutional system over the decade leading to the centenary of the Constitution in 1991. It was a private rather than a government initiative, prompted by the success of a deliberative conference held in 1991 to commemorate the centenary of the National Australasian Convention. The conference was noteworthy because it brought together a diverse group of Australians to discuss constitutional matters in an atmosphere that encouraged frank exchange of views and fostered mutual understanding. Whatever the differences between the participants on substantive constitutional issues, they agreed that the coming decade offered an opportunity to encourage public understanding of the Constitution and that, like the conference itself, this should be done in a non-partisan way. The final closing session of the conference persuaded Australian political leaders of this view sufficiently to ensure support for the Constitutional Centenary Foundation by all Australian governments for the rest of the decade.

The Foundation had a fixed life: for a period ending 30 December 2000. During these nine years, the board and council of the Foundation, its secretariat, its members and supporters around the country engaged in what with hindsight was a large-scale pilot project. Its principal purpose was to identify ways of informing Australians about their own constitutional arrangements and of involving them in constitutional debate while maintaining the independence that was the Foundation's raison d'être. In the last years of its existence, the Foundation prepared a final report on its experience, so that the benefit of its work would not be lost (Constitutional Centenary Foundation 2000).
Consistently with the objectives of the Foundation, the focus of the report is the manner in which knowledge and understanding of the constitutional system can be made available and presented as relevant to Australians. The report identifies four broad strategies for the purpose. The first and most obvious is the provision of sources of information about the Constitution on which people can draw. The information must meet the needs of intended users, in both design and mode of delivery. It should be of high quality, in terms both of accuracy and of insight, without being unduly legal, bureaucratic or academic. During the period of its operation, the Foundation produced a wide range of such information, including a series of fact sheets covering nine key constitutional issues and an Annotated Australian Constitution. In addition, the Foundation provided expert assistance and advice to other bodies publishing constitutional information.

Secondly, specific efforts are needed to actively engage interest in the Constitution. Presenting information in accessible form is a prerequisite, but it is not sufficient. One mechanism that the Foundation found effective for the purpose was the deliberative conference or ‘convention’. Conventions were designed to encourage participants to discuss constitutional issues and to come up with their own solutions. The format was adapted for use by schools, in an integrated series of regional, state and national conventions and by local communities, through the Local Constitutional Convention program. Typically, conventions based on the Foundation’s model had a diverse range of participants, user-friendly background documents, and procedures that assisted agreement on outcomes.

An important conclusion from the experience of the Foundation was the need to develop public trust in constitutional debate. Australians tend to suspect that constitutional events are party-political in character. Wariness is fuelled further by lack of understanding of constitutional issues. Overcoming these attitudes was one of the greatest challenges for the Foundation. In all its activities, the Foundation was at pains to dispel any suggestion of political partisanship. Both the Commonwealth Attorney-General and the shadow Attorney-General were ex-officio members of the board. Wherever possible, the Foundation tried to involve both sides of politics, if politicians were involved at all. The balance is difficult to strike. Politicians have an important perspective on constitutional issues; their views are influential; the responsibility for the initiation of referendums lies with the Commonwealth Parliament. Alternatively, the perspective of serving politicians is in some respects self interested or, at least, perceived to be self interested, and their presence tends to inhibit debate.
The Foundation sought to reach as many people as possible without sensationalising the issues and without incurring substantial costs, which also are likely to be controversial. It was greatly assisted by the media in this regard, both national and regional. The media provided good coverage of Foundation activities. Equally importantly, the Foundation offered reliable background briefings to assist media understanding of constitutional issues. The Foundation also distributed its materials through existing networks and other organisations including public libraries, parliamentary education offices, local government and schools.

The methods used by the Foundation to actively engage the public gave it some insight into what Australians think about the Constitution and the system of government. The National Forum that reviewed the collated conclusions of the Local Constitutional Conventions also reached conclusions about the processes used in Australia for constitutional review and change, including the effectiveness of the 1998 Constitutional Convention. The Foundation's final report summarises these conclusions as well. They do not represent a scientific sample and therefore should be used with care. Nevertheless, they draw on the views of a wider range of Australians than usually is heard in constitutional debate.

The purpose of this chapter is to identify aspects of the experience of the Constitutional Centenary Foundation that might be relevant to further consideration of establishment of an Australian republic. I suggest that the Foundation's experience may be useful on three matters in particular. First and most obviously, it can assist with the process of helping the public to understand the issues involved in a move to a republic and the effect of proposals for change. Secondly, it may throw light on the process for formulating an acceptable republican model. Thirdly, the Foundation's insights into the views of Australians about the Constitution, anecdotal although they are, may assist with the development of a republican model itself.

**Information and understanding**

Public acceptance of significant constitutional change is desirable in any democracy based actually or even symbolically on popular sovereignty. This may be one reason why many countries use the referendum for the purpose of constitutional change, even when they are not constitutionally required to do so. Use of the referendum for this purpose assumes that the public understands the proposals on which they have the final say. In Australia, public
understanding is particularly important because the referendum is mandatory for constitutional change.

If consideration of a republic is to proceed in Australia, public understanding is critical, in several different ways. First, in order to determine whether to support a move to a republic, Australians need to understand the present system and the general implications of the change proposed. This is no mean feat. The constitutional monarchy is the product of a long period of evolution in Britain, which left the institutions of Queen, government and Parliament outwardly untouched, by changing the balance of power between them through convention and practice. The process of evolution was well advanced when the Constitution was written. Even so, the Australian Constitution put in place the traditional forms, leaving the operation of the system in practice to conventions barely reflected in the constitutional text. The process of evolution continued during the course of the twentieth century. The constitutional conventions changed accordingly, but not the Constitution itself.

To compound the difficulty of understanding the system, Australia achieved full independence from Britain after the Constitution came into effect, by a parallel process of evolution. One consequence was that the British government and Parliament lost any authority in relation to Australia. Another was that the respective roles of the monarch and her representatives in Australia changed. In effect, the monarch now does nothing except to appoint and, if asked, to dismiss her Australian representatives, on the advice of the relevant head of government. The Governor-General and the state Governors have become the *de facto* heads of state. This transition, also, occurred without change to the Constitution and without public consultation.

There are two principal arguments for an Australian republic, narrowly conceived. The first is that the time has come to abandon the hereditary principle, so that significant public figures in Australia are chosen democratically or on merit. The second is that a republic is needed to remove the formal remnants of colonial ties with Britain. Given the disjunction between form and practice in the Australian constitutional system, it is hard for an uninitiated member of the public to evaluate either argument and easy for those who wish to do so to misrepresent them. This potential was most evident in the 1999 republican round in the argument that Australia already had its own head of state, in the person of the Governor-General. To combat misleading assertions with truth is a complex task. To assist voters to make their decision on the merits, however, it is necessary for this to be done.

Lack of understanding of the current constitutional system is compounded by several specific misunderstandings. For example, during the 1999 republican
referendum, some voters apparently thought that one issue at stake in the move to a republic was Australian independence itself. This perception is not necessarily an advantage for the republican cause, at least some of these voters also took the view that Australia is not yet ready for independence. Statements made to me in the course of CCF activities included the observation that ‘Australia is too young to go out on its own’ and raised concerns whether ‘England will still help us with things like East Timor’ if we were to become fully independent.

A second misunderstanding concerns the role of the Queen and/or the Governor-General and is more significant still. Some voters apparently believe that the present position of head of state in Australia has the capacity to keep elected representatives honest and to restrain abuse of power, including the enactment of legislation that infringes human rights. This presents a further impediment to the very decision to move to a republic, to the extent that the ‘monarch herself’ is perceived to have such a role. In any event, it complicates the model for a republic, if codification of the powers of the head of state is required. For these voters, the familiar rhetoric that Australia is prepared to rely on parliaments and the common law to protect their rights, rather than on constitutional guarantees, is clearly inaccurate. In the absence of a specific constitutional safeguard, some voters put their faith in the Queen and her representatives, despite the lack of any evidence in support.

It is impossible to know how widespread these misunderstandings are. The Foundation encountered them often enough to suggest that they might be more pervasive than we like to think, or hope. Oblique support for this gloomy diagnosis may be provided by the confusion evident in a series of cases that emerged in the Australian court system over the same period. Each case was designed to persuade a court that the Australian Constitution and the laws made pursuant to it are invalid. One recurring argument referred to a ‘break in sovereignty’ that is alleged to have occurred when Australia acquired independence, shifting the underlying authority for the Constitution from the Parliament of the United Kingdom to the Australian people themselves. A second argument refers to the change in the legal person of the monarch, from the Queen of Great Britain and Ireland to which the Constitution refers, to the Queen of Australia, who now assents to Australian legislation, through her representatives. In Joosse v Australian Securities & Investments Commission (1998) (1590ALR260) the High Court rejected all aspects of the challenge, which nevertheless continued to be made in subsequent cases, in the High Court and elsewhere. Extraordinary though the arguments are, the fact that they have
been taken seriously by some people over an extended period of time says something about the clarity of Australia’s constitutional arrangements.

Public information in connection with an Australian republic needs to explain the main elements of the proposed alternative, as well as the existing arrangements. Even on minimalist assumptions, the information will need to cover procedures for appointment and dismissal of the head of state, the powers that the head of state would have and the manner in which the powers can be exercised. Even after the initial information has been distributed, it will be necessary to provide ongoing information resources to help voters to evaluate issues that subsequently arise in public debate. The point is demonstrated by the experience of the 1999 referendum campaign, during which a range of unexpected objections to the referendum proposal were raised. One, made repeatedly on talkback radio, was that if Australia became a republic, all Crown land would be distributed to Indigenous people. Another was that Australians who had served in the armed forces would be disqualified from standing for President on the ground that they held a ‘pension payable at the pleasure of the Crown’.

It follows that, if there is to be further consideration of a republic, there should be at least three elements of the information campaign. The first should explain the current arrangements and the implications of the move to a republic. The second should explain the proposed alternative. The third should be designed to deal with queries that arise during the campaign, before the vote takes place.

Some specific guidance on each of these may be drawn from the experience of the Foundation. Firstly, the information must be tailored to the needs of the voters, in recognition of their right to understand the proposal on which they are required to vote. This would be a major shift in Australian practice. So far, it has been based on the assumption that fairness in a system of public information for the purpose of constitutional change involves equal treatment of both sides of the argument. This approach is not necessarily fair to voters, however. It does nothing to assist them and actively confuses them if the protagonists mount arguments that are extreme or incorrect.

Secondly, a public information campaign should be flexible enough to suit the information needs of different voters. The Foundation learnt this the hard way, during preparation of its own information for the 1999 referendum. The first draft of the referendum broadsheet was written clearly and simply. It used graphics and was well designed. It included material that the Foundation thought was relevant, including an explanation of what a referendum is and of how the referendum process works. The Foundation tested the draft on a
group of young Australians at the YWCA. They rejected it out of hand, in favour of information that stated briefly, directly and at the beginning of the broadsheet what the principal elements of the proposal were and how it differed from the present system. The Foundation revised the broadsheet accordingly and tested it again, this time with a group of Australians in Sydney, from a variety of ethnic backgrounds. They suggested the need for another section, also at the beginning, to explain why the referendum was important and worth spending time to understand. In another republican round, with an effective information strategy, this process should be repeated with a wider variety of groups.

Thirdly, people must be able to trust the information that is prepared and disseminated, in terms both of impartiality and of quality. This is not necessarily achieved by putting the protagonists on the body responsible for the information campaign. On the contrary, it is preferable to involve people who are respected for their knowledge, integrity and public commitment, and who have no particular stake in the outcome. In New Zealand, the panel that prepared the public information for the plebiscites on the electoral system was headed by the Ombudsman, who in New Zealand is a highly respected, apolitical figure. Members of the panel need not be lawyers, although they should have high quality legal and constitutional expertise available to them, to ensure that the public can rely on the accuracy of the information distributed to them.

Fourthly, the pre-referendum period should not be rushed. People take time to absorb information. They are entitled to have an opportunity to think about it, to discuss it with others, to ask questions. In terms of the categories of information identified earlier, basic information about the current system should be prepared and distributed as soon as possible. Information about the principal options and a preferred model (if any) should be distributed as details of the proposal become available. Plenty of time should be allowed between that release and the referendum itself. During this period there should be a mechanism for answering questions authoritatively and for making the answers as widely available as possible. Mechanisms for the latter include a question and answer booklet and the internet.

Fifthly, while the state itself should take central responsibility for informing voters about proposed changes to the Constitution, the auspices under which the debate is conducted can and should be more diverse. Australians do not necessarily want to engage in activities that have an exclusively constitutional focus, but may be willing to tackle constitutional issues in a context that is familiar, with others with whom they have discussed other matters of
importance. In the Foundation's experience, there are a range of groups willing to host discussions for this purpose, including service clubs, Provis clubs, business groups, teachers' associations and rural organisations.

Finally, there is a question about the nature of the official information distributed at the time of the referendum. The Yes/No cases have been discredited in their current form, by their irrelevance to the information needs of the public. Ideally, the principles identified earlier for the provision of public information in the lead-up to the referendum, should be followed for the referendum itself.

Formulating the republican model

The scheme for alteration of the Australian Constitution involves the initiation of proposals for change by the Parliament and gives voters the essentially passive role of approving or refusing to approve them. In some respects it is remarkable that a country as imbued with the culture of responsible government as Australia chose to adopt even the passive referendum at the end of the nineteenth century. The explanation lies principally in the fact that Australians had almost no choice, given the requirement for approval of the initial Constitution by voters in each of the six colonies. In addition, the convention debates suggest that some of the framers at least were driven by what they perceived as the more democratic spirit of direct popular involvement in constitutional change.

Nevertheless, they anticipated some problems. In particular, some concern was expressed that voters would not understand the proposals on which they were required to vote. For some of the framers, at least, the solution lay in the debate on the bill in parliament during which its purpose, effect, advantages and disadvantages would, it was hoped, be examined. No one foresaw that an even more significant problem would be disjunction between the views of the parliament and the voters about proposals for change, leading to a substantial record of rejection at referendum and a defeatist attitude towards further attempts. With hindsight, however, the danger was obvious. In an adversarial parliamentary political culture, it is predictable that constitution alteration bills, like all other legislation, will be used by governments to advance their own agenda, leading to an equally predictable opposition response. It is inevitable also that in such circumstances voters, given the chance, often will register a protest irrespective of the merits of a measure.

There are several ways of responding to this difficulty. One, widely and probably wrongly assumed to be a panacea, is to secure bipartisanship on
proposals for constitutional change. A second is to provide an alternative mechanism for the initiation of proposals for change, using competition to encourage a broader approach by the Commonwealth Parliament itself. A third is to attempt to ensure from the outset that proposals will appeal to voters. One way of doing this is to involve voters in the formulation of proposals. While this is difficult, it provides a form of active engagement that the Foundation's experience suggests can bring substantial rewards.

In a sense, the partly elected Constitutional Convention that met in 1998 to design the republican model was a form of active engagement. The Convention gave Australians an opportunity to participate in the formulation of the republican model, by voting for delegates to represent them. The test of the Convention's success was whether it could produce a model that was acceptable to those prepared to support a republic, either because it suited their own preferences or because they accepted that the process was fair. There were various reasons why this did not happen. The speed of the Convention process did not allow a sense of ownership to develop. There was insufficient opportunity for reflection and consultation between delegates and the public, compounding the problem of making the representative principle work in such circumstances. There were too many appointed delegates. Not only was an opportunity wasted, but two new difficulties were thus placed in the way of a further republican round. Firstly, voters were sensitised to the relevance of the republican model and more likely to be suspicious of it. Secondly, the effective failure of the Convention makes it more difficult to use again one of the principal mechanisms for securing early voter involvement, which also had resonance with Australia's constitutional traditions.

The experience of the Constitutional Centenary Foundation offers less insight into this problem because it did not seek to promote particular projects for constitutional change. Nevertheless, the Foundation's emphasis on active involvement as a way of encouraging interest in the Constitution has some relevance to the question of the process that might be followed in relation to a new republican round.

Direct popular involvement is not necessary to a successful outcome if those who develop the proposal for change have the requisite leadership qualities. The first option therefore presupposes the emergence of a leader who is visionary in the design of the republican model, who responds appropriately to popular opinion and whose judgment voters are prepared to trust. It is possible that such a person could pick the popular mood, design an acceptable republican model, negotiate support from other parliamentary parties and succeed at referendum. Given the genuine divisions in the community between
direct election of a head of state and some other form of selection, this may be unlikely, however. Alternatively, a political leader of this kind might develop several models and release them for public consideration, through an open deliberative process, before making a final decision on the one to be put to the vote. In either case, information resources of the kind described earlier would be needed.

A second option for trying to ensure that the republican model takes account of voter preferences would be to provide an opportunity for the voters themselves to choose between different republican models. Typically, this could be done through a plebiscite, although less formal mechanisms for determining public views could be devised as well. Prime Minister Keating suggested a version of this option at the beginning of the first republican round. His proposal involved asking voters whether they wished to move to a republic before appointing a parliamentary committee to develop the model. New Zealand experience offers a precedent of a different kind. New Zealand gave voters the opportunity to choose between models, in a two-stage plebiscite process that resulted in sweeping changes to its electoral system. More recently, the Australian Labor Party undertook to use a plebiscite to test public opinion on the appropriate republican model if it were returned to government.

Several questions arise. One is whether it is still useful to ask the Australian electorate whether it wants to become a republic, in isolation from suggestions about the model, given the sensitivities of voters to the detail of the model following the last failed republican round. There are the usual questions about how to avoid the manipulation of plebiscite results by strategic voting and whether voting should be compulsory. A further issue, to which the Foundation's experience has more application, concerns the way in which models are developed for the purpose of a plebiscite.

The New Zealand plebiscites relied on options adapted from the recommendations of a highly respected Royal Commission on Electoral Reform. Australia has had no such process and would need to develop another mechanism to settle the models. Extrapolating from the Foundation's experience, the challenges are similar to those explored earlier in relation to the provision of public information. It is necessary to identify a process that people can trust, that will honestly identify the range of reasonable options and that is capable of presenting them in accessible form.

A third option for matching a referendum proposal to the views of voters would involve another Convention. Necessarily, this option must be developed with the experience of the 1998 Convention in mind. The National Forum of Local Constitutional Conventions identified one problem with the republican
convention as the lack of capacity to adequately represent the views of Australians. The difficulty lay both in the initial process of election and in the manner in which Convention decisions were made and settled. The National Forum suggested as a solution that another Constitutional Convention should be preceded by a series of local conventions around the country. This would be cumbersome, however, and require a substantial infrastructure. A process of this kind might be justified for a new Constitution. It seems over-elaborate for the relatively confined issue of establishing a republic.

It may nevertheless be possible to structure a National Convention to avoid some of the difficulties of 1998. On the one hand, voters must accept it as adequately representative. On the other, delegates should retain enough of the flexibility to negotiate, which is one advantage of a Convention over a plebiscite. At the very least, the election process should be less rushed and the Convention should adjourn to provide an opportunity for public debate on its interim conclusions. This is one aspect of the proceedings of the Convention of 1897–98, from which contemporary Australians could learn.

Two further general observations about process are relevant for any options that seek directly to test the views of voters. The first also is drawn from the experience of framing the initial Constitution. The entire process should be laid down from the beginning, preferably in statutory form, to make it clear to people that their involvement has a purpose, as well as to assist to avoid subsequent manipulation. Secondly, unnecessary cost should be avoided. Any constitutional process costs money and the expenditure can be justified by reference to the national significance of the issue. Nevertheless, Australians are sensitive about the use of public funds and the issue can easily be exploited. Costs can be minimised by, for example, timing election of Convention delegates or a plebiscite to coincide with a national election.

Substance

Finally, the Foundation’s insights into the views of voters about the Constitution itself may assist in the design of a republican model. Some of the views expressed to the Foundation affect the Constitution as a whole. There was a widespread view that the Constitution should be relevant and clearly expressed and that it should reflect more accurately the way in which Australia is governed. The Foundation encountered no support for retaining the casing of the British Act in which the Constitution presently is found. Not surprisingly, it found broad acceptance of the need for the Constitution to say that Australian government draws its legitimacy from acceptance by the people.
In addition, there was perhaps predictable support for greater accountability of parliaments to people, effective checks and balances and a federal system that delivers the local responsiveness for which it is designed.

More revealing for present purposes were the views expressed about the head of state and particular proposals for change. The Local Constitutional Conventions generally advocated a head of state who was above politics. They accepted the notion of the Governor-General as a guardian of the Constitution and sought a republican head of state who would perform a similar role. As a generalisation, they were not averse to the dismissal of a Prime Minister who was unable to obtain supply or, for that matter, who acted illegally. Consistently with this picture, the Local Conventions that considered the issue of a republic tended not to support a directly elected President. It is not clear why this was so, given the level of support for direct election in the polls at the time. The explanation may lie in the fact that participants in this process had the opportunity to reflect on the conflict between direct election and their aspirations for a non-political president.

On the other hand, most of the Local Conventions wanted a process for selection of a republican head of state that involved the people directly in some way. For this reason, many identified a consultative procedure for appointment that was similar in essential respects to the one unsuccessfully put to referendum in 1999. There was no support for the mode of dismissal proposed in 1999. Almost all delegates were puzzled by the notion that the states might retain their links with the Crown, even if a national referendum succeeded.

These findings would seem to have the following implications for a future republican model. The first concerns the approach characterised in the republican debate during the decade of the 1990s as minimalism. Minimalism involves creating a republic by changing as little as possible of current constitutional arrangements. The underlying assumptions of this approach are that voters are basically satisfied with the current system and that broader proposals for change should be resisted, if only because they court unnecessary opposition. It may be accepted that the republican model should not be widened to absorb unrelated proposals including, probably, constitutional protection of rights. On the other hand, at least in the Foundation's experience, Australians are not necessarily opposed to wider change. There is no reason to distort an otherwise satisfactory and forward-looking model in the interests of preserving the status quo.

Secondly, there appears genuinely to be divided opinion between direct election of a president and another mode of choice that would allow public opinion to have some influence. Typically, the latter suggests a form of
selection by a special parliamentary majority, with an opportunity for public involvement in nominations through a process perceived to be less open to Prime Ministerial influence than that of 1999. If the process for the next round of the republican debate allows for a period of public deliberation on alternative models or an indicative choice at plebiscite, these are the two options that need to be fully developed and clearly explained.

A third model also has been discussed in the debate so far. It was initially advanced by former Victorian Governor Richard McGarvie. It would retain the present system, apart from substituting three former Vice Regal representatives or presidents as a council to appoint and remove a President on the advice of the Prime Minister. There is a question whether this model should also be developed for public consideration. The answer may be yes, because of the attention it has attracted in elite, including leading political, circles. On the other hand, it does not appear to respond to public preferences at all. The McGarvie proposal is even more quintessentially a politicians’ republic than the 1999 model. Support for it could be portrayed as self-serving on the part of Prime Ministers or prospective Prime Ministers, whose power it essentially preserves. The model itself would have the effect of preserving monarchical forms, albeit severing the link with the established monarchy.

On present indications, only the first two models are likely to have popular appeal. Both make it desirable and perhaps even necessary to articulate the powers of the head of state and the manner of their exercise. A statement of the powers of the head of state also would bring the text of the Constitution more closely into line with the system of government as it actually works. If the powers of the head of state are set out in the Constitution, it will be necessary to decide whether the President should have the power to dismiss a Prime Minister. The difficulties of resolving this divisive issue are obvious. It may be possible to minimise some of the angst by looking to the future rather than the past, so that the decision does not involve a judgment about the actions of 1975. As far as the choice itself is concerned, however, the Foundation's experience suggests that Australians may favour giving the head of state a power to dismiss, at least in some circumstances. If power to dismiss is accepted, there is a further question: whether it should be balanced by the removal of the power of the Senate over supply, or whether that is too controversial an extension of the republican issue.

In any event, the model would need to incorporate mechanisms to ensure the accountability of the president for the exercise of any discretionary powers. The 1999 proposal sought to ensure accountability through deterrence, by enabling the Prime Minister, in effect, to dismiss a President at will. This
approach was not acceptable then and would be unlikely to be acceptable in the future. Alternative, more subtle, options to secure presidential accountability include judicial review; the use of alternative sources of advice where a President is exercising a power against a Prime Minister with the confidence of the lower house; and automatic termination of the term of the President if a dismissed Prime Minister wins an ensuing election.

Finally, future republican models should have symbolic features, befitting an important national moment. Two stand out. Firstly, the Australian Constitution should be established as an instrument for Australian government in its own right, independent of its British origins. Secondly, the formal abandonment of the sovereignty of the monarch should be recognised by explicitly acknowledging the sovereignty of the Australian people. These and other changes might well help to establish a 'wattle republic' that encourages unity, pride and hope for the future amongst all the people of Australia.

Conclusion

The experience of the Constitutional Centenary Foundation, coupled with insights into the history of Australian constitutional change, suggests the following broad guidelines for the next round of the republican debate in Australia. Creation of a republic should be an occasion to present the Australian Constitution as a symbol of independent Australia, proud of its egalitarian, democratic traditions, with a government that explicitly draws its authority from the people themselves. The outcome of Foundation events suggest that key elements in a republican model should be choice by the people or by Parliament following popular consultation. The limited powers of the head of state should be set out in the Constitution. Serious consideration should be given to including a power for the head of state to dismiss a Prime Minister, in specified circumstances.

Given the long history of the matter, a far-sighted and respected leader probably could achieve the transition through a successful referendum without complex interim stages. This would involve development of several alternative models, honestly devised, a period during which they are exposed for public consideration and discussion, and a final choice for reasons that are explained openly and honestly.

The alternative is to have an interim phase in which the models are developed and the public is given an opportunity to express a choice, both to identify its preferences and to develop a sense of ownership of the republic. Because of the importance of trust in the process of constitutional change, it
would be desirable for these options to be developed by a group highly regarded by Australians, without interests of their own in the outcome. An appropriate leader of such a group, for example, would be Sir William Deane, if he could be persuaded to act. Mechanisms for the expression of voter choice include a plebiscite or a constitutional convention. Whichever is adopted, the plan of action should be clear from the outset, open, free from manipulation and prescribed by law.

Finally, the entire process must be backed by a communication strategy designed to serve the information needs of the people, to assist them in understanding the proposals and in making their decisions accordingly. The strategy should provide information about the existing system as well as about the proposals for change. It should respond to the ways in which different groups of voters absorb information. Inevitably, it should take a range of formats and, where possible, provide for active engagement. It should be organised in a way that attracts community respect and should not be rushed. It should provide a facility by which questions can be authoritatively answered, to deal with the host of unexpected queries that inevitably will arise.
Chapter Fifteen

Rethinking the Republic

Frank Brennan

Where do we go now with the republic debate? There are four possibilities. Firstly, John Howard may be right; he may have won one of the great political gambles. Australia will keep the monarchy for generations to come, there now being no prospect of any republican model winning a majority thanks to the cooperative efforts of Kerry Jones, Ted Mack and Phil Cleary during the 1999 referendum campaign. Secondly, everyone puts the debate to bed for a generation and dusts off the Turnbull model for recycling at a future time. Thirdly, the politicians decide to run with the Richard McGarvie minimalist model in the hope of winning a majority coalition of those who accept the inevitability of a republic but who want absolutely minimalist change to the existing arrangements. Finally, the republicans take seriously the public sentiment for direct election and start the hard work on reshaping a Constitution with the unique Australian combination of an upper house having the power to reject supply together with a popularly elected President.

If option one, two or three is adopted, there is not much further thinking to be done. It will be all a question of timing and fine tuning. Option four requires a lot of fundamental constitutional thinking and political spade work if it be the only viable option for Australia’s transition to a republic. Now is the time to plant the seeds, if only to establish that any attempt will encounter very rocky ground in the Australian constitutional garden.

The 1999 referendum result showed that we are a nation of diverse groupings: monarchists, those who favour the status quo simply because ‘if it ain’t broke, don’t fix it’, and republicans of all shapes and sizes. The republicans cover a spectrum of views but can be placed in three camps: McGarvie minimalists, Turnbull pragmatists and Cleary/Mack direct electionists. There is no shortcut to a republican consensus. The received wisdom prior to the 1999 referendum was that it was not possible, politically or constitutionally, to graft an elected presidency on to the existing Australian system of government. The Turnbull model with the resultant bells and whistles added by the 1998
Constitutional Convention was a compromise between involving the public in the mode of selection and maintaining the existing power relations between Prime Minister and Governor-General. This compromise fell between two stools; it appealed neither to the direct electionists like Mack and Cleary nor to the minimal republicans like McGarvie. The Australians for Constitutional Monarchy (ACM) succeeded by following the advice of Malcolm Mackerras, handing their trump cards to Howard 'because he, as Prime Minister, would be in the best position to play the cards'.

There can be no doubt that the overwhelming majority of Australians want to sever all links with the British crown. In that sense, we are a nation of republicans. Only 9 percent of those intending to vote No at last November's poll said they liked having the Queen as our head of state when they were polled by AC Nielsen. 70 per cent of Australians want us to be a republic. At the 1998 Constitutional Convention, 89 delegates voted 'That this Convention supports, in principle, Australia becoming a republic'. Only 52 delegates were opposed with 11 abstentions, which included republicans such as Richard McGarvie and Greg Craven.

In 1996, there were suggestions that there should first be a plebiscite of the people: 'Should all references to the Queen be deleted from the Australian Constitution by 2001?' The Howard Government had no interest in conducting such a plebiscite. The Constitutional Convention proceeded in February 1998 and attempted to wrap together the plebiscite question and a preferred model, forging a No coalition of monarchists and radical republicans. Only 73 of the delegates supported 'the adoption of a republican system of government on the bipartisan appointment of the President model in preference to there being no change to the Constitution'. A majority of the delegates were opposed or abstained (57 opposed, 22 abstained).

It was only in the closing days of the 1999 referendum campaign that, for the first time, Howard gave a public explanation why he was opposed to a plebiscite. He thought it could have left the country 'in a constitutional no-man's land'. More significantly, monarchists like Howard and Nick Minchin knew that any plebiscite would favour the republicans in building a momentum for change. Whereas any particular model of republic put cold to the people at referendum would be unlikely to gain acceptance. The opponents would always be a combination of monarchists, advocates of the status quo and those republicans whose model was not on offer.

The Republic Advisory Committee chaired by Malcolm Turnbull in 1993, which investigated republic options for the Keating Government, the Australian Republican Movement, and the 1998 Constitutional Convention,
had good reasons for rejecting a directly elected President. They thought it could not be grafted onto the existing constitutional arrangements. Despite this, the public remains unconvinced. The International Social Science Surveys/Australia (IsssA) has charted Australian republic sentiment for the last twenty years. Since 1996, support for a republic has run at 66 percent. The Survey calculates that a direct election presidency ‘would have won handily in Australia as a whole’ in November 1999 with 55 percent in favour of that model.

There are many voters who say they do not understand much about the complex provisions of the Constitution; they do not trust politicians, and ‘If there is going to be a president, we should have some say in choosing that person who will represent us as the head of state’. After all, in countries such as Ireland, there is an elected President and there are no constitutional problems. This may be true, but in Ireland the upper house cannot reject or block supply. In Ireland, the President has recourse to a Council of State for seeking advice, and there is no prospect of a John Kerr sacking a Gough Whitlam as occurred in 1975.

We need to revisit 1975 and see if changes can be made to the Australian constitutional arrangements so that we could safely advocate a directly elected president. One theoretical option would be to take away the Senate’s power to block supply, making the Senate in that regard more like the House of Lords and the Irish upper house. Can you imagine trying to run a referendum campaign on the need to take away the Senate’s power? It would be turned into a referendum about the propriety of Kerr’s and Malcolm Fraser’s actions in 1975. Advocates of the rights of the States would run rampant, exclaiming ‘how dare you attempt to wind back the powers of the states’ house’. At the 1976 Constitutional Convention, Whitlam did propose that the Constitution be amended so as to remove the power of the Senate to ‘reject, defer, or in any other manner block the passage of laws appropriating revenue or moneys, or imposing taxation’.

It was no surprise that Sir Charles Court, Premier of Western Australia, countered on behalf of the non-Labor parties and the minor states proposing a constitutional amendment providing that a failure by the Senate to pass a supply bill within 30 days would be the equivalent of a rejection and the Governor-General would be required automatically to dissolve both Houses. After the election, the House of Representatives would then be able to deliver supply to the government regardless of the Senate’s composition and disposition. The debate went nowhere. Douglas Lowe from Tasmania succeeded by 46 votes to 45 in having both motions sidelined and sent to
committee. Observing 'that to adopt either ... would be meaningless because it has been proven that where there are deep shades of division within the two principal political parties ... there is no chance of getting the numbers through that is required by the Constitution' (Proceedings of the Australian Constitutional Convention 1976, 113). Both sides were intractable and could be expected to remain so.

The only practical option is to refine the constitutional arrangements, smoothing out some of the difficulties and inconsistencies highlighted in 1975 while leaving intact the Senate's constitutional power. Whatever the mode of election and whatever the powers granted the President, it would be essential to assure electors that the model on offer would not cause greater instability and uncertainty, were the events of 1975 to recur.

If the President is directly elected by the people, there has to be some symmetry between the mode of appointment and the mode of dismissal. A directly elected President could be removable only for proven misbehaviour or incapacity established either before a court or determined by impeachment proceedings involving both houses of Parliament. Given the mix of politics and law in any decision to sack a head of state, it makes sense to vest the power of termination in the Parliament with each house being required to play a role in the impeachment process. One consequence of this constitutional symmetry would be that an elected Kerr in a re-run of 1975 would be guaranteed absolute security of tenure throughout the crisis. There is no way that the Senate would vote to sack him. He would be in a stronger position against the Prime Minister than if the Prime Minister were still able to contact the Palace and order dismissal.

Given the increased security of the President, there is a need for better safeguards to avoid the questionable practices of Kerr in 1975 or to render those practices beyond reproach. Three matters would need reform before there could be consideration of a directly elected President. In 1975, Kerr consulted the Chief Justice despite the Prime Minister's expressed desire that he not do so. He dismissed the Prime Minister without notice, having previously made the Leader of the Opposition more aware of his intended course of action than the Prime Minister. He decided to grant a double dissolution of the Parliament on the advice of the new Prime Minister, Malcolm Fraser, who had no intention of proceeding with the Whitlam bills, which had been blocked by the Senate. These 21 bills related to issues such as health levies and state electoral redistributions to which the Coalition parties were opposed.
Paul Kelly revisited the 1975 crisis in his 1995 book *November 1975: The Inside Story of Australia's Greatest Political Crisis*. He concluded that, 'given the magnitude of the decision Kerr had reached — resort to the reserve powers to dismiss the Prime Minister — there can be no decisive argument against his consultation with the supreme judicial figure. In such an extreme circumstance the Crown must possess a right to such consultation' (Kelly 1995, 229). On the death of Sir Garfield Barwick, the then Chief Justice, Sir Gerard Brennan, observed that:

'It seems that the most newsworthy event in his varied career was the tendering of advice to Sir John Kerr in November 1975, a course for which he could find precedent in the tendering of advice by some of his predecessors in office. It was, and remains, a controversial matter but, if only on that account, will not happen again. It can now be seen as a subject of academic interest, not the defining event in a life of other achievement (2001, 187 CLR viii).

If the reserve powers (including the power to dismiss a Prime Minister and commission a new one, and of necessity without the advice and the consent of any Minister) are to be retained without being codified, the President needs to be able to consult with advisers who are not serving High Court judges. In 1994, I suggested that there must be 'a Council to provide advice to the Head of State if and when it was sought with the approval of the Prime Minister. Such a Council of eminent persons could include retired prime ministers, chief justices and representatives of indigenous people. The council might also play a role in nominating the Head of State' (Brennan 1994a; see also Brennan 1994b).

More recently, McGarvie has suggested a three member Constitutional Council, which would perform the tasks presently performed by the Queen. His Council would not give advice; it would receive advice when acting as the post box for appointment and dismissal of the head of state. The Council would simply appoint or dismiss the head of state on the Prime Minister's advice (McGarvie 1999a, 217–19). He favours the appointment of retired Governors-General, state Governors, state Lieutenant Governors and then judges, with a guarantee that at least one member be a woman. I favour a larger Council of Advisers (say seven) consisting of those persons willing and able who have held the office of President, Prime Minister, Chief Justice or Solicitor-General provided any such person is no longer a member of Parliament, a judge or a member of a political party and provided any such person has not attained the age of 75 years.
The two most unsatisfactory aspects of Kerr’s actions in 1975 were the privileged access Fraser had to Kerr’s thinking while Whitlam was still Prime Minister, and Kerr’s pre-emptive decision to act before supply ran out. Kerr claimed he needed to keep Whitlam in the dark for fear that the Palace would become involved with Whitlam providing advice to the Queen for the termination of Kerr’s commission. That would not be a fear with an elected presidency subject to removal only by impeachment. The perception of subterfuge could be overcome if the Constitution provided, ‘The President may exercise a power that was a reserve power of the Governor-General in accordance with the constitutional conventions relating to the exercise of that power, provided the President first publishes a proclamation of intention to exercise such a power after a period of at least two days’. This way there would be no risk of a Prime Minister being ambushed and reduced risk that the leader of the opposition would be better informed than the Prime Minister.

Kerr’s political strategy was posited on finding what he described as ‘a democratic and constitutional solution to the current crisis which will permit the people of Australia to decide as soon as possible what should be the outcome of the deadlock which developed over supply between the two Houses’ (Kerr 1995, 346). He could always dissolve the House of Representatives on advice from a willing Prime Minister. The Senate was a different matter. Senators are elected for fixed six year terms. The regular election for half the Senators can be held up to a year before the Senators’ terms expire. The Senate can be dissolved only under the double dissolution procedure. A double dissolution cannot occur within six months of the scheduled dissolution of the House of Representatives. It can occur only if the House of Representatives has twice presented legislation to the Senate which has then twice failed to pass it.

Should a repeat 1975 crisis be assured adequate resolution under option four, there will still be the problems stated by the 1993 Republic Advisory Committee:

While the option of popular election of the head of state is one which appears to have significant public support, it should be recognised that it would be expensive (particularly if held separately from a parliamentary election), would almost certainly involve political parties in the endorsement of candidates, and by its nature could discourage suitable candidates from standing. Moreover, the process of popular election may encourage the head of state to believe that he or she has a popular mandate to exercise the powers of that office, including the ability to make public statements and speeches, in a manner which could bring the head of state into conflict with the elected Government (Republic Advisory Committee 1993, 4).
If the head of state is to be democratically elected, there will be a need to redraw the public understanding of the different roles of Prime Minister and President. Being elected by all Australians and not just the electors of Bennelong, an elected Deane would be seen as having democratic legitimacy, especially on issues where there was a difference of perspective from the Prime Minister. This legitimacy would be emphasised by Howard critics, Deane supporters and media outlets. Even an elected President who has run the gauntlet of party preselection would be expected to be head of state for all Australians.

In the lead-up to the 1999 referendum, Sir Zelman Cowen, who had been Governor-General after Kerr and who rightly enjoys the reputation for having healed many of the wounds on the body politic following the events of 11 November 1975, joined with ex-Chief Justices Mason and Brennan to say that:

> It is a central aspect of the office of president that he or she should always be concerned to promote the unity of the nation. He or she is Head of State, and not of government. He or she should possess the capacity, intuition and skills to promote the unity of the nation. By speech, conduct and example, the president can help to interpret the nation to itself, and foster that spirit of unity and pride in the country which is central to the well being of our democratic society (Cowen, Mason and Brennan 1999b).

They doubted that this role could be performed by someone coming to office through the machinations of party politics, fund-raising, and election campaigns. At his press conference following the referendum, Howard went out of his way to offer a rejoinder to this proposition:

> Can I just say in relation to the mood in the Australian community — I listened to the debate about the mood and one of the arguments that was put in favour of the republican cause was put by Sir Zelman Cowen the former Governor-General, the idea of having somebody who is head of state who would interpret the nation to itself. With the greatest respect to him and others who hold that view, I don't think that can ever happen in this country. We are too individualistic to ever find one single person who is going to interpret the nation to itself (Howard 1999).

One could argue that Howard did achieve this role himself in his memorable address at Gallipoli on Anzac Day 2000 when he honoured the fallen on behalf of the nation:

> We come to draw upon their stirring example of unity and common purpose. To believe that whatever our differing circumstances, we are all companions with each of our countrymen and women, and together we travel a single path. We come to
join with those that rest here in a shared love of our nation, bathed in sunlight and so blessed with bounty. We come to stand on soil rich with the lives of our kin and vow that what they began, we will finish.

For they fought to build a nation which would stand proud and respected amongst the free people of the world. A nation where ordinary men and women would live long lives of happiness and fulfilment. A country where children would grow nourished by the land’s harvest, and by the love of their parents. A country where prosperity and opportunity are derived not by birth, but by endeavour. A people made independent united and free for all time. And in the attainment of these ideals, in the keeping of a decent and responsible Australia, in every year of peace between the nations of the world, we will build for all those who have served and suffered in war, a monument upon which evening will never fall (Howard 2000, 11).

The nation would be well served by a head of state, rather than a party politician, who can promote the unity of the nation, interpreting the nation to itself. If the task is to be performed by an elected President, there will be a need for a clear demarcation of functions between the president and Prime Minister. Some elected presidents would rightly want to continue Sir William Deane’s style of leadership, which annoys some powerbrokers who resent leadership not managed from offices in the ministerial wing of Parliament House.

During the 1999 referendum campaign, some Aborigines went to London to see the Queen. Sir William Deane assisted with their request to meet the Queen at Buckingham Palace. Ex-Minister Peter Walsh was horrified. Writing ‘1975 revisited’ in Christopher Pearson’s Adelaide Review, he said, ‘If however it can be safely assumed the government neither knew nor approved of this self-indulgent exhibition of vice-regal vanity, it follows that Sir William, behind the government’s back, facilitated the Queen’s involvement in what is a controversial political issue in Australia’ (Walsh 1999, 13). A month later, Glenn Milne took up the theme in the Australian: ‘In doing so, Deane acted without the knowledge or advice of the Prime Minister — the convention that underpins the legitimacy of our constitutional monarchy’ (Milne 1999, 15). Milne had asked Deane’s spokesman what consultations had occurred.

Following protocol, the spokesman was not prepared to disclose the details of such consultations, if any, but added, ‘It was just facilitating the call [to the palace]. The Governor-General would not normally feel the need to consult the Government in such circumstances’ (Milne 1999, 15). The editorial of the Australian went well over the top: ‘Intensifying disquiet is the news that Sir William supported the meeting without telling the Government. This not only violates convention, it is sneaky’ (Australian, 7 December 1999, 14). The
Government remained silent, leaving the Governor-General hanging out to dry. Four days later, Peter Yu, one of the Aboriginal delegates, clarified the matter with a letter to the editor: ‘We also, as a matter of courtesy, advised the Australian Government of the trip, and its aims, to avoid any perceived embarrassment to our Government’ (Australian, 11 December 1999, 18). An elected President would be expected to perform more controversial political tasks than acting as postman for the Palace. The powers and functions would need to be clearly articulated so that allegations of sneakiness when the President is simply doing the job will be readily perceived, even by the President’s critics, to be misplaced.

It may be another decade before the republic is revisited at the polls. An elected presidency has popular appeal and many constitutional pitfalls. If an elected presidency is the preferred path for the Australian people, now is the time to face the fact that nothing is as simple in this debate as Mack and Cleary claim. On reflection, maybe Mack and Cleary should be offered knighthoods for their contribution to the maintenance of the monarchy in a time of rising republican sentiment. Maybe Turnbull and Keating had it right, and maybe Howard had good grounds for displaying smugness at his cleverness when the true monarchists came to the party, popping champagne for a victory of lasting consequence. Contrary to the will of the people, we are likely to remain tied to the regal apron strings for some years to come.
Chapter Sixteen

Presidential Powers Under Direct Election

George Winterton

'The way of the reformer is hard in Australia' Gough Whitlam observed in 1957 (Whitlam 1977, 44), a considerable understatement in regard to constitutional reform. Australian constitutional reformers remind one of the hardy residents of Florida and Kansas who pick themselves up after each hurricane or tornado and rebuild, hoping that this time their homes may be strong enough to survive the next one. Similarly, after each referendum defeat, Australian would-be constitutional reformers hope that a new device — be it royal commission, joint Parliamentary committee, constitutional convention, constitutional commission, semi-popularly elected convention, now plebiscite — may succeed in framing a Constitution alteration proposal able to withstand the next referendum but, alas, very few do.

Unlike some defeated constitutional amendments, the republic will remain on the political agenda, although the electoral fate of the political parties will determine whether the mechanism for its advancement will be the indicative plebiscite proposed by Labor or some alternative favoured by a non-Howard-led Coalition. In any event, after the defeat of the 'ConCon' model in the 1999 referendum, a directly elected presidency is certain to be on the agenda, at least for consideration. The principal issue raised by any republican model is the nature of the presidency and, consequently, the methods of appointing and removing the President and the powers of the office, all of which are interrelated.

Executive Presidency?

The first issue requiring determination is whether an Australian republic should retain the present system of responsible parliamentary government (the 'Westminster system') or adopt a different system, the obvious candidate being
one based on a greater separation between legislative and executive powers, essentially the American model. It is sometimes suggested, especially by constitutional conservatives and monarchists (although the bona fides underlying some of these assertions may be questioned), that, if the Crown is removed from Australian government, the legislative-executive relationship must be completely rethought, as if the essence of the Westminster system depended upon a hereditary monarch rather than merely a politically neutral head of state, whether hereditary or elected. The United States model is frequently propounded as the only model based on genuine republican principles (for example, Russell 1998, 68–9), though why parliamentary republics such as Ireland, Austria, Germany, India and Italy should be dismissed as sham republics is never explained.

The United States government is sometimes viewed from abroad through rose-tinted spectacles due, perhaps, to that country’s economic, cultural and military dominance. For some too, the term ‘President’ probably connotes the only presidency with which they are familiar. It should be remembered, however, that after virtually every major political crisis, such as Watergate, some American political scientists advocate reforming their political system to resemble Westminster’s. That reform is occasionally advocated, even in the absence of crisis, in order to overcome the endemic problem of deadlock or stalemate between the President and Congress, especially when they are controlled by different political parties.

Several features of the American system of government ought to give potential transplanters pause. First, it vests enormous power in one person. The United States executive consists essentially of one person: the President. All other officials of the executive branch, including cabinet secretaries, have merely advisory powers, except when power is vested directly in them by legislation. Moreover, the President enjoys a sphere of executive power beyond the power of Congress to limit or control by legislation. The manner in which it is exercised is similarly beyond judicial review on administrative law grounds. Apart from political constraints thereon, including Congress’ all-important power over appropriation, the principal legal constraint on such power is the Bill of Rights, though the exercise of some presidential powers is considered non-justiciable. Such powers vested in an Australian executive President would not even be limited to this extent in the absence of an Australian Bill of Rights.

Secondly, like all successful systems of government, the American system reflects the nation’s history and political culture, which are unique to it. It lacks the Westminster system’s paternalistic constitutional umpire, a head of state able to resolve disputes between legislature and executive by referring them to
the people. The political branches of government must resolve these disputes for themselves by negotiation. If, for example, Congress were to refuse to pass appropriations until the President resigned, there would be no constitutional umpire, like the Governor-General, empowered to intervene to resolve the deadlock. Similarly, there would be little to prevent Congress from impeaching the President on the ground of mere political disagreement, since Supreme Court intervention would be unlikely, especially if Congress purported to apply the constitutional formula of 'treason, bribery, or other high crimes and misdemeanors' (US Constitution art II, § 4. Cf. Nixon v United States [1993] 506 US 224, holding judicial impeachment non-justiciable). The American system requires considerable restraint and political sophistication. Despite adoption in Latin America and the Philippines, it has operated successfully only in its country of origin; even so, the sailing has not always been smooth.

Australia shares some of the same history and political culture as the United States, but it has operated under the Westminster system for a century and a half, during which it has developed one of the world's strongest political party systems. If the American system were transplanted to Australia, with the latter's highly disciplined political parties, not only would it operate very differently from the way it does in the United States, but it would effectively combine the worst features of both systems. It would create an all-powerful executive presidency supreme, like its American original, over the executive branch but also probably dominant over the legislature, or at least its lower House, if the present electoral system were maintained. Moreover, there would be no Bill of Rights to limit presidential power. The Australian party system would probably weaken in time, as indeed occurred in the United States, but the hybrid mutant would probably exhibit some unpleasant features for a considerable transitional period (see Winterton 1994a, 101–2).

Notwithstanding the undeniable merits of the American system — which would be a serious candidate for adoption if one were creating a constitutional system from scratch as, to some extent, the Australian constitutional founders were in the 1890s — its transplantation into the present Australian constitutional environment would entail a reckless and unnecessary risk of radical and possibly undesirable constitutional metamorphosis. Moreover, the limited evidence of public opinion polls offers no support to the introduction of this alien system of government. While one may doubt the respondents' knowledge of the American system, let alone the Australian, polls indicate a strong preference for retaining our present system of government over adopting the American: 65 percent to 24 percent in a Bulletin poll of February 1998 and 72 percent to 21 percent in a Time Morgan poll of January 1994
A Quadrant poll conducted for the Australian Republican Movement in October 1992 indicated that only 12 percent of respondents (not merely those favouring a republic) in all state capitals except Hobart favoured adoption of the United States system (Australian Republican Movement 1992; for earlier poll statistics, see Winterton 1993a, 41–2). It will be assumed that an Australian republic with a directly elected President would retain the present system of responsible parliamentary government.

There are two principal concerns regarding a directly elected President: that the type of person likely to be elected and the method of choosing the President are inherently unsuited to the position of a head of state in a parliamentary republic; and that direct election would so enhance the power, or at least authority, of such a head of state that the stability, and perhaps even continuity, of the present governmental system would be jeopardised. The second issue will be considered here (for further discussion of both issues, see Winterton 2001a, 7–19; 2001b, 32–44; 1997a; 1995, 142–5).

**Presidential powers**

The most worrisome aspect of a directly elective presidency is that the enhanced authority that will inevitably accrue to that office will destabilise and radically alter Australian government. A directly elected President will be the only person elected by the entire nation — or at least 50 percent plus one — whereas members of Parliament, including the Prime Minister, are elected only by one electorate. Even if the President's election platform is devoid of policy content, as it should be, the President will be able at least to claim a 'mandate' from the entire electorate to ensure probity, compassion and wisdom in Australian government. As Irish President Mary Robinson asserted during her election campaign in 1990:

> As President directly elected by the people of Ireland, I will have the most democratic job in the country. I'll be able to look at the Prime Minister in the eye and tell him to back off if necessary because I have been directly elected by the people as a whole and he hasn't (Mee 1996, 3).

The concern is that a directly elected President will challenge government policy in speeches, perhaps addresses on television, and by meeting foreign and domestic leaders both at home and abroad, leaving both the Australian people and foreign governments confused regarding government policy, destabilising government, and jeopardising the political neutrality of the presidency. Barry
Jones graphically described such a system as ‘a car with two steering wheels’ (Jones 1999), and John Howard has warned that it:

[W]ould alter for all time the nature of our system of government. It would entrench rival centres of political power ... An Australian president, having a popular mandate, would feel infinitely more powerful in dealing with an incumbent Prime Minister than would any Governor-General, irrespective of the formal powers which might be given to that president. (Howard 1994, 130–1; for similar comments, see Winterton 1995, 143–4).

Some commentators see value in a President able to ‘provide a balance to an otherwise autocratic prime minister’ (Evans 1994, 16) or at least believe, perhaps correctly, that ‘opposing centres of political authority ... is just what most people want’ (White 1999, 8). However, the virtue of such a ‘checking’ President must be strongly questioned on at least two grounds. First, such a President would have limited information sources, be unaccountable to Parliament and to the electorate unless standing for re-election, and possibly have a ‘mandate’ which is several years old and, in any event, not based on specific policies. The value of checks and balances should not be exaggerated; it all depends on who is checking whom, and to what end. One ought to be wary of a single unaccountable individual, possibly dependent for re-election on special interests, checking a government which enjoys the support of the House of Representatives and is subject to numerous checks including the party room, the media, Parliament and, ultimately, the electors.

Secondly, for better or worse, such a ‘checking’ President would amount to a significant departure from the present role of the Governor-General; if the Australian people really favour such a development, they should be fully aware of the possible consequences of governmental deadlock and instability. Harry Evans, Clerk of the Senate, has remarked that ‘an elected president, with an independent mandate, would most closely approximate the existing constitutional arrangement’ (Evans 1995, 36) but, with respect, there is no basis for this view.

What measures might be taken to address these concerns? Little can be achieved by way of constitutional provision to prevent presidential speech-making or social conduct which embarrasses the government. The Irish attempt to control speech-making (Constitution of Ireland art.13.7) has not been particularly successful (see Winterton 1997a, 35–6), and it is doubtful whether the electorate would approve such measures. The best guarantee of presidential impartiality and discretion is the election of candidates possessing those qualities.
The present Constitution confers power on the Governor-General and Governor-General in Council on the assumption that the powers will be interpreted against the background of the conventions of the monarchy; consequently, apart from the few 'reserve powers', the Governor-General's powers are exercisable only in accordance with ministerial advice. However, this principle should not be left merely to convention under a republic, especially one with a directly elected President, but should be expressed as law in the Constitution and be judicially enforceable.

The 1998 Constitutional Convention resolved that 'the non-reserve powers' should be 'spelled out so far as practicable' (Report of the Constitutional Convention 1998, 45), but the proposed constitutional provision put to referendum did not do this since it failed to specify which were reserve powers and which not (Constitutional Alteration [Establishment of Republic] 1999, proposed s. 59). Such a provision would be inadequate for a directly elective presidency, since it is essential that it be expressly provided that 'the executive power of the Commonwealth' conferred by s. 61 of the Constitution be exercisable only on ministerial advice (see, for example, Winterton 1994b, 20 [s. 61]). It may even be preferable to provide that such power is vested in the government, as it essentially is in Ireland: ‘The executive power of the State shall ... be exercised by or on the authority of the Government’ (Constitution of Ireland art. 28.2). If s. 61 is not amended to make it crystal clear that ‘the executive power of the Commonwealth’ is not exercisable by the President except pursuant to ministerial advice, there would be a real risk of a directly elected President exercising executive power independently of the government, ultimately converting our system of government into one resembling the French. The Constitution should likewise make clear which powers are reserve powers and which not, either by a general provision or by expressly providing in regard to each of the latter that it is exercisable only on ministerial advice (see, for example, the present writer’s draft Constitution: Winterton 1994b).

The power to assent to legislation is sometimes considered a reserve power, but this should not be so. The Constitution should either dispense with presidential assent to legislation and constitutional alterations or make it clear that presidential signature is a purely ceremonial function involving no independent discretion (see Winterton 1994b, 17, 36 [ss. 58 and 128]). The executive power to prorogue Parliament appears to be unnecessary and could be abolished.

There is understandable fear that a directly elected President, bolstered perhaps by public opinion, will feel unconstrained by the conventions hitherto governing the exercise of the reserve powers and exercise those powers
according to personal whim, thereby undermining the constitutional system. Such a President might appoint a personal crony as Prime Minister (such person need not initially be a member of Parliament, Commonwealth Constitution s. 64) and prorogue or even dissolve Parliament to avoid a House of Representatives vote of no-confidence in the government or, perhaps, dismiss or force to a general election a Prime Minister who is unpopular or out of favour with the President. (We can be sure that the monarchists and their republican allies of the moment will dream up even scarier scenarios to terrify the electorate.) While the more extreme scenarios are no doubt fanciful, the concern that a directly elected President would feel less constraint than a Governor-General in exercising reserve powers is realistic (contrast the view of Harry Evans, as noted in Winterton 1997a, 37 n. 49). Hence, the present constitutional position of granting power in unlimited terms, leaving its exercise to be governed by convention, will not suffice for such a republic.

There is nothing sacrosanct about the present reserve powers: to appoint and dismiss the Prime Minister and to refuse to dissolve Parliament (including a double dissolution under s. 57 of the Constitution). They reflect constitutional history rather than logic. The power to appoint the Prime Minister could effectively be left to the House of Representatives as in Ireland, Germany, Sweden and Japan; the parliamentary term could be fixed, subject to early dissolution if the House passes a simple vote of no-confidence in the government, thereby dispensing with a presidential power to dissolve Parliament; and it is doubtful whether a presidential power to dismiss the Prime Minister is really necessary (for further discussion, see Winterton 1993a, 43–4; Winterton 1993b, 251–2; Ward 2000, 120–3; Hull 2000). The Irish and German presidents have no such reserve power (the German President’s dismissal power, conferred by Basic Law art 67(1), is not discretionary). Concerns regarding incompetent or politically partial Presidents would certainly be diminished if the reserve powers were reduced or even abolished.

However, our constitutional tradition sees an impartial constitutional umpire or guardian as necessary and there are strong arguments for a head of state exercising that function, whose value was demonstrated in Tasmania in June 1989 (see Winterton 1993a, 45–6). The Austrian and Portuguese directly elected Presidents have a similar role, as indeed does the Irish, though with fewer powers than our Governor-General (the Irish Senate can defer Supply for only 21 days, Constitution of Ireland art. 21.2.2°). Moreover, opinion polls support the impression gained during the 1999 referendum campaign that the public would not support a significant reduction in the head of state’s powers (Winterton 1997a, 36–7). The three current reserve powers should probably be
retained, but the Constitution should make it clear that they are the only powers that the president can exercise without or contrary to ministerial advice.

It is generally accepted that the conventions governing the exercise of reserve powers should be codified if the President is directly elected (Winterton 1997a, 37). Complete codification would be both inadvisable — because the flexibility necessary for dealing with political crises would be lost — and extremely difficult, if not impossible, because the community is divided on some powers, especially the power to dismiss a Prime Minister denied Supply by the Senate. However, partial codification, along the lines suggested by the Republic Advisory Committee (Republic Advisory Committee 1993, 101-6) would be desirable, and received considerable support at the 1998 Constitutional Convention, especially from proponents of direct election (Report of the Constitutional Convention 1998, 125-9).

The principle underlying codification should be that the President is granted only such power as is absolutely necessary (Winterton 1993a, 46-7; McGarvie 1999a, 146) to enforce the fundamental constitutional principles of the rule of law and representative and responsible government (for High Court recognition of these principles, see, for example, Australian Communist Party v Commonwealth [1951] 83 CLR 1, 193 per Dixon J.; Lange v Australian Broadcasting Corporation [1997] 189 CLR 520). The Constitution should provide that after a general election the President should appoint as Prime Minister the person most likely to enjoy the confidence of the House of Representatives. The President should be obliged to refuse a dissolution of Parliament to a Prime Minister who has lost a "constructive no-confidence" motion (that is, a motion that expresses confidence in a named person [such as the leader of the opposition] as well as no-confidence in the Prime Minister or the government); while a motion of no-confidence is pending; and before the House of Representatives has met after a general election, unless the House has proved unable to elect a Speaker.

The most controversial reserve power to codify is the power to dismiss the Prime Minister and thus the government. The power should probably be exercisable only if the Prime Minister refuses to comply with an order of the High Court or has contravened a fundamental constitutional provision or, more questionably, a fundamental constitutional principle. The last provision would include an attempt to ignore a House resolution of no-confidence and, for those who believe that Kerr was entitled to dismiss Whitlam in November 1975, could include an attempt to ignore denial of Supply by the Senate. The Labor Party may have to compromise on this issue in order to achieve a
republic, by leaving open the possibility of the Prime Minister’s dismissal on the
ground of failure to secure Supply from the Senate.

The exercise of power in the interstices of the reserve powers — that power
remaining after the partial codification has been implemented — should
continue to be governed by the established constitutional conventions. The
Constitution should expressly provide for continuation of the present
conventions notwithstanding abolition of the monarchy (see Constitutional
Alteration (Establishment of Republic) 1999, proposed s. 59; Joint Select
Committee 1999, paras 4.10–4.22), and provide for their continuing evolution
(see Constitutional Alteration (Establishment of Republic) 1999, Sch 2, cl. 7;

A wise precaution, especially since a President may have no experience of
government or the law, would be to establish a constitutional council whose
advice must be sought, but not necessarily followed, before a reserve power is
exercised without or against ministerial advice. Such a council of perhaps three
to five members might include former Presidents and High Court justices (see,
for example, Brennan 2001, 24; Brennan 2000, 31–2) selected according to a
formula similar to that proposed by Richard McGarvie (McGarvie 1999a,
218–20). However, since an automatic formula would not guarantee
appointment of suitable members, the appointment power might be vested
jointly in the state chief justices or, less satisfactorily, in a two-thirds majority of
the Commonwealth Parliament (Winterton 1997a, 39). The pool from which
councillors are chosen could be limited to former Presidents and High Court
justices; alternatively, the selecters could be left at large subject, perhaps, to
minimum requirements regarding the appointee’s expertise. Provision might
also be made for the eventual publication of the council’s advice. Precedents
for such advisory councils are found in Ireland and Portugal.

Further checks and balances could be introduced to constrain presidential
power, if considered necessary or advisable. Concern that a directly elected
President might too readily dismiss the Prime Minister could, for instance, be
addressed by providing that a President who dismisses the Prime Minister
vacates office forthwith, either permanently or subject to re-election, which
would enable the electors to pass judgement on the President’s action
(Winterton 1997a, 40).

Conclusion

It has rightly been observed that a direct election republic will ‘encounter very
rocky ground in the Australian constitutional garden’ (Brennan 2000, 30). It will
face condemnation as a ‘constitutional catastrophe’, a ‘disaster’ involving the utter ‘destruction’ and ‘repudiation’ of our system of government (Craven 1999, 22, 28, 43, 44, 48). That, with respect, is a considerable overstatement. Direct presidential election could change Australian government significantly, which some, perhaps many, consider a virtue, not a defect. However, we are surely capable of constructing constitutional architecture, including checks and balances, to protect against undesirable consequences. Ultimately, it must be decided whether the goal of an Australian republic is worth the possible risks. Neville Wran has argued that ‘provided that the powers of the Head of State are properly defined and contained ... a popularly elected president is preferable to no president and no republic at all’ (Wran 1997, 199). Provided precautions like those outlined here are taken, many who believe Australia should have its own head of state or consider hereditary succession to public office abhorrent will probably conclude that it is, indeed, preferable.
Notes
Australia Deliberates? The Role of the Media in Deliberative Polling
Rachel K Gibson and Sarah Miskin

1. Australia Deliberates was sponsored by organisations including the Australian National University, the Hawke Research Institute of the University of South Australia, and the Centers for Deliberative Polling and Australian Studies at the University of Texas at Austin. Major funding and in-kind support were provided by the Australian, Ansett Airlines, Rydges Hotels, Peter Baker, Ghostwriters/Michelles Warren PR, World Exchange telephone company, the Shepphard Consulting Group, Social Options Australia and Issues Deliberation Australia.

2. Poll participants were divided into 24 groups. Each group was assigned a group manager, who was primarily responsible for ensuring group facilitators and participants adhered to time schedules. Other group manager functions included resolving problems with accommodation, transportation, directions and so on.

3. Fishkin uses the argument of Anthony Downs that individuals in large nation states have incentives to be 'rationally ignorant' because if they have only one vote in millions then it is not worth their while to spend a lot of time and effort becoming informed about a national policy debate or a political campaign' (Fishkin 1995, 21; Fishkin and Luskin 1999a, 1).

4. For a critique from a polling perspective, see Sanders (1999) and Merkle (1996). For a critique of its underlying aims, see Ellin (1999) and Lustig (1999). For a critique of the assumption of rational ignorance among voters, a claim that underlies deliberative polling, see Uhr (1999a). Commenting on the republic referendum, Uhr points out that a downfall of previous Australian referendums has been the assumption of ignorance in the Australian electorate. 'The real reason for Australia's record of conservatism at referendums (with a rejection rate of 80 percent) is not that the people are apathetic or ignorant but that they resent governments that presume that they are ignorant or apathetic' (Uhr 1999a).

5. Those assisting the organisers included Professors Ian McAllister and Frank Castles (Research School of Social Sciences, Australian National University), and Professor Alison MacKinnon (Hawke Research Institute, University of South Australia).

6. Although participants arrived in Canberra on Friday and left on Sunday, the deliberative process was held only on Saturday (9am—6pm) and Sunday morning (8.30am—noon), with the final survey filled in between noon and 12.45pm on Sunday.

7. This created an associated problem in that often a question from the floor was the same as one that was about to be asked by a group representative, who would then resort to asking another of the group's questions, often then displacing the question of another group. Such was the focus on each group feeling that 'their' question had been answered that at the Sunday plenary session, one group which had missed out on asking questions the previous day was specially called on to have one of its questions put, seemingly whether or not it was related to that session.

8. To an extent, Fishkin acknowledges such 'group' effects in deliberative microcosms such as deliberative polls, citizens' juries and consensus conferences. He notes that 'the necessity of talking to and in front of one's fellow participants creates social incentives to inform oneself and think about the issues' (Fishkin and Luskin 1999a, 4) but he fails to acknowledge that such 'social incentives' can also have negative consequences.

9. The evidence presented in Australia Deliberates: Final Report to support the claim for increased political knowledge among participants does not appear substantial on close
examination. Of the five questions used to show 'dramatic' increases in knowledge, one relies simply on a self-assessment by participants. Further, while 78 percent of participants felt that they knew enough to vote on the issue after the poll, a clear majority of participants had actually considered themselves informed enough on the issues to vote even before the deliberative poll began (57 percent). In terms of the objective evidence for increases in knowledge, only two of the four questions posed provided unambiguously correct/incorrect responses (the current appointment mechanism for the Governor-General and the procedure for removal of president). Both of these did register impressive increases (the former registered a 46 percentage point rise and the latter a 57 percentage point rise). However, the other questions used were less straightforward. These were, whether, under the proposed model, the powers of the President would be the same relative to the Governor-General, and whether the president would be no more powerful than the Governor-General. Organisers determined the Yes response as the 'correct' one. However, the complex implications of the Governor-General's reserve powers and the Prime Minister's new right to instant dismissal of the president make any correct/incorrect reading of these responses problematic. Claims for dramatic increases in knowledge based on these data, therefore, are questionable.

10. Although the item was termed a 'debate', most comments were statements from participants on the weekend and how they would vote. The 'experts', Jason Yat-Sen Li (Yes) and Julian Leeser (No), were shown five times each, with two of these depicting them arguing.

11. It was obvious from the outset that the show intended to do this when its organisers specifically singled out for a seat in the House the participant who had in an earlier session asked whether an Australian President could be expected to 'have an affair' (a reference to former US President Bill Clinton's extra-marital affairs while in office).

12. For this session, three groups were seated in the upstairs galleries, but 12 groups were scheduled to remain sitting in the Senate. Many of these participants drifted away, however, as organisers had neglected to arrange for the ABC televised link to the Senate to continue during the commercial channel's filming.

13. A post-referendum report in the Philadelphia Inquirer claimed that the poll had had considerable impact in that it boosted the Yes campaign. 'Support for the referendum, which was dropping like a rock in mid-October (hitting 33 percent in one sampling), turned around and started climbing after the deliberative poll. The rise wasn't enough to bring victory, but the gap closed to 55–45 in Saturday's vote' (Boldt 1999). However, it is not possible to prove this as cause and effect; that is, how much of the upswing could be attributed to the deliberative poll and how much to the massive coverage of the referendum in the media in the final two weeks of the campaign. In the week before the poll, the Australian alone was running three to five pages a day on the referendum. It also published a special 20-page supplement, 'Your Guide to the Referendum', in the Weekend Australian, 9–10 October 1999, as well as two special four page supplements in the Weekend Australian, 30–31 October 1999 and 6–7 November 1999.

14. There are, of course, other questions about deliberative polling that we have not addressed. These include the effects of the 'screening' of questions by the editorial team, and the possible effects on participants of reviewing materials about deliberative polling before their deliberations that highlight organisers' expectations that significant change in opinions will occur as a result of deliberations.
Appendices
Chapter Nine Technical Appendix

Data: International Social Science Surveys Australia (IsssA)

The IsssA data are from simple random samples of Australian citizens drawn by the Electoral Commission from the compulsory electoral roll. They are conducted by mail using a modification of Dillman's Total Response Method with up to four follow-up mailings, two with fresh copies of the questionnaire, over a six month period. The 2001 data are from a preliminary sample of the first 1006 cases processed, the latest available as of the time of writing; the other surveys are the complete samples (3,012 cases in 1984; 1,528 in 1986; 1,663 in 1987; 6,136 in 1989/1990; 1,503 in 1994; 2,396 in 1995; 2,130 in 1996; and 1,672 in 1999). Missing data on individual items typically runs from 2 percent to 6 percent. Completion rates run about 65 percent, which compares favourably with recent experience in Australia, the USA, and many other industrial nations (for example, the well regarded 1989 International Crime Victim Survey averaged 41 percent in 14 nations). Results for IsssA surveys conducted around the time of the 1991 Australian census show that the survey samples (1989–93; 8,234 cases) are representative of the population (Table 9.1). Analyses based on IsssA data appear regularly in the world's leading sociology journals (for example Evans, Kelley, and Kolosi 1992; Kelley and De Graaf 1997; Kelley and Evans 1993; 1995). Further details are available at www.international-survey.org.

The Canberra surveys

The Canberra Times/Datacol surveys were collected by computer-assisted telephone interview techniques based on random-digit dialling. Within each household, the potential respondent was selected at random. The selected person was pursued by up to 12 follow-up calls, at different times of the day and different days of the week. The first survey was conducted at the very beginning of the campaign in 1988, with 860 completions. The second survey was conducted about two weeks before the vote on the referendum in 1999, with 521 completions.

Question wording in the Canberra surveys:
Table 9.1: Comparison of IsssA surveys with the census

<table>
<thead>
<tr>
<th>Gender</th>
<th>Census 1991</th>
<th>IsssA 1989–93</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>49%</td>
<td>51%</td>
</tr>
<tr>
<td>Female</td>
<td>51%</td>
<td>49%</td>
</tr>
<tr>
<td>Age groups</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18–24</td>
<td>15%</td>
<td>11%</td>
</tr>
<tr>
<td>25–34</td>
<td>22%</td>
<td>21%</td>
</tr>
<tr>
<td>35–44</td>
<td>21%</td>
<td>23%</td>
</tr>
<tr>
<td>45–54</td>
<td>15%</td>
<td>17%</td>
</tr>
<tr>
<td>45–64</td>
<td>12%</td>
<td>14%</td>
</tr>
<tr>
<td>65+</td>
<td>16%</td>
<td>14%</td>
</tr>
<tr>
<td>Education: Age left school</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 15/none</td>
<td>18%</td>
<td>18%</td>
</tr>
<tr>
<td>15</td>
<td>24%</td>
<td>23%</td>
</tr>
<tr>
<td>16</td>
<td>22%</td>
<td>23%</td>
</tr>
<tr>
<td>17</td>
<td>19%</td>
<td>21%</td>
</tr>
<tr>
<td>18</td>
<td>11%</td>
<td>11%</td>
</tr>
<tr>
<td>19 and over</td>
<td>7%</td>
<td>3%</td>
</tr>
<tr>
<td>Employment status</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employed</td>
<td>58%</td>
<td>65%</td>
</tr>
<tr>
<td>Unemployed</td>
<td>7%</td>
<td>2%</td>
</tr>
<tr>
<td>Not in labour force</td>
<td>36%</td>
<td>33%</td>
</tr>
<tr>
<td>Occupation of employed persons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Managers and administrators</td>
<td>14%</td>
<td>13%</td>
</tr>
<tr>
<td>Professionals</td>
<td>14%</td>
<td>19%</td>
</tr>
<tr>
<td>Para-professionals</td>
<td>8%</td>
<td>11%</td>
</tr>
<tr>
<td>Tradespersons</td>
<td>14%</td>
<td>12%</td>
</tr>
<tr>
<td>Clerks</td>
<td>16%</td>
<td>16%</td>
</tr>
<tr>
<td>Sales, service</td>
<td>13%</td>
<td>12%</td>
</tr>
<tr>
<td>Plant &amp; machine operators</td>
<td>8%</td>
<td>7%</td>
</tr>
<tr>
<td>Labourers</td>
<td>13%</td>
<td>10%</td>
</tr>
</tbody>
</table>

1. A referendum will be held in just under two weeks' time on the question of Australia becoming a republic. You will be asked to choose either:

The present system, that is keep the Queen and Governor-General as now, or a republic in which a president who will be elected by a two-thirds majority of the federal Parliament, will replace the Queen and governor-general. In the referendum, will you vote to keep the present system as it is now, which would be a No vote, or will you vote to change to the proposed republic, which would be a Yes vote?
3. Thinking about the question of Australia becoming a republic some time in, say, the next 10 years. Generally, are you in favour, neutral, or against Australia becoming a republic?

4. If Australia was to become a republic, the head of state would change from being the Governor-General to being a President. There are a number of different ways to choose a President. One way is to have the President elected by members of Parliament, another is to have the President elected by the Australian people in a vote, another way is for the President to be appointed by the Prime Minister of the day. Which method of appointing a President would you prefer: elected by Parliament; elected by the people; appointed by the Prime Minister or some other way?

**Measurement, methods, and models in the IsssA surveys**

For the regression analysis, we scored answers to the Queen and republic questions in equal intervals from 0 to 100, with high scores indicating republican sentiment:

1. How important do you feel the Queen and Royal Family are to Australia?

   - Very important [0 points]
   - Fairly important [33 points]
   - Not very important [67 points]
   - Not important at all [100 points]

   and:

2. Do you think Australia should retain the Queen of England as head of state or become a republic?

   - Definitely retain the Queen [0 points]
   - Probably retain the Queen [33 points]
   - Probably become a republic [67 points]
   - Definitely become a republic [100 points]

The items have good measurement properties. The test-retest correlation over an approximately two year period is $r = 0.79$ for the first item and $r = 0.80$ for the second ($n = 1311$). This implies a scale reliability of $\alpha = 0.95$ for
the four items together. In 1995, we asked the two items twice in the same questionnaire, once toward the beginning and a second time about 40 pages later. Correlations between the two versions were high: \( r = 0.84 \) for the first item and \( r = 0.88 \) for the second. The four items together would form a scale with a reliability of \( \alpha = 0.96 \).

To reduce random measurement error, we combine the two questions into a single scale by averaging them. The scale shows good measurement properties, with high reliability (\( \alpha = 0.85 \)) and very similar correlations between the component items and other variables in the analysis.

The question on how the head of state should be chosen is:

If Australia did become a republic, how would you prefer the head of state to be chosen?

- Chosen by the cabinet (the government ministers) [0 points]
- Chosen by the full parliament [50 points]
- Chosen by the voters [100 points]

For the regression analysis, the answers are scored in equal intervals as shown above.

Measurement of other variables is straightforward. Class and demographic variables: age is in years; education in years of school and university training; occupational status is measured in Kelley's worldwide status scores. Government employee is an indicator (dummy) variable, as are self-employed and union member. Supervision is scored 1 (supervises other supervisors), 0.5 (supervises ordinary workers only), and 0 (does not supervise). Family income is in dollars per year. Urban residence is in 5 categories from rural (0) to metropolitan (100).

Political party identification is measured by a set of dummy variables, one for National Party supporters and a second for Labor supporters. Liberals are the omitted (reference) category. Interest in politics is measured by direct questions, scored in equal intervals from 0 to 100.

Distrust of politicians is measured by a scale averaging answers to five standard items, all scored from 0 to 100: 'Would you say the government is pretty much run by a few big interests looking out for themselves, or that it is run for the benefit of all the people?'; 'In general, do you feel that people in government are only interested in looking after themselves, or do you feel they can be trusted to do the right thing?'; 'Now some questions about this country and the people and organizations in it. How much confidence do you have in
... The federal government in Canberra? ... The federal parliament?"; and a feeling thermometer rating of "The federal parliament in Canberra". The average inter-item correlation is \( r = 0.52 \) and the scale reliability is alpha = 0.84.

Valuing citizen participation is a scale based on two items developed by Clive Bean, both scored 0 to 100: "It is vital that ordinary citizens participate in all decisions that affect them personally" and "It is vital that ordinary citizens participate in all decisions that affect their community." The scale reliability is alpha = 0.85.

Warmth of feeling about Australia is measured by a Michigan thermometer rating of 'Australians' and warmth toward Britain by another for 'Britain'. Scores range from 0 (for 'Very cold or unfavourable feeling') to 100 (for 'Very warm or favourable feeling').

Admiration for Australia's system of government is measured by a single item (with corresponding items for the American and British governments): 'Now we would like to ask about the different types of government in the world today — not about the people in power at the moment but the about the general system of government ... First, do you approve of the democratic type of government we have in Australia? ... And the British system of government? ... The American system?'

Views on privatisation (used only in the 2001 analysis) is a 5 item scale averaging the answers to: 'There has been some talk about privatisation — about selling government owned industries to the private sector. Should the government ... a. Sell the rest of the airline, Qantas?' with similar questions on railways, Telecom, Australia Post, and the Commonwealth Bank.

Perceptions of the economy in the past (used only in the 2001 analysis) are a single item: 'Do you think the kind of economic system Australia had between 1950 and 1985 or so brought the majority of Australian people ... Much more benefits than harm/ More benefits than harm/ As much benefit as harm/ More harm than benefits/ Only harm?' The question on the economy now followed immediately: 'b. And Australia's economic system now, does it bring the majority of Australians ...' with the same answer categories. Answers were scored in equal intervals from 0 (for 'only harm') to 100 (for 'much more benefits than harm').

Sympathy for political parties (used only in the 2001 analysis) is measured by Michigan feeling thermometer ratings, separately for each of the parties. The ratings range from a low of 0 to a high of 100.

Australian self-identity (used only in the 2001 survey) is measured by a single item, part of a 21 item battery of self-identity questions: 'In describing who you
are, how important is ... Being Australian?’. It was scored from a low of 0 to a high of 100.

Pride in Australia (available only in the 2001 survey) is measured by a set of questions originally from the International Social Survey Programme: ‘How proud are you of Australia in ... a. The way democracy works here? b. Australia’s economic achievements? c. Australia’s scientific and technological achievements — proud of them? d. Its achievements in sports? e. Its achievements in the arts and literature?’ There were four answer categories (Proud!!, Proud, Not, Not!!) scored in equal intervals from 0 (for ‘Not!!’) to 100 (‘Proud!!’). Items A on government and B on the economy were treated as separate variables and the remaining three items, which are highly correlated, combined into a single scale of achievements (Kelley and Evans 1998). Dislike of Britain (used only in the 2001 analysis) is a Michigan feeling thermometer question on ‘Britain’, reverse


<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>s.e.</th>
<th>Model 2</th>
<th>s.e.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age</strong></td>
<td>-0.164</td>
<td>0.072</td>
<td>-0.019</td>
<td>0.045</td>
</tr>
<tr>
<td>Education (years)</td>
<td>0.067</td>
<td>0.041</td>
<td>0.031</td>
<td>0.026</td>
</tr>
<tr>
<td>Occupation status</td>
<td>-2.855</td>
<td>2.279</td>
<td>-1.154</td>
<td>1.438</td>
</tr>
<tr>
<td>Government employee</td>
<td>0.064</td>
<td>0.030</td>
<td>0.023</td>
<td>0.019</td>
</tr>
<tr>
<td>Supervises</td>
<td>6.199</td>
<td>2.930</td>
<td>4.152</td>
<td>1.850</td>
</tr>
<tr>
<td>Family income</td>
<td>1.516</td>
<td>2.401</td>
<td>0.451</td>
<td>1.516</td>
</tr>
<tr>
<td>Union member</td>
<td>0.034</td>
<td>0.024</td>
<td>0.012</td>
<td>0.015</td>
</tr>
<tr>
<td>Urban resident</td>
<td>6.045</td>
<td>2.302</td>
<td>2.102</td>
<td>1.455</td>
</tr>
<tr>
<td>Party: Labor</td>
<td>15.461</td>
<td>2.062</td>
<td>3.080</td>
<td>1.362</td>
</tr>
<tr>
<td>Distrusts politicians</td>
<td>0.054</td>
<td>0.035</td>
<td>0.042</td>
<td>0.039</td>
</tr>
<tr>
<td>Political interest</td>
<td>0.099</td>
<td>0.036</td>
<td>0.034</td>
<td>0.023</td>
</tr>
<tr>
<td>Values citizen participatin</td>
<td>0.051</td>
<td>0.047</td>
<td>-0.020</td>
<td>0.030</td>
</tr>
<tr>
<td>Warm feeling: Australia</td>
<td>-0.054</td>
<td>0.053</td>
<td>-0.011</td>
<td>0.033</td>
</tr>
<tr>
<td>Warm feeling: Britain</td>
<td>-0.338</td>
<td>0.051</td>
<td>-0.077</td>
<td>0.033</td>
</tr>
<tr>
<td>Admires government: Australia</td>
<td>0.121</td>
<td>0.067</td>
<td>0.057</td>
<td>0.042</td>
</tr>
<tr>
<td>Admires government: Britain</td>
<td>-0.295</td>
<td>0.060</td>
<td>-0.103</td>
<td>0.039</td>
</tr>
<tr>
<td>Admires government: USA</td>
<td>0.106</td>
<td>0.044</td>
<td>0.039</td>
<td>0.028</td>
</tr>
<tr>
<td>For republic 1995</td>
<td>-</td>
<td>-</td>
<td>0.780</td>
<td>0.021</td>
</tr>
<tr>
<td>(Constant)</td>
<td>94.279</td>
<td>10.192</td>
<td>24.048</td>
<td>6.990</td>
</tr>
<tr>
<td>Adjusted R-square</td>
<td>275</td>
<td>-</td>
<td>7.12</td>
<td>-</td>
</tr>
<tr>
<td>Standard error</td>
<td>27.251</td>
<td>-</td>
<td>17.19</td>
<td>-</td>
</tr>
</tbody>
</table>
scored from 100 (for 'Very cold or unfavourable feeling') to 0 (for 'Very warm or favourable feeling').

Support for a republic: Detailed results

Models are estimated by ordinary least squares. No corrections are made for random measurement error. Each analysis is based on a single equation including the variables shown here in Tables 9.1 to 9.5.

The analysis of changes over the course of the campaign is based on separate OLS regressions for each of the two Canberra surveys, one conducted at the very beginning of the campaign and the other a few weeks before the vote (Table 9.3). To analyse the complex pattern of changes, views on the

Table 9.3: OLS regressions on support for a republic, Canberra before the campaign (1998) and after (November 1999) separately.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Before campaign</th>
<th>After campaign</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>0.089</td>
<td>-0.173</td>
</tr>
<tr>
<td>Male</td>
<td>-1.159</td>
<td>4.402</td>
</tr>
<tr>
<td>Labor supporter</td>
<td>4.602</td>
<td>21.441</td>
</tr>
<tr>
<td>Republic:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Against</td>
<td>-44.986</td>
<td>19.651</td>
</tr>
<tr>
<td>Undecided</td>
<td>3.654</td>
<td>5.691</td>
</tr>
<tr>
<td>For, elected head</td>
<td>87.604</td>
<td>54.143</td>
</tr>
<tr>
<td>For, parliament choose</td>
<td>94.803</td>
<td>86.141</td>
</tr>
<tr>
<td>(Constant)</td>
<td>-4.513</td>
<td>-1.886</td>
</tr>
<tr>
<td>Adjusted R Square</td>
<td>0.57</td>
<td>0.46</td>
</tr>
<tr>
<td>Standard Error</td>
<td>28.03</td>
<td>34.45</td>
</tr>
</tbody>
</table>

Table 9.4: OLS regressions on support for a republic, Canberra, November 1999, and estimates of support Australia-wide for a hypothetical referendum offering a head of state elected by the voters

<table>
<thead>
<tr>
<th>Variable</th>
<th>b</th>
<th>s.e.</th>
<th>Model mean</th>
<th>b times mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>-0.20</td>
<td>0.10</td>
<td>45.00</td>
<td>-8.83</td>
</tr>
<tr>
<td>Male</td>
<td>3.48</td>
<td>3.04</td>
<td>0.50</td>
<td>1.74</td>
</tr>
<tr>
<td>Labor</td>
<td>22.61</td>
<td>4.03</td>
<td>0.50</td>
<td>11.30</td>
</tr>
<tr>
<td>For republic</td>
<td>66.21</td>
<td>4.29</td>
<td>0.66</td>
<td>43.69</td>
</tr>
<tr>
<td>President</td>
<td>-27.17</td>
<td>3.30</td>
<td>0.29</td>
<td>-7.88</td>
</tr>
<tr>
<td>(Constant)</td>
<td>15.50</td>
<td>7.10</td>
<td>1.00</td>
<td>15.50</td>
</tr>
<tr>
<td>Estimate, sum=</td>
<td></td>
<td></td>
<td></td>
<td>55</td>
</tr>
</tbody>
</table>
republic and preference for a direct versus appointed head of state are combined into a four-fold typology: (1) a reference group consisting of those against the republic, irrespective of their view about the head of state; (2) a group undecided about the republic, again irrespective of their view about the head of state; (3) a group who favour the republic but prefer an elected head of state; and finally (4) a group who favour the republic and prefer a head of state chosen by Parliament. The regression model includes dummy (indicator) variables for these four types, together with age, sex, and party preference.

Among other things, the analysis shows that the gap between Labor and Coalition supporters (net of their own attitudes about the republic and the head of state) grew over the course of the campaign, from a 5 point difference to a 21 point difference (Table 9.3, row 3).

These estimates are based on the regression model given in Table 9.4, a simple linear model of opinion on the referendum vote at the very end of the campaign. The regression coefficients are estimated from the Canberra

Table 9.5: OLS regression on support for an elected head of state, Australia 1995. [1] Metric partial regression coefficients

<table>
<thead>
<tr>
<th>Variable</th>
<th>b</th>
<th>s.e.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>-0.126</td>
<td>0.063</td>
</tr>
<tr>
<td>Education (years)</td>
<td>-0.896</td>
<td>0.350</td>
</tr>
<tr>
<td>Occupational status</td>
<td>-0.042</td>
<td>0.036</td>
</tr>
<tr>
<td>Government employee</td>
<td>-0.419</td>
<td>2.019</td>
</tr>
<tr>
<td>Self-employed</td>
<td>0.022</td>
<td>2.595</td>
</tr>
<tr>
<td>Supervises</td>
<td>-2.242</td>
<td>2.129</td>
</tr>
<tr>
<td>Family income</td>
<td>-0.025</td>
<td>0.021</td>
</tr>
<tr>
<td>Union member</td>
<td>-0.038</td>
<td>0.039</td>
</tr>
<tr>
<td>Urban resident</td>
<td>-0.009</td>
<td>0.026</td>
</tr>
<tr>
<td>Party: National</td>
<td>-3.632</td>
<td>3.878</td>
</tr>
<tr>
<td>Party: Labor</td>
<td>-3.784</td>
<td>1.826</td>
</tr>
<tr>
<td>Distrusts politicians</td>
<td>0.280</td>
<td>0.049</td>
</tr>
<tr>
<td>Political interest</td>
<td>-0.074</td>
<td>0.032</td>
</tr>
<tr>
<td>Values citizen participation</td>
<td>0.181</td>
<td>0.042</td>
</tr>
<tr>
<td>Warm feeling: Australia</td>
<td>-0.005</td>
<td>0.047</td>
</tr>
<tr>
<td>Warm feeling: Britain</td>
<td>0.041</td>
<td>0.045</td>
</tr>
<tr>
<td>Admires government: Australia</td>
<td>-0.072</td>
<td>0.059</td>
</tr>
<tr>
<td>Admires government: Britain</td>
<td>-0.105</td>
<td>0.054</td>
</tr>
<tr>
<td>Admires government: USA</td>
<td>0.136</td>
<td>0.039</td>
</tr>
<tr>
<td>(Constant)</td>
<td>86.787</td>
<td>9.028</td>
</tr>
<tr>
<td>Adjusted R-square</td>
<td>0.143</td>
<td>--</td>
</tr>
<tr>
<td>Standard error</td>
<td>24.140</td>
<td>--</td>
</tr>
</tbody>
</table>

Note 1: Scoring: 100=elected by the voters; 50=appointed by parliament; 0=chosen by the Prime Minister
Constitutional Politics: The 1990s and Beyond

Datacol survey (column 1). We then evaluate that estimated vote for a simulated typical Australian population (age 45, half male and half female, half Labor and half Coalition supporters; see column 3 of the table). We assume they have the existing Australia-wide view on a republic, about two-thirds in favour (a figure that has changed little in recent years).

Crucially we then assume, contrary to reality, that the referendum offered an elected head of state. Our data show that this would be strongly favoured by citizens Australia-wide, 71 percent in favour and only 29 percent against (Figure 9.5; this figure is inserted for the simulated population in Table 9.4, column 3). We know from the regression (in column 1) that voters in the actual referendum who were offered a method of choosing the head of state that they disliked (appointment by parliament) were 27 percent less likely to support the referendum. Analogously, we assume that voters in the hypothetical referendum who were offered a method of choosing a head of state that they disliked (elected by the people) would be 27 percent less likely to support the hypothetical referendum.

With these assumptions, we estimate the outcome implied for the hypothetical referendum from the actual regression coefficients (column 1) and

Table 9.6: OLS regression on support for a republic, Australia 2001. [1]

<table>
<thead>
<tr>
<th>Metric partial regression coefficients</th>
<th>b</th>
<th>s.e.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>0.000</td>
<td>0.065</td>
</tr>
<tr>
<td>Male</td>
<td>5.099</td>
<td>1.821</td>
</tr>
<tr>
<td>Education (years)</td>
<td>1.154</td>
<td>0.359</td>
</tr>
<tr>
<td>Government employee</td>
<td>1.949</td>
<td>2.319</td>
</tr>
<tr>
<td>Union member</td>
<td>-1.444</td>
<td>2.413</td>
</tr>
<tr>
<td>Family income</td>
<td>0.112</td>
<td>0.025</td>
</tr>
<tr>
<td>For privatisation</td>
<td>0.051</td>
<td>0.041</td>
</tr>
<tr>
<td>Economy in the past good</td>
<td>0.065</td>
<td>0.049</td>
</tr>
<tr>
<td>Economy now good</td>
<td>-0.011</td>
<td>0.045</td>
</tr>
<tr>
<td>Sympathy: Liberals</td>
<td>-0.121</td>
<td>0.049</td>
</tr>
<tr>
<td>Sympathy: Labor</td>
<td>0.185</td>
<td>0.041</td>
</tr>
<tr>
<td>Sympathy: Nationals</td>
<td>-0.202</td>
<td>0.057</td>
</tr>
<tr>
<td>Sympathy: Australian Democrats</td>
<td>0.197</td>
<td>0.049</td>
</tr>
<tr>
<td>Australian self-identity</td>
<td>-0.094</td>
<td>0.040</td>
</tr>
<tr>
<td>Pride in Australian government</td>
<td>0.057</td>
<td>0.051</td>
</tr>
<tr>
<td>Pride in Australian economy</td>
<td>-0.103</td>
<td>0.056</td>
</tr>
<tr>
<td>Pride in Australian achievements</td>
<td>0.113</td>
<td>0.067</td>
</tr>
<tr>
<td>Dislikes Britain</td>
<td>0.527</td>
<td>0.041</td>
</tr>
<tr>
<td>(Constant)</td>
<td>7.282</td>
<td>8.599</td>
</tr>
<tr>
<td>Adjusted R-square</td>
<td>.346</td>
<td>--</td>
</tr>
<tr>
<td>Standard error</td>
<td>25.211</td>
<td>--</td>
</tr>
</tbody>
</table>
the modelled population (column 3) in the usual way for OLS models (viz. coefficient [from column 1] times mean [from column 3], summed). These estimates imply a vote approximately 55 percent in favour of the hypothetical referendum with an elected head of state.

Estimates with an alternate, more complex model with a statistical interaction between republic and president (viz. the variable of row 4 times that of row 5) suggest a narrower win for the hypothetical referendum, 51 percent for and 49 percent against. We are inclined to trust the simpler model of Table 9.4, but a reasonable argument could be made for either model.
Chapter Twelve Appendix:
Australia Deliberates Timetable

Friday, October 22

5pm  Participants arrive at Old Parliament House
6.30–7pm  Welcome to participants
7.30–9.30pm  Introduction to deliberation, to the referendum dinner

Saturday, October 23

9–10.30am  Discussions in group rooms
10.30am  Morning tea

Group managers deliver questions to the editorial team, who decide on the questions and sequence, and present to plenary session chair and panellists

10.45am  Participants move to chamber ready for plenary session
11am–12.30pm  PLENARY SESSION 1
12.30–1.15pm  Lunch
1.30–3pm  Discussions in group rooms
3pm  Afternoon tea

Group managers deliver questions to the editorial team, who decide on the questions and sequence

3.15pm  Participants move to chamber for plenary session
3.30–5pm  PLENARY SESSION 2
5.15–6pm  Day 1 debriefing in discussion groups

Sunday, October 24

8.30–9.45am  Discussions in group rooms: why vote Yes, why vote No and finalise questions to leaders of advocate groups for Yes and No.
9.45am  Morning Tea

Editorial team decides on questions and sequence

10am—12pm  PLENARY SESSION 3

12pm  Lunch — participants complete final survey questionnaire

Editorial team sort questions with 60 Minutes production team

12.45pm  Participants move to chamber for 60 Minutes taping

1pm  PLENARY SESSION 4: 60 Minutes, Ray Martin moderating

2.30pm  Farewell

3pm  Special BBC World taping

4pm  Newspoll provides preliminary results

Editorial team begins analysis

5.30pm  Headline results released to television networks

ABC special program

6pm  Announce results on television networks' new programs

Monday, 2 October

11am  News conference to announce complete results
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Australian, 3 August 1999.

Australian, 2 August 1999.

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Constitutional Politics

Constitutional Politics is a systematic reflection on the future and immediate past of the constitutional politics of the Republic issue. It is both a historical analysis of the main elements of the constitutional debates of the 1990s, concentrating on the 1999 Republic Referendum and the events surrounding it, and a forward-looking analysis of the political prospects of constitutional and republican reform in the twenty-first century and the major issues involved. It is the first comprehensive book on the subject.

Detached academic analysis is presented alongside personal statements by some of the most committed and important leaders of the political debates and campaigns, such as Kerry Jones (Australians for Constitutional Monarchy), Greg Barns (Australian Republic Movement), Ted Mack and Richard McGarvie.

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John Warhurst has been an active registered supporter of the Australian Republican Movement since the early nineties while Malcolm Mackerras has been equivalently active with Australians for Constitutional Monarchy.

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