

CHAPTER 8

THE COMMITTEE'S CONCLUSIONS

8.1 The 1999 constitutional referendum left many Australians with mixed feelings. Although some who opposed change felt that the matter had been determined, many felt very strongly a sense that issues had not been resolved. Not the least of concerns was that Australians had felt disengaged from the process, and that the fundamental question of Australia's future as a republic or as a constitutional monarchy had not been answered.

8.2 The Committee is of the view that Australians need the opportunity to properly address that question, and they need to be able to do so in a way that is fully informed. Australians are entitled to be active participants in making decisions about the future of their country.

8.3 Although the Committee considered and examined a number of proposals for republic models, it is strongly of the view that the form a future Australian republic may take should be decided by Australians. The Committee therefore makes no recommendation regarding a preferred republic model. That decision should be one for the Australian people.

8.4 The Committee believes that the process of community involvement and consultation should be done in a considered and measured way, and that the time to begin preparing for that process is now. This view is the basis for the Committee's conclusions.

Education, Engagement and Inclusion

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

8.6 However, the Committee recognises that, in order for the process to be fully democratic, informed participation is required. The Committee considers that constitutional awareness and education is the key to effective participation in any proposed constitutional reform, including reforms leading towards an Australian republic. The Committee heard evidence from all sides of the republic debate of the importance of constitutional education and awareness, particularly in the context of proposed constitutional change.

8.7 The Committee also received a considerable amount of evidence of a general lack of understanding in the Australian community of the Australian Constitution and

system of government. The Committee also notes the recent experience of the Consultative Group on Constitutional Change which was formed to consult with the public on possible reforms to section 57 of the Australian Constitution. This Group found that 'in a substantial segment of our society there is a lack of knowledge and confidence to express informed views on constitutional questions'.¹

8.8 The Committee therefore considers that there is a need for an ongoing and extensive information and education program to ensure Australians can make an informed choice in relation to constitutional reform, including the options that may be put to them relating to an Australian republic. The Committee strongly believes that constitutional education and awareness should be an on-going and continuous priority, not just in relation to any proposed move towards an Australian republic.

8.9 In this context, the Committee considers that there is a need for a standing body to facilitate and oversee on-going education and awareness programs to improve the level of awareness and understanding of the Australian Constitution. The Committee recommends that a parliamentary committee should be established and fully resourced to undertake this responsibility. Such a Committee would also facilitate and oversee the on-going education, involvement and engagement of the Australian people throughout any proposed process of moving towards a republic.

Recommendation 1

8.10 The Committee recommends that constitutional reform needs to be underpinned by increased awareness and understanding within the community of our constitutional system. Such objectives can be best realised by an inclusive approach which engages as broad a cross section of the public as possible. To this end the Committee is of the view that a new structure and program needs to be established on a permanent basis, with initial focus on general constitutional education and awareness.

Recommendation 2

8.11 To this effect, the Committee recommends that a Parliamentary Joint Standing Committee on Constitutional Education and Awareness be established, with responsibility for overseeing and facilitating:

- (a) education and awareness programs to improve the level of awareness and understanding of the Australian Constitution; and**
- (b) on-going education, involvement and engagement of the Australian people in discussion of constitutional matters and development.**

This Committee is to be adequately resourced to ensure it can meet its objectives.

1 Brown, Neil, *Resolving Deadlocks: The Public Response*, Report of the Consultative Group on Constitutional Change, Canberra, March 2004, p. 29.

Recommendation 3

8.12 The Committee recommends an ongoing education program be implemented to ensure Australians become as informed as possible about the issues surrounding an Australian republic and to enable them to make informed choices. This education program should commence prior to the first plebiscite on the republic, and should continue throughout the proposed process for moving towards a republic.

8.13 The Committee recognises the diversity of the Australian population, and the need to ensure that the proposed process and education program is open and accessible to all Australians, regardless of their gender, age or ethnic background. The Committee believes that the proposed education program should therefore utilise mechanisms to ensure that information is broadly inclusive and reaches the full range of people in the Australian community.

Recommendation 4

8.14 The Committee recommends that this ongoing education program recognise the ethnic, gender and age diversity of the Australian population, and be inclusive of all Australians.

8.15 The Committee also considers that it is important to use not just one but several methods to reach Australians in any education program. The Committee recognises that people receive information in different ways, and acknowledges the evidence received which emphasised the importance of using a range of media including the internet, television and radio. The Committee acknowledges that there may be a significant cost to conducting an ongoing program across a range of media, but is of the opinion that the question of Australia's future direction is important enough to justify the application of the necessary resources to allow Australians to be fully aware and informed.

Recommendation 5

8.16 The Committee recognises that people receive information in different ways and recommends that in order to reach as many Australians as possible, an education program should use several methods to provide information, including printed material, television, radio, local discussion groups and the internet.

8.17 The Committee also recognises the skills and experience of community education and adult learning organisations and their potential to play an important role in increasing the level of constitutional awareness and understanding in the Australian community. The Committee acknowledges suggestions made during its inquiry for such organisations to be involved and resourced to facilitate discussion and participation in the community in relation to the issues surrounding an Australian republic.

Recommendation 6

8.18 The Committee recognises the capacities and experience of adult learning organisations and bodies, and recommends that such organisations and bodies be involved in an education process relating to an Australian republic, and be funded accordingly.

8.19 The Committee recognises the importance of targeting education and engagement not just at a national level, but also at a local, regional and state level. The Committee therefore considers that all levels of government should be involved in educating and engaging Australians in the proposed process of moving towards an Australian republic.

Recommendation 7

8.20 The Committee recommends that all three tiers of government — Federal, State and local — should be utilised to educate, engage and involve Australians in the process of moving towards an Australian republic.

8.21 In keeping with the Committee's proposed inclusive approach, the Committee also considers that all Australians should be engaged and consulted in the proposed process for moving towards an Australian republic. To this end, the Committee believes that particular consideration should be given to mechanisms to ensure that Indigenous Australians are fully consulted and involved in the proposed process.

Recommendation 8

8.22 The Committee recommends that, throughout the process of moving towards a republic, particular consideration should be given to engagement with Indigenous Australians.

A process

8.23 The process by which Australia would move towards a republic was a key focus of the Committee's inquiry. The Committee is of the view that Australians have a fundamental entitlement to be fully involved in any future process. It fully supports the compelling evidence of the crucial importance of engaging the Australian people and giving them ownership of their Constitution, and in the course of events, their republic. The Committee is of the view that the optimum way to provide this ownership is to allow Australians to express their wishes in a series of plebiscites.

8.24 In any process leading to an Australian republic, the final and deciding event, as required by section 128 of the Australian Constitution, would be a referendum to amend the Constitution. During the course of the inquiry, it was convincingly argued that Australians are entitled to be involved in a debate about the nation's future at an earlier stage than during the lead-up to a referendum. Plebiscites provide that opportunity to be involved and to be active participants.

8.25 The process of conducting plebiscites would also provide a focus for community involvement and education. The Committee noted arguments that education and

awareness programs are more effective when focussed on a specific proposition, rather than when conducted in the abstract.

8.26 The Committee is in favour of a three-stage consultative process, involving two plebiscites and a drafting convention, followed by the fourth and final stage of a constitutional referendum to amend the Constitution. The Committee believes that before initiating any process, it is vitally important to lay out the intended steps in the process, so that Australians have a clear picture of the opportunities they will have for involvement.

8.27 The Committee recognises that there may be some who would question stated intentions to involve Australians in future processes, and who may require reassurance that they will be active participants in the process. The Committee therefore supports suggestions that intended future steps should be spelt out in legislation, so that there are legislated guarantees.

Recommendation 9

8.28 The Committee recommends a three-stage consultative, non-binding process for moving towards an Australian republic, followed by a fourth stage of a Constitutional referendum to amend the Constitution, and that such a process be enshrined in legislation. This legislation would spell out the future steps, in order to give Australians confidence that they will have a say in future decisions, and it would include provisions to make voting in plebiscites compulsory.

A first plebiscite

8.29 The Committee believes it is essential that the first step in the process should be to seek from Australians their view on the fundamental question of whether Australia should become a republic. The Committee notes evidence that opinion polls showing majority support for an Australian republic, but supports the argument that before expending substantial resources it is important to first test this proposition in a full national non-binding plebiscite.

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

8.31 The Committee believes that the result of this plebiscite should be determined by a simple absolute majority of voters nationally.

8.32 In the course of the inquiry the Committee examined a range of models for the type of republic Australia might become. It was strongly argued that Australians should be fully involved in determining the form of a future Australia republic, before the stage of a constitutional referendum, where they would be presented with a final option. The case was made for a second plebiscite in which Australians would be

asked for their preferred model of a republic, and this issue is discussed in the next section of this chapter.

8.33 The question of conducting the two plebiscites separately or concurrently was the subject of extensive evidence to the Committee. Some argued that the initial plebiscite should be held separately from the second models plebiscite. A separate, stand-alone first plebiscite would allow clear discussion and deliberation about the fundamental issue of whether Australia should become a republic or not, and would allow Australians to focus on the issue of our national identity. As already stated, the Committee is strongly convinced of the need for constitutional awareness and education, and notes evidence that a stand-alone initial plebiscite would enable an education program to focus on how the current system works, and what changing to a republic would mean. Holding a second choice-of-models plebiscite separately would enable an information campaign that allowed Australians to focus on and learn about the different republic models.

8.34 The primary argument for holding the two plebiscites together is that Australians may be reluctant to vote in favour of a republic without knowing what type of republic Australia would become. The Committee recognises this concern, but is of the view that this apprehension of "signing a blank cheque" can be countered by making it clear from the outset that there will be further opportunities to actively participate in determining the form of republic, subsequent to the initial non-binding plebiscite. The Committee does not by any means discount "blank cheque" concerns, and believes that the importance of this issue to Australia's future warrants that the future planned process is not merely made clear but is enshrined in legislation.

8.35 The Committee therefore supports holding the initial plebiscite and the models plebiscite separately, rather than concurrently.

8.36 The Committee also recognises that the wording of the initial threshold question is important. The Committee is of the view that Australians should be able to cast a Yes vote for a republic with the assurance that they will be consulted in the future about what type of republic Australia may become. Therefore the Committee supports suggestions that the initial plebiscite question be worded to allow a conditional Yes vote.

8.37 Accordingly, the Committee makes the following recommendations regarding a first plebiscite:

Recommendation 10

8.38 The Committee recommends that the first step of the process should be an initial plebiscite, asking Australians whether Australia should become a republic with an Australian head of state, separating from the British monarchy.

Recommendation 11

8.39 The Committee recommends that the result of this initial plebiscite should be determined by a simple majority vote.

Recommendation 12

8.40 The Committee recommends that voting be compulsory.

Recommendation 13

8.41 The Committee recommends that this initial plebiscite should be conducted separately from any further plebiscites relating to the form of a future Australian republic.

Recommendation 14

8.42 The Committee recommends that the wording of the initial plebiscite question should enable Australians voting Yes to cast that vote ON THE CONDITION that a future plebiscite would be held, where the type of republic would be decided by a majority of Australians.

A second plebiscite

8.43 If the result of the initial threshold plebiscite is a majority vote for becoming a republic, the Committee is strongly of the view that Australians have a right to participate in any decision regarding what type of republic Australia may become, before reaching the stage of a constitutional referendum. The Committee considers that the optimum way to achieve this participation is through a second non-binding plebiscite, giving Australians a choice of models.

8.44 The Committee believes that a plebiscite offering a choice of republic models should be conducted on a preferential voting basis, with voters given a choice of five models. The Committee considers that the models included in this plebiscite should be similar to the five models that have been put forward by the Australian Republican Movement. Broad details of the models should be prepared by the proposed Parliamentary Joint Standing Committee on Constitutional Education and Awareness.

8.45 It is clear that Australians need to be fully informed about the options before them, and the Committee considers that the proposed Parliamentary Joint Standing Committee on Constitutional Education and Awareness would be the appropriate body for overseeing an education program to promote this awareness.

8.46 As in the case of the initial threshold plebiscite, the Committee is of the view that it is important to seek the input of **all** Australians, and that the importance of this issue warrants the requirement that voting be compulsory. The Committee suggests that the relevant provision be included in the legislation that lays out the framework for the entire process.

8.47 In the course of the inquiry the Committee considered evidence suggesting that further questions be put to the Australian people, including a question seeking views as to the preferred title of a head of state. The Committee considers that it would be appropriate to ask this question at the time of the second models plebiscite. Other relevant questions may also be included at this time, and the Committee suggests that the proposed Parliamentary Joint Standing Committee on Constitutional Education

and Awareness would determine the nature of any additional questions and make recommendations to government.

8.48 Accordingly, the Committee makes the following recommendations regarding the second plebiscite:

Recommendation 15

8.49 The Committee recommends that should the initial plebiscite result in a majority vote for an Australian republic, the second step of the process should be a plebiscite to ask Australians what type of republic Australia should become, by indicating a preference for the model for selecting a head of state.

Recommendation 16

8.50 The Committee recommends that this second plebiscite be conducted on a preferential voting basis, and that voting be compulsory.

Recommendation 17

8.51 The Committee recommends that this second plebiscite include the following five alternative methods of selecting a head of state:

- **Prime Ministerial appointment**
- **Appointment by a two-thirds majority of a joint sitting of parliament**
- **Appointment by an electoral college, which has been elected on the same basis as the Senate**
- **Direct election of Parliament's candidates: Powers of head of state to be codified**
- **Direct election by the people: Powers of head of state to be codified**

Recommendation 18

8.52 The Committee recommends that prior to the second plebiscite, broad details of the options for these republic models be prepared by the proposed Parliamentary Joint Standing Committee on Constitutional Education and Awareness.

Recommendation 19

8.53 The Committee recommends that the second plebiscite should also include other relevant questions, including a question asking Australians for their preferred title for a head of state in an Australian republic.

A Drafting Convention

8.54 Following the second plebiscite, Australians will have had the opportunity to express their views about whether they want a republic, and what they want that republic to look like. At this point it will be necessary to refine the details of the republic model that has emerged as the preferred option, and to make preparations for

amending the Constitution, in readiness for the final, and binding, constitutional referendum.

8.55 The Committee considered options for this third, refining stage, and is of the view that the most effective means for achieving optimum outcomes would be the convening of a Drafting Convention comprising Australians who are expert in constitutional law or who have recognised relevant skills and abilities. The Committee noted evidence supporting an elected constitutional convention, but considers that the task of fleshing out the finer details of the necessary amendments to the Constitution requires the expertise of Australia's significant body of capable and skilled constitutional experts.

8.56 The Committee is of the view that members of the Drafting Convention should be appointed by the Parliament, after agreement by both Houses of Parliament. The appointment process should involve all recognised political parties, including minor parties. In appointing members, the Committee believes that Parliament should make every effort to ensure that the Drafting Convention reflects Australia's ethnic, gender and age diversity.

8.57 Accordingly, the Committee makes the following recommendations:

Recommendation 20

8.58 The Committee recommends that the third step of the process should be a Drafting Convention to fine-tune the details of the preferred type of republic, based on the result of the second plebiscite, and to prepare drafting instructions for an amendment to the Constitution.

Recommendation 21

8.59 The Committee recommends that members of the Drafting Convention should be appointed by Parliament, after agreement by both Houses of Parliament. The appointment process should involve recognised political parties, including minor parties. The Committee recommends that membership of the Convention should comprise constitutional experts and others with recognised relevant skills and abilities to enable the best possible outcome of the Convention.

Recommendation 22

8.60 The Committee recommends that in appointing members to the Drafting Convention, Parliament should make every effort to ensure that the Convention reflects Australia's ethnic, gender and age diversity.

Other issues

8.61 In making recommendations for a process involving plebiscites, the Committee is mindful of concerns regarding the costs of conducting ballots. Although there may be benefits to conducting plebiscites separately from elections, especially the benefits arising from a focussed education program not sidetracked by election issues, the Committee is of the view that where possible, plebiscites should be conducted in

conjunction with federal elections. In the case of the final stage in the process, the constitutional referendum, the Committee is of a similar view.

Recommendation 23

8.62 The Committee is cognisant of the costs of conducting ballots, and recommends that wherever possible, the plebiscites and referendum should be held so as to coincide with Federal elections.

8.63 The Committee considered evidence put forward regarding the timeframe for any moves towards a republic. It is the Committee's view that on an issue as fundamental as Australia's future as a nation, it is important not to rush any process, but to allow for the fullest possible community consideration and involvement. The work of the Committee in this inquiry has been an important part of that activity, and the recommendations made in relation to constitutional awareness and education will add strength to the process.

8.64 Although the Committee is of a view that it is quite possible to conduct a two plebiscite process in one electoral cycle, the Committee does not support an inflexible and rigid tying down of the process in advance to any arbitrary timeframes, such as a single electoral cycle. Rather, the timeframe should be dependent on the evolution of the issue, as Australians make considered assessments regarding the future of their nation. Over one hundred years ago, the process leading towards Federation took some time. There is no reason to rush the process now.

8.65 In the course of the inquiry, the Committee heard concerns that the existing public information process in relation to constitutional referenda was in need of reform. In particular, the Committee noted suggestions that the public should be provided with basic, factual information regarding the issues, separately from the partisan information provided by proponents of the Yes and No cases. The Committee is of the view that the referendum information process could be improved if preparation of referendum information was overseen by the proposed Parliamentary Joint Committee on Constitutional Education and Awareness.

Recommendation 24

8.66 The Committee recommends that the (Referendum (Machinery Provisions) Act 1984 should be amended to allow the preparation and dissemination to voters of independent information, rather than partisan arguments for the Yes and No cases, and that such preparation be overseen by the proposed Parliamentary Joint Committee on Constitutional Education and Awareness.

Senator the Hon. Nick Bolkus
Chair