

COMMUNIQUÉ

Should Australia become
a Republic?

Old Parliament House, Canberra
22 to 24 March 2011

16TH NATIONAL SCHOOLS
CONSTITUTIONAL CONVENTION



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Background

The National Schools' Constitutional Convention seeks to promote understanding and informed discussion amongst young Australians about the Australian Constitution and system of government. Its three main aims are:

1. To provide an opportunity for senior students to explore Constitutional issues.
2. To encourage those students who are informed and actively interested in the Australian system of government to pursue this interest.
3. To increase student awareness of key Constitutional matters.

The sixteenth National Schools' Constitutional Convention (NSCC) was held at Old Parliament House in Canberra from 22–24 March 2011.

One hundred and twenty-seven students from government, independent and Catholic schools from across Australia, covering metropolitan and country areas attended. Approximately 55% of students were from government schools, 25% were from independent schools and 20% were from Catholic schools.

Students participate in regional and state/territory schools' constitutional conventions, where they are either selected or elected to attend the National Schools' Constitutional Convention.

Visits and receptions

On Day 1 of the Convention, student delegates received a briefing on Question Time at Parliament House and then attended Question Time. This was followed by a welcome reception hosted on behalf of the Prime Minister by the Hon Mark Dreyfus QC MP, Cabinet Secretary and Parliamentary Secretary for Climate Change and Energy Efficiency, in the Mural Hall at Parliament House. Delegates were then afforded the opportunity to meet and have their photographs taken with other Parliamentarians.

The Hon Peter Garrett AM MP, Minister for School Education, Early Childhood and Youth officially opened the Convention on the morning of Day 2. Mrs Matilda House, Ngambri woman, delivered a Welcome to Country address.

In the evening, the Governor-General, Ms Quentin Bryce AC, hosted a reception for delegates at Government House. This event was followed by the Convention Dinner at the High Court of Australia.

Delegates were welcomed to the High Court by Mr Andrew McLeod, representing the High Court, who spoke about his experiences working as an associate at the High Court and the important role the High Court fulfils in interpreting the Constitution. Mr Clary Castrission, NSW Young Australian of the Year for 2011 and founder of the 40K Foundation, addressed the students about his philanthropic work with impoverished people in the Indian state of Bangalore. One of the delegates offered a vote of thanks to the speakers. Delegates were provided with a tour of the Court 1 and Court 2 where High Court staff and associates explained how these courts worked and responded to delegates' questions.

On Day 3, after completion of their deliberations, delegates visited the Museum of Australian Democracy and the National Archives of Australia prior to gathering in the House of Representatives to witness the presentation of the Convention Communiqué to the President of the Senate, Senator the Hon John Hogg, Senator for Queensland.

Convention focus

Delegates at this year's Convention investigated an issue that was the focus of the last formal attempt at constitutional amendment (in 1999). They were asked to address the question 'Should Australia become a Republic?'. Delegates considered the range of arguments relating to whether it is time for such a change, the role of the monarch in the Australian constitutional system, the various models that might be adopted, and the changes that would be needed to bring about a republic in Australia. They also considered the means by which constitutional change is given effect under section 128 of the Australian Constitution.

Convention processes

Professor John Williams from the Law School at the University of Adelaide and Professor Clement Macintyre, School of History and Politics, University of Adelaide, developed the two-day program and facilitated the Convention proceedings at Old Parliament House.

Student delegates were provided with pre-reading in the form of a Workbook which:

- introduced the issues to be considered;
- described tasks that delegates had to complete in the three Working Group Sessions;
- guided delegates on the arrangements for the two Soap Box Sessions; and
- outlined how the report back sessions and mock referendum would be conducted.

After the official opening, delegates heard two addresses that provided arguments for and against Australia becoming a republic. The case for Australia becoming a Republic was presented by Professor John Warhurst, Deputy Chair, Australian Republican Movement, and the case against by Mr Jai Martinkovits, Young Australians for Constitutional Monarchy Spokesman. Following each presentation students were given an opportunity to ask questions, to clarify points and to seek further information as well as challenge the views put forward by the speakers. These presentations provided a context for delegates' first Working Group activities.

At the completion of this session, delegates voted in an informal plebiscite on the question 'Are you in favour of the Australian Constitution being amended to establish the Commonwealth of Australia as a Republic?'. The tally of responses revealed that 41 delegates (32%) were opposed to, and 86 (68%) were in favour of, Australia becoming a republic.

The presentation session was followed by Working Group 1. In this session delegates worked in groups of twelve or thirteen to:

- consider carefully the arguments introduced by the speakers;
- list up to six arguments for and against the proposal that Australia should become a republic; and
- produce a report that represented the views of all members of the group.

Working Group 1 was designed to promote thinking about the pros and cons of Australia becoming a republic. A report back session enabled a representative of each group to briefly report on the most significant arguments expressed at their table for and against becoming a republic.

Some of the arguments advanced in support of Australia becoming a republic were that:

- Australia has already severed some of its formal ties with Britain and the establishment of a republic is a logical extension of the current trajectory;
- a republic, rather than a government with an unelected British monarch as a head of state, better reflects the egalitarian and democratic values of Australia;
- a republic would enable our head of state to be appointed on merit rather than on birthright and heredity;
- it is anachronistic to have a head of state who does not reside in the country and may not have the interests of Australia as their highest priority; and
- a republic is important symbolically as it would help to communicate to the world that we are a mature and independent nation that is in control of its own destiny.

Some of the arguments against Australia becoming a republic were that:

- the current system is working well and has delivered stable government so why risk this by changing;
- there is no clear model of what sort of republic Australia might adopt so how can we vote for an unknown change;
- a Governor-General appointed by the King or Queen of England is more likely to be free of political party bias than one nominated by Parliament or elected by the voters of Australia;
- the process for determining whether or not to change the Constitution to become a republic is costly as are the changes needed to introduce the republic and the dubious benefits of such a change do not warrant the costs involved; and
- the current arrangements reflect Australia's heritage and acknowledges the historic importance of our enduring relationship with Britain.

After the report back session, Professor Williams and Professor Macintyre led a discussion of existing republican government models. Mr James Tira, United States Foreign Service Political Officer from the Embassy of the United States, and Mr Pierre Labbe, Counsellor of Cooperation and Cultural Actions from the French Embassy, outlined features of their respective republican governments and Professor Macintyre outlined the Irish republican government model. Delegates were encouraged to ask questions and seek clarification from the speakers about various aspects of these republican models.

Working Group 2 focused on the strengths and weaknesses of the republican governance models that were presented. It required delegates to specifically concentrate on the following four key issues:

- The method of election of the Head of State;
- The method of dismissal of the Head of State;
- The constitutional powers of the Head of State (e.g. their role in the appointment and dismissal of an Executive or government); and
- The symbolic functions of the Head of State.

The group activity required delegates to discuss the overseas models with others at their table and identify what they believed to be:

- the most attractive and useful features (when thinking of change for Australia); and
- any potential weaknesses in these models.

The individual activity required delegates to use the chart in the Workbook to record their personal opinions as to the best and worst aspects of the three republican models in relation to the four key issues.

A Soap Box session, which completed the day's program, followed the second Working Group. The Soap Box session enabled students make a concise statement to the whole group about what they think of the models that were discussed. Whilst all models were drawn upon in the Soap Box session, the Irish republican model appeared to have the greatest support from delegates.

Some of the views expressed by delegates following their reflection on the Irish, United States and French republican models were that:

- a President that is directly elected by all of the voters might be vested with too much power and have a competing mandate with that of the Prime Minister whereas a model where the President is elected by the Parliament would establish a better power relationship between the Head of State and Head of Government;
- the presidential role should be largely ceremonial and separated from the role of government, as is the case in Ireland;
- procedures for dismissing the President of France and the United States were of some concern as in the French model it appears to be almost impossible to dismiss the President except in the most extreme circumstances
- the dismissal arrangement under the United States model was complex as it required Congressional initiation and a process that amounts to a trial of the President;
- the indirect voting system in the United States where politicians are elected by an electoral college appears to be less democratic than a system where the voters directly elect their representatives to Parliament;
- models that place a limitation on the number of terms or years the President can serve could result in excellent national leaders being excluded from continuing in the Presidential role which could be detrimental for the country;
- the age limitations on who can stand for President were unnecessary and unduly restrictive on young people;
- the power of the President in the United States to veto or ignore legislation that has been passed by Congress could be misused and impede the effective working of the Parliament.

The morning session on Thursday 24th March commenced with Professor Williams and Professor Macintyre discussing three possible republican models that could be adopted by Australia. The features of the three models were as follows:

Model 1: Direct Election of President

FOR	AGAINST
Seems more democratic for all voters to have a say in who becomes President.	Competing mandate – The Prime Minister could be less popular than the President and the President could claim to have the people’s mandate.
Open to all Australian citizens (in theory) to nominate.	Need some codification to clarify reserve powers – e.g. forming and dismissal of a government and breaking a deadlock in Parliament. (The Irish Constitution has codified reserve powers.)
Consistency with Australian values – Australians are used to electing parliamentary leaders.	Politicians and political parties will run and so could politicise the office of the President.
	Dismissal arrangements are unclear and complicated.
	Difficulty of individuals campaigning. What would a President campaign on – good character?
	Good people might not nominate.
	Candidates from small states might be ignored.
	Managing the way that people nominate could be difficult.

Model 2: President elected by two-thirds of Parliament

FOR	AGAINST
A bipartisan candidate would be nominated.	Could get a compromise candidate, rather than the best candidate.
Reinforces the sovereignty of the Australian Parliament.	The President could be beholden to the Parliament and act accordingly (e.g. he/she may be less likely to challenge the authority of the Parliament).
More likely that a politically-neutral person would emerge.	Could delay the decision because of the difficulty of getting two-thirds agreement about a candidate.
More likely that a candidate from a minor state would could be nominated.	

Model 3: President selected and appointed by the Prime Minister

FOR	AGAINST
Requires the least change and is the model we are familiar with.	No formal criteria against which a candidate can be judged – the Prime Minister could select an unsuitable person.
No unseemly campaigning.	Not clear about how the Prime Minister and President might be dismissed. As either party could dismiss the other the grounds for dismissal of either would need to be codified.
Political imperative means that the Prime Minister is likely to select a person who is highly suited to the role.	
More likely that a candidate from a minor state would be nominated.	

The following broad consequences of becoming a republic were also made by Professor Macintyre. A republic would:

- end the ambiguity about who is the Head of State
- repatriate the Constitution (i.e. the Constitution would be wholly Australian)
- stimulate discussion and debate about the Australian Constitution and thereby help to educate Australians about their form of government.

This session was followed by Working Group 3 which focused on the three models discussed by Professor Williams and Professor Macintyre and asked delegates to work as a group to evaluate and assess the merits of the different proposals. They were then asked to work individually and use a chart in the Workbook to record their arguments in favour and against the three models advanced by Professor Williams and Professor Macintyre.

A Soap box session followed the Working Group 3 session. This enabled delegates to become advocates for one of the three possible models and provided an opportunity for the strengths and weaknesses of each of the three models to be further canvassed.

Generally, the model of the President being elected by two-thirds of Parliament appeared to have the most support from candidates. Opinions that were advanced in the Soap Box session included the following:

Model 1: Direct election of President

- The popularity of the candidate might become the main factor behind a person getting elected as President, rather than the capacity of the candidate.
- To be successful under this model, a candidate would need to be very rich and endorsed by political party, which eliminates opportunities for worthy people who are not rich or affiliated with a political party.
- This model will ensure that everybody has a say in who becomes their President.

Model 2: President elected by two-thirds of Parliament

- It may be difficult to get a two-thirds majority without getting a compromise candidate, rather than the best candidate.
- This model was not successful last time, and so we should be wary of advocating this model again if we want to become a republic.

This model provides the checks and balances needed to ensure a quality candidate is elected as President.

This model is more likely to produce a politically-neutral President.

Model 3: President selected and appointed by the Prime Minister

- Citizens are familiar with this model and it has worked well in the past to deliver high quality heads of state.
- This model gives too much power to the Prime Minister and could be abused or the President could feel beholden to the Prime Minister and fail to act impartially.

Following the Soap Box session, the Australian Electoral Commission provided a presentation that outlined the grounds upon which a change can be made to the Australian Constitution and how a referendum is conducted.

This session was also used to identify delegates' preferred model from among the three options proposed. An indicative plebiscite using preferential voting was conducted to identify which model to 'put to the people'. The preferred model identified in the indicative plebiscite was Model 2 where the President is elected by two-thirds of Parliament.

The voting pattern of the first preference votes was as follows:

- | | |
|---|----------------|
| • Model 1: President selected and appointed by the Prime Minister | 24 votes (20%) |
| • Model 2: President elected by two-thirds of Parliament | 59 votes (48%) |
| • Model 3: Direct election of President | 39 votes (32%) |

After eliminating Model 1 and distributing the second preferences of delegates who voted for Model 1, the voting pattern was as follows:

- | | |
|--|----------------|
| • Model 2: President elected by two-thirds of Parliament | 77 votes (63%) |
| • Model 3: Direct election of President | 45 votes (37%) |

The model where the President is to be elected by two-thirds of Parliament was the preferred model that was put to the vote in a mock referendum.

The ballot papers to be completed by the delegates contained the following proposal:

- A Proposed Law: To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament.

Delegates were asked to write 'YES' or 'NO' in response to the question 'Do you approve of this proposed alteration?'. One hundred and twenty-seven formal votes were cast.

Delegate's perspectives

on the proposition to alter the Constitution so that Australia becomes a Republic

Results were tallied for the mock referendum on the proposition to alter the Constitution so that Australia becomes a Republic with the President being appointed by a two-thirds majority of the members of the Commonwealth Parliament.

The detailed results of this mock referendum are outlined on the following tally board designed by the Electoral Education Centre of the Australian Electoral Commission.

National Tally Board	Formal YES	Formal NO	Is the majority in favour?	
New South Wales	17	10	YES	YES
Victoria	11	18	NO	
Queensland	20	8	YES	
Western Australia	13	3	YES	
South Australia	6	6	NO	
Tasmania	5	0	YES	
Australian Capital Territory	4	1		
Northern Territory	1	4		
NATIONAL TOTAL	77	50	Is there a majority of voters in a majority of states in favour of the alteration?	YES
			HAS A DOUBLE MAJORITY BEEN ACHIEVED?	YES
			HAS THE AUSTRALIAN CONSTITUTION BEEN ALTERED?	YES

The referendum to alter the Constitution to empower the Commonwealth Parliament so that Australia becomes a Republic with the President being appointed by a two-thirds majority of the members of the Commonwealth Parliament was successful.

When contrasting the result from the initial indicative vote conducted on Day 2, which sought an indication of the degree of support for Australia becoming a republic, with the tally of responses to the mock referendum, showed there was an 8% decline in the support for Australia becoming a republic.

Convention outcomes

This Communiqué outlining the Convention program, processes and outcomes was developed and endorsed by delegates. Senator the Hon John Hogg, Senator for Queensland and President of the Senate, joined the delegates in the House of Representatives chamber of Old Parliament House and accepted the Convention Communiqué for presentation to the Parliament and incorporation into Hansard.