

## **The Constitutional Convention**

Old Parliament House Canberra

2 to 13 February 1998

Extract of proceedings:

**Mr STONE-** Participation in this forum has been most instructive for all Northern Territory delegates. Next month we Territorians commence our own constitutional convention to draft a state constitution. For us, constitutional development has been a reality spanning 20 years of self-government. Our deliberations have not been confined to Territory issues. In May 1993, five years ago, the Territory parliament debated and voted overwhelmingly for the republic. In the ballot for this Convention, republican candidates won all positions. Some would say that I head the most conservative government in Australia and a number of my most strident critics are in this chamber. What I am about to say may surprise some. First, I support the republic, second, let the people elect their president and, third, do not fall for the 1999 offer.

My position makes for some odd bedfellows. By Reg Wither's definition, I am a Bolshevik. I accept Reg's compliment, however, that he believes that we have 'more brains, more energy, more passion and more commitment to the republic than the Mensheviks, the ARM'. In this the year of the tiger, the tiger is well and truly out of the cage.

The ARM model- a mere pussy cat- may get up in here but it is doomed out there where it counts. Before dealing with the three issues, I express the hope that this Convention is but a beginning. I, like others, would like to be part of a broader discussion on issues that we have not been able to accommodate on this occasion. Matters such as the need or otherwise for three tiers of government, the ways and circumstances in which we change or amend our Constitution, the vote and the future of the Senate and the aspirations of indigenous Australians come to mind.



As Australians, we should not shy away from making such a commitment. Federation was 60 years in the making. My late teacher, Professor Crisp, wrote, 'It took 60 years of spasmodic official effort and fluctuating public interest to bring the Commonwealth into being.' Similarly, if we are to engage in the task of constitutional reform, it will be ongoing, as it should be.

Returning to the three issues at hand: the republic, the model, the time frame. On 16 April 1993, an article appeared in the *Australian* penned by Dame Leonie Kramer under the banner 'If a republic is the answer, what's the question?' - an excellent thought-provoking article, notwithstanding that it was written by a constitutional monarchist. The question is quite straightforward. Put simply, can we do better; or put another way, can we improve upon our Constitution and system of government? It is important not to get caught up in the rhetoric of either side in this debate.

The Prime Minister articulated the view that the only argument of substance in favour of an Australian republic is that the symbolism of Australia sharing its legal head of state with a number of other nations is no longer appropriate. I disagree. That is not the only argument of substance.

Other delegates have opposed the republic in the belief that a republic will not deliver a better system of government and will gravely weaken what we already have. I disagree. Advocates for the republic claim that we are not truly independent and lack a true Australian identity under a constitutional monarch. That is absurd. Equally absurd was the statement by Kim Beazley that the republic is about making our way in the region. This debate is not about finding an Australian who can wield a pair of scissors. This is some of the rhetoric from both sides that causes the Australian electorate to switch off.

I support the republic because it provides an opportunity, a vehicle, to improve upon a system of government that has served us well over 97 years to date. I support the republic because it opens the door to important constitutional reform in the time ahead. It is about moving forward, consistent with our



growth and development as a modern, liberal democracy. As Pat O'Shane said, it is an opportunity for nation building. We are about writing a constitution for the present and the future. Too many delegates have spoken about the need for a constitution that reflects our times. Let us take this opportunity to provide future generations with a model that can continue to be adapted, that will be able to reflect their times as well as ours and the founding fathers.

Mr Deputy Chairman, I did not come here for an 'intellectual treat', as it was described by Kim Beazley. I came here to achieve outcomes that fit the expectations of the Australian people. Those expectations are a republic, and a president elected by the people.

That brings me to the second issue: the president. Let the people elect the president. The people want to. They are entitled to. Why do we have this absurd notion that the people cannot be trusted to elect the president, yet the people whom the people elected can be trusted? Further, with great respect to Dick McGarvie, a great Australian, I do not support the three wise men.

I find it extraordinary, delegates, that this people's Convention is so terrified of democracy. Delegates from all sides of the argument have been asking, 'How would you elect or appoint a head of state? Why would you elect a head of state?' Surely the real question is, 'Why can't the Australian people elect their own head of state?' They can, and they should. We are then down to the detail.

Confine, if you wish, the president to the role as representative of the values and spirit of Australia, here and throughout the world, a ceremonial role without powers, and simultaneously deal with the co-extensive powers of the Senate with the House of Representatives by removing the capacity of the Senate to refuse money bills. Many delegates have argued that the president should have the same reserve powers as the Governor-General. I disagree. I have listened to the rhetoric about checks and balances, safeguards, and the like. Where that argument is flawed is that it ignores the ultimate arbiter- the Australian people, the Australian electorate. That is what is wrong with this



argument that, if you let the people elect the president; you will not deliver a neutral, apolitical head of state.

This proposition that an elected president would not necessarily abide by the conventions and impartiality of his or her office discounts the capacity of the Australian people to get it right and for an incumbent to be subsumed by the conventions and impartiality of office. Kim Beazley said, 'In my view, Australians have long understood most of the issues.' If you really believe that, Kim, why not entrust the people with a vote? I have no doubt that an elected McKell, Casey, Hasluck and Hayden, all politicians, would have behaved and conducted themselves just as impeccably as they did in any event.

As for the inevitability of political parties endorsing candidates for the presidency, so what? It might not have been a formal preselection process, but how do you think McKell, Casey, Hasluck and Hayden got there? At the whim of the Prime Minister and cabinet of the day. They were all outstanding incumbents. I can only speculate as to why Mr Turnbull says with such authority that the Australian people do not want a politician as their head of state.

What is so hard about directly electing a president? What is so hard about Australians casting a vote concurrently with a federal election for a head of state? What is so hard about defining the position as purely ceremonial and removing the right of the Senate to block money bills? What is wrong, Wendy Machin, with someone being elected on a preferential vote notwithstanding that they got less than 50 per cent of the primary vote? That is how most of you got here in the first place. If the idea of an elected president still paralyses the ARM with fear, why have they not reverted to the obvious solution which has already been suggested in this place? Why do they insist on a president at all if they trust not the Australian people to elect one? I trust the Australian people to get it right. Speaker after speaker have got to their feet and extolled the virtues of the ARM model. You can wax lyrical until the cows come home, but the facts



are that the people, the electorate, do not agree with you. The people want to elect their president.

I come now to the third issue- 1999. This offer is a poisoned chalice. It will fit the agenda of the constitutional monarchists and will guarantee that the republican cause will never have the opportunity to properly canvass their view in the electorate in such a short time frame. Federation took 60 years. What is the rush? Do it properly, and do it in a considered way.

The ARM has worked assiduously to get their model up and, based on the preliminary vote, they are looking good. That is a great disappointment for me. Mr Turnbull in his opening remarks pleaded that the best of the old is preserved as we bring in the new. Kim Beazley, in similar vein, argued for the election of a president in a way that 'causes the minimum possible disruption to our current constitutional arrangements'. How cosy. Support for the minimalist model is premised on the mistaken belief that if you do not upset the apple cart you will get a republic. Well, Mr Turnbull, you may win the battle in this forum but I share the prediction of Reg Withers that you are about to lose the war. In that unhappy event, an opportunity will have been lost for nation building. Thank you, delegates.