

What a nice Referendum – Pity about the Debate

Sir David Smith, KCVO, AO

It has been said of British government that, at its heart “lies a mystery – the Constitution, the rules of the game under which power is fought for, then distributed or constrained once gained”, and that “the system by which government operates baffles ministers themselves – let alone MPs, commentators and the general public”.¹ Having served the Australian system of government for the whole of my working life, I believe these words apply equally to Australia.

As two Commonwealth Government inquiries have shown, Australians are abysmally ignorant of just how they are governed or what their Constitution says and means.² This lack of knowledge on the part of the electorate has enabled republicans to misrepresent our present Constitution and to deceive and mislead the Australian people about the changes they wish to make to it.

Earlier this year, in a speech to the National Press Club, Andrew Robb, convenor of Conservatives for an Australian Head of State, was sharply critical of the draft wording of the question to appear on the referendum ballot paper, saying its failure to refer to the replacement of the British monarch by an Australian citizen would have a negative impact and provoke a negative reaction from people.³ He also objected to the inclusion of the word “Republic” on the ballot paper.⁴ And only this week, in a submission to the Joint Select Committee on the Republic Referendum, Malcolm Turnbull said the terms “Republic” and “President” should be dropped from the referendum question because people do not understand what they mean.⁵ Two days later, responding to the ridicule and condemnation which resulted, Turnbull changed his submission to the Parliamentary Committee and conceded that these terms might stay.⁶ He proposed instead that the question refer to the President replacing the Queen as Head of State. This, however, only continues the republican attempts to fool and mislead the Australian people. The President would not take over the Queen’s constitutional duties. The President would take over the Governor-General’s constitutional duties and replace the Governor-General as Head of State. Robb and Turnbull do not want the ballot paper to tell the truth. The truth would have a negative impact on an ignorant people, and truth must not be allowed to stand in the way of the so-called inevitable republic.

Sadly, truth has become a casualty in the monarchy/republic debate, with republican mendacity aided and abetted by biased media who have their own commercial interests to serve. Paul Kelly, then editor-in-chief of *The Australian*, made this clear when he told a constitutional forum that the media would support constitutional change because “the media has a vested interest in change – change equates to news, and news is the lifeblood of the media”.⁷ In other words, the media support constitutional change, not because it will be good for Australia, but because it is good for their business.

In the absence of an informed electorate, republicans have invented false reasons for wanting to remove the monarchy from our Constitution. I dealt with these at some length in my paper at last year’s conference,⁸ but let me summarise them briefly. The monarchy has been held responsible for the high unemployment level, the recession, and the business excesses of the late 1980s. The monarchy has been blamed for the exodus from Australia of our top scientists. The monarchy has been blamed for stifling artistic talent, and our artists

have been promised that the republic will enable them to fully express themselves as artists. Trade officials have said that our present constitutional arrangements are harmful to the overseas promotion of our products and services.

Business leaders have promised us that the republic will present a windfall marketing opportunity for Australian exporters, will help us gain international recognition for our technology and our inventions, and will ensure that much more venture capital than at present will flow back into our newer industries. A former head of Australia's foreign service is a republican because he had difficulty in explaining our Constitution to a foreign dictator President of a republic. A former Chief Justice of the High Court became a republican at the age of eight because he disapproved of body-line bowling!

For seven years we were told that "the republic" would help us find our national identity, though most of us were blissfully unaware that we had lost it; that "the republic" would help us find our place in the world, though most of us thought we already had that too; that "the republic" would give us our national sovereignty and independence, despite the fact that the 1988 Constitutional Commission had reported that we already were a sovereign and independent nation, and had been for a very long time.⁹

And only last month, the High Court, in voiding Heather Hill's election as a Senator, provided further confirmation that Australia is a sovereign and independent nation, and that the Queen of Australia is not a foreign Queen and is a separate legal personality from the Queen of any of her other fifteen realms,¹⁰ thus once again giving the lie to republican claims that we are not yet fully independent or that we are ruled by a foreign Queen.

The 1998 Constitutional Convention was held to enable the republicans to tell us just what sort of republic they had in mind, that would confer their promised wondrous blessings upon us, and finally they told us. Well, some of them did, but others are still talking about a different sort of republic. And still the misrepresentation continues to flow from republican mouths and pens. Let me give just a few examples.

Malcolm Turnbull still pretends that his republican model will replace the Sovereign with an Australian Head of State. It will do no such thing. The Turnbull republican model which will be before us at the referendum would replace an Australian Governor-General with an Australian President. One Australian would replace another Australian and go on doing exactly the same job. If the one would be our Head of State, then the other is now.¹¹

Under the Turnbull model, the Monarch, whose only constitutional duty is to approve the Prime Minister's recommendation for Governor-General, would be replaced by federal politicians who would approve the Prime Minister's recommendation for President. The Queen would be replaced, not by the President, but by politicians. As for the committee process for producing names to be put to the Prime Minister, who would still be free to ignore the committee and choose his own candidate anyway, the Hon Peter Costello, himself a republican, did a superb job of ridiculing this absurdity at the Convention.¹²

The provision in the Turnbull model for the removal of a President has also scaled new heights of absurdity. The President would be removable instantly by the Prime Minister with a stroke of his pen. The need to submit the matter for the consideration of the House of Representatives after the event provides no protection at all. The Senate, which would have participated in the appointment process, would be totally ignored in the removal process. It would be easier for the Prime Minister to sack the President than it would be for him to sack his ministerial driver. Professor David Flint has said that the republican model would give the Prime Minister powers over the President which would be unique in the western

world.¹³ Mr. Harry Evans, Clerk of the Senate, has said that it would make our President the most miserable Head of State on the globe.¹⁴

Probably the saddest case of gross misrepresentation in order to advance the republic has come from Sir Anthony Mason. This one-time interpreter of our Constitution claimed to have discovered a “robust” constitutional convention which he said has been hidden within our Constitution since 1901. According to this convention, the Governor-General ceases to function whenever the Queen is in Australia. As I described in some detail at last year’s conference, Sir Anthony’s claims are not true. His so-called “robust” constitutional convention does not exist. It is the product of a fertile imagination.¹⁵

Sir Anthony was selective in his use of the Constitution to reject any suggestion that the Governor-General is Australia’s constitutional Head of State. In order to make his case, he completely ignored s.61-70 in Chapter II of the Constitution headed “The Executive Government”, and relied solely on s.2 of the Constitution, which he then misquoted and misinterpreted.¹⁶

Sir Anthony’s view that the Governor-General has no role other than as the Queen’s representative flies in the face of the 1988 report of the Hawke Government’s Constitutional Commission. Former Prime Minister Gough Whitlam was one of the Commission’s members, and its Advisory Committee was chaired by former Governor-General, Sir Zelman Cowen. The Commission concluded that, “although the Governor-General is the Queen’s representative in Australia, the Governor-General is in no sense a delegate of the Queen. The independence of the office is highlighted by changes which have been made in recent years to the Royal instruments relating to it”.¹⁷

The constitutional reality is that s.2 relates to the Royal prerogatives of the Crown, while s.61-70 relate to constitutional powers and functions which are the Governor-General’s, and his alone, as the head of the executive government. This apparent inability to differentiate between these two different sets of powers and functions, or to understand the meaning of s.2, or even to read the rest of the Constitution, has been diagnosed by a doctor friend of mine as constitutional constipation impacted on s.2.

This particular affliction seems to be prevalent among republicans, particularly republican lawyers. Even the Attorney-General, the Hon Daryl Williams, suffers from it, as confirmed by correspondence coming out of his office.¹⁸ But then, this Attorney-General also believes “that the Republic Bill would not greatly change Australia’s basic governmental arrangements”.¹⁹ What is worse, he and his advisers believe that his saying so publicly does not constitute an intervention by him in the current debate! With the greatest of respect to the Attorney, his remarks were a grossly improper intervention in the debate, and they were quickly seized upon and used by Malcolm Turnbull and Neville Wran. The Attorney’s claim that he is acting impartially invites the question, “impartial against whom?” More to the point, his claim that the Republic Bill would not greatly affect our present system of government is at odds with the stringent criticisms which have been made by many distinguished republican constitutional lawyers, some of whom I shall mention shortly. In their view, the republican model to which the Bill would give effect is flawed and unworkable, a charge which certainly cannot be laid against our present constitutional arrangements.

One of the most revealing contributions to the debate has come from Michael Sexton, currently the Solicitor-General for New South Wales and one-time legal adviser to the Hon Kep Enderby. (You remember him: he was the Whitlam Government’s Attorney-General in

those early days of November, 1975, who was far too busy to provide the Governor-General with a legal opinion which His Excellency had asked for urgently).

Sexton believes that the office of President of Australia should be dumbed down. In a recent article in *The Australian Financial Review* he claimed that our Governors-General have been men of eminence and intelligence and ability, and therefore far too highly qualified for what he described as essentially a ceremonial position.²⁰ Their extraordinarily high qualifications suggest to Sexton a wild case of overkill for a position which he believes calls for someone like the assistant secretary of the Glass Blowers' Union – someone who could be relied upon to take orders and keep out of the limelight. (As if to confirm my views about the role of the media in the current debate, *The Australian Financial Review* refused to publish an article which I submitted in reply to Sexton).²¹

At last we know who the Turnbull republicans really want as Australia's Head of State – a political puppet who will do as he is told, and face instant dismissal if he does not. That is why they resent the present system which gives us Governors-General of intelligence and ability and integrity. That is why they are proposing a method of appointment under which not one of the nine distinguished Australians who have held the office would have been appointed – some because the Opposition of the day would not have agreed, and all because they would not have accepted appointment under the conditions now proposed.²²

And now, sad to say, we find that Professor Greg Craven has thrown his lot in with those who seek to misrepresent our Constitution and the changes they wish to make to it. At one time a supporter of the constitutional monarchy, he became a McGarvie republican at last year's Constitutional Convention in order to retain, as he put it, all the virtues of the present Constitution. He is now a firm supporter of the Turnbull republic which would destroy those very virtues. His various changes of position on the republic might best be described as constitutional *Karma Sutra*.

In preparing to follow Professor Craven this morning, I did not, of course, have the benefit of knowing what he would say to us today. I have therefore addressed the views which he expressed earlier this year in several published articles in seeking to justify his latest change of mind.²³

On his own admission, Professor Craven was at one time a defender of the constitutional monarchy. He claims to have spent years trying to shore up the monarchy, presumably without success, because by 1998 he was a republican and a supporter at the Constitutional Convention of the McGarvie republican model,²⁴ seconding the proposal for its adoption after it had been moved by the Hon Richard McGarvie.²⁵

The aim of the McGarvie model was to provide a mechanism for Australia to become a republic while preserving intact all of the principles and procedures and virtues of our present monarchical Constitution. In supporting the McGarvie model, Professor Craven was critical of both of the other contending models – parliamentary election and popular election – for he could see the problems inherent in both, and the damage that each would do to our system of government.²⁶ As for the McGarvie model itself, he saw it as providing safety and stability, and retaining what he called “the strengths of our present democracy”.²⁷

When the McGarvie model was rejected by the Convention, Professor Craven turned on the constitutional monarchist delegates for not supporting it. With our vote, the McGarvie model would have become the Convention's choice: with McGarvie defeated, the Turnbull parliamentary election model was the last one left standing. Professor Craven accused us of “recklessly endangering the safety of this Federation by refusing to adopt a responsible

course”.²⁸ After the vote he confronted me in the corridor outside the old House of Representatives Chamber. In a state of high emotion he abused me soundly for what my constitutional monarchist colleagues and I had done in putting at risk the safety and stability of our system of government by allowing the Turnbull model to survive. The next day he abstained from the final vote on that model, which became the Convention’s choice, describing it as a model which he could not support.²⁹

One year later, all of Professor Craven’s doubts about the practicality of the Turnbull model, and all of his objections to its features, have been miraculously resolved or swept aside, and he has become a supporter of the model, describing it as “the one sure defence of the Constitution”. That which a year ago was a danger to the Federation and its Constitution is today their saviour and defender. So, let us see what caused this remarkable turn-around and how Professor Craven has sought to justify it and give it credibility.

His opening gambit in his March, 1999 apology for yet another change of mind was that it is better to be right in the end than consistently wrong. Having described his earlier views as nonsense, Professor Craven provided no evidence that would suggest that his latest view is any better. But we do begin to see why he has been described as having “a formidable talent for manipulating argument to his advantage” and a “facility for taking a position whose initial premise may be faulty and doing a superb job with it”.³⁰ Thus we find him saying now that, on the republic, he has been a changer and a compromiser, and that he is very proud of it.³¹ This is the man who, less than two years ago, strongly (and in my view rightly) attacked High Court judges whom he accused of judicial progressivism and intellectual dishonesty.³² Yet today he feels able to join in common cause with the Australian Republican Movement.

He told us that he firmly believes “that our existing federal parliamentary democracy embodies a profound and distinctive Australian constitutional genius”, and that we must preserve “that genius, which has presided over an unequalled century of stable democracy”. And he told us all of this in the name of throwing away that “profound and distinctive Australian constitutional genius” and becoming a republic, so that we can join all the other failed undemocratic republics around the world and enjoy our share of political instability.

I looked for Professor Craven’s reasons why we should do such dreadful things to our “distinctive Australian constitutional genius” and our “unequalled stable democracy.”

And what did I find? According to him, “a mere decade of republican debate has shown just how threadbare are the claims of the monarchy”. I don’t recall the monarchy making any claims. It just sits there quietly in our Constitution, making its silent contribution to our “distinctive Australian constitutional genius” and our “unequalled century of stable democracy”. As for our decade of republican debate, does he mean the mindless chanting of “it’s inevitable”, or does he mean the more substantial debate that I mentioned earlier: the accusations that the monarchy is responsible for the business excesses and high unemployment of the 1980s, and for the scientific brain drain from Australia; that it stifles the creative talents of our artists; that it is harmful to the overseas promotion of our exports; and the claims that the republic will liberate the talents of our artists, will increase exports, will help us gain international recognition for our technology and our inventions, and will ensure an increased inflow of venture capital? Is this what he means by the revelation of threadbare claims? Is this what he means when he uses the word “debate”?

Then followed some propositions which illustrate perfectly Professor Craven’s talent for manipulating argument despite his initial premise being faulty. “The Crown survives on

sufferance. ... A dead marriage between a faded monarchy and a jaded people is neither a suitable nor a secure basis for one of the world's greatest constitutional democracies". Does he not stop to think how we became one of the world's greatest constitutional democracies? It certainly wasn't achieved by adopting the system of government that exists in most of the world's trouble spots, or by having as President "the most miserable Head of State on the globe" – a creature of the Prime Minister of the day.

And what about these debating points? "Australian must become a republic, not in rejection of its glorious constitutional past but in re-affirmation. The timeless jewel of our Constitution must be placed in a new, non-monarchical setting". As I read those words I found myself asking, "Why?", but Professor Craven provided no answer. He is long on telling us what we must do, but short on giving us reasons why we must do it.

But wait – there's more. Professor Craven next asked the rhetorical question, "Can a McGarvie minimalist conscientiously take the short but decisive step to the model endorsed by the Convention?" In other words, having supported one model because it would have retained the essential principle of the Constitution, can he now support another model that would rip it out? You will not be surprised to hear that Professor Craven answered this question with a resounding "Yes". And he then claimed that this stems from his concern "with the long-term preservation of the Australian Constitution". He would preserve the Constitution by destroying one of its essential principles.

The Turnbull republican model which Professor Craven now supports will be defeated at the November referendum, and he knows it. Last year he himself described it as "a weak model, with a number of serious deficiencies".³³ Professor George Winterton described it as "flawed" and with "vital structural weakness". Professor Cheryl Saunders called it "significantly flawed", "incomplete" and "unworkable". Professor Moira Rayner described it as "a cobbled Constitution dressed up with a poetic meaningless preamble", and "a compromise" that would give "more power to Prime Minister, Cabinet and political parties". Professor Brian Galligan said it was "not properly a republican model at all". And these damning comments all came from republicans!

Professor Craven's great concern now is that, with the defeat of the Turnbull model, the way will be open for the direct election model to succeed at a subsequent referendum. That, he says, would be "deadly poison" to the Constitution. "By rendering the Constitution a two-headed monster, under which both Prime Minister and President would enjoy rival popular and moral mandates, direct election would usher in an era of constitutional conflict, instability and dismay". And then comes the final sophistry: "The one sure defence of the Constitution is the Convention model".³⁴

No, Professor Craven, the one sure defence of the Constitution is the monarchy. Its role in holding everything together is so important that, while the republicans are agreed that they want to remove it, they cannot agree on what to put in its place. Each republican proposal for an alternative to the role of the Monarch in our Constitution has been rejected by other republicans as defective and dangerous.

At last we come to the nub of Professor Craven's successive changes of mind, and particularly his latest – not scholarly and intellectual processes, but sheer desperation. Originally a self-described wishy-washy supporter of the constitutional monarchy, he became a McGarvie republican, thinking it would be the winner at the Constitutional Convention. He thought that the constitutional monarchists would be as unprincipled as the republicans and that we would use our votes at the Convention to influence the choice of

republican model. But our platform was, and is, “No republic”, so how could we vote for any of their models? How could we honestly campaign later against a model which we had helped to select?

Of course, the other republicans also thought that we would act in this unprincipled manner, so they rigged the method of voting for the various models in order to prevent us from doing so – to prevent our delegates from voting the way they thought we would want to vote. As it turned out, their attempts to rig the voting were as successful as their attempts at rewriting our Constitution. We still could have defeated their dishonest stratagems and voted to defeat the Turnbull model, had we been so minded. We still could have determined the final model, but we chose not to do so. Other Convention delegates, but not Professor Craven, were kind enough to say later that we had acted honourably.

With the defeat of the McGarvie model which he had seconded, Professor Craven abstained from voting for the Turnbull model because he found it objectionable. He is now a supporter of this objectionable model. He has now joined in common cause with republicans who are prepared to deceive the Australian people – who continue to misrepresent our present Constitution and to conceal the truth about their republican alternative. He now finds himself allied with those who want us to change our Constitution in order to become independent, when we already have full independence; who promise us an Australian Head of State when we already have one; who want the referendum question to be worded so as to conceal the truth about what we are to vote on; who invent a non-existent constitutional convention to bolster a dishonest case; and who seek constitutional change without any regard for the public good.³⁵

I suspect that Professor Craven now realises that the model which his republican bed-fellows have chosen to foist on the electorate is unacceptable to the electorate. Not only does he fear the rejection of the Turnbull republic: he now also argues that this may lead to the even more objectionable direct election republican model. His latest strategy is to try and frighten constitutional monarchists into supporting the Turnbull republic on the grounds that a worse alternative awaits us all if we do not.

But life in the real world does not work that way, and we do not scare so easily. The answer to Professor Craven’s personal dilemma lies elsewhere. When the Turnbull model is defeated on 6 November, and if the direct election republican model should subsequently rear its ugly head, Professor Craven’s only option will be to help us defeat that model by once again becoming a constitutional monarchist. After all, as he himself has said, changing one’s mind is such a virtue.

Endnotes:

1. Peter Hennessy, *The Hidden Wiring* (Victor Gollancz, London, 1995). The words quoted are from the inside front flap of the dust jacket.
See *Final Report of the Constitutional Commission* (Australian Government Publishing Service, Canberra, 1988), p. 43; and *Whereas the people... Report of the Civics Expert Group* (Australian Government Publishing Service, Canberra, 1994), pp. 18-19.
2. The former found that almost 50 per cent of all Australians were unaware that Australia has a written Constitution, and that in the 18-24 year age group the level of ignorance rose to nearly 70 per cent; the latter found that 82 per cent of Australians knew nothing about the content of the Constitution.
3. Richard McGregor, *ARM odd couple to rekindle campaign*, in *The Australian*, 30 March, 1999; and Gervase Greene, *PM’s mate attacks preamble*, in *The Age*, 30

- March, 1999.
4. Michelle Grattan, *Robb to become republic's 'Yes' man*, in *The Sydney Morning Herald*, 30 March, 1999.
 5. *Turnbull's republic strategy: please don't mention the President*, in *The Australian*, 6 July, 1999; and *Don't mention the republic*, in *The Canberra Times*, 6 July, 1999.
 6. *Hold it: republic's back in question*, in *The Australian*, 8 July, 1999.
 7. Paul Kelly, *Constitutional Review – How, When and What?*, a speech to a Constitutional Centenary Foundation Council Forum, Melbourne, 12 November, 1993, p. 2.
 8. *A Funny Thing Happened on the Way to the Referendum*, in *Upholding the Australian Constitution*, Proceedings of The Samuel Griffith Society, Volume 10 (1998), pp. 1-47.
 9. *Final Report of the Constitutional Commission, op.cit.*, p. 75.
 10. *Sue v. Hill* (1999) HCA 30 (23 June, 1999).
For a detailed discussion of the role of the Governor-General see the author's paper
 11. *The Role of the Governor-General*, in *Upholding the Australian Constitution*, Proceedings of The Samuel Griffith Society, Volume 8 (1997), pp.167-187.
 12. *Report of the Constitutional Convention*, Volume 4, p. 975.
 13. Professor David Flint, *Australia Already Has A Mature Constitutional System*, in *Australian Constitutional News*, Volume 1, Number 4, February, 1999, p.5.
Fiona Kennedy, *Republican model losing favour*, in *The Australian*, 12 June, 1998. See also Harry Evans, *A Non-republican Republic: the Convention's Compromise Model*, a paper given at The University of Queensland Law School symposium on an Australian Republic, 11 June, 1998. Mr. Evans describes the Head of State under the system of Cabinet government as a constitutional umpire, and questions a constitutional arrangement that would allow the players to appoint the umpire, and for the captain of the winning team to change the umpire in the middle of the game, particularly if he thought that he himself was about to be sent off. Mr. Evans concludes that the republican model that emerged from the Constitutional Convention would significantly weaken the position of the Head of State and undermine the present system of government.
 14. For details of Sir Anthony Mason's evidence and of the facts in rebuttal, see *A Funny Thing Happened on the Way to the Referendum, loc.cit.*, at pp. 15-16 and 31-35.
 15. ABC Television, 27 October, 1997; ABC Radio, 28 October, 1997.
 16. *Final Report of the Constitutional Commission*, p. 313, para. 5.17.
 17. Personal knowledge.
 18. The Hon Daryl Williams, *Republic Referendum: The Process Leading to the Referendum*, an address to a Local Constitutional Conventions Forum, Canberra, 29 April, 1999, p. 3. But see note 13 above. See also Harry Evans, *Comments on Constitution Alteration (Establishment of Republic) 1999*, 10 June, 1999, in which Mr Evans sets out the many defects in the Bill and describes the drastic changes which it would make to our present system of government. In a submission dated 18 June, 1999 to the Joint Select Committee on the Republic Referendum, Mr Evans states that the provision in the Republic Bill for the removal of the President, and the absence of a fixed term, "are not to be found in any other Constitution in the world, the reason being that no other country has been so misguided as to adopt such obviously unbalanced arrangements. Both of these aspects of the 'model' would undermine the existing
 - 19.

- system of Cabinet government which it was the stated aim of the ‘model’ not to change”.
20. Michael Sexton, *The head of state could handle some dumbing down*, in *The Australian Financial Review*, 10 April, 1999.
21. My reply was subsequently published in *Australian National Review*, Volume 4, Number 1, May 1999, pp. 21-22.
22. The nine Australians who have held the office of Governor-General of Australia are: Sir Isaac Isaacs, Sir William McKell, Lord Casey, Sir Paul Hasluck, Sir John Kerr, Sir Zelman Cowen, Sir Ninian Stephen, Mr Bill Hayden and Sir William Deane.
23. Greg Craven, *No room for two at the top*, in *The Australian*, 5 February, 1999; *New setting for timeless jewel*, in *The Australian Financial Review*, 3 March, 1999; *A change of mind*, in *The Adelaide Review*, March, 1999.
24. The Hon Richard McGarvie, former Governor of Victoria and former Judge of the Supreme Court of Victoria, was an appointed delegate to the 1998 Constitutional Convention. The essential feature of the McGarvie republican model was that the role of the Monarch in the appointment and dismissal of the Governor-General under the present Constitution would be undertaken by a Constitutional Council in the appointment and dismissal of the President under a republican Constitution.
25. *Report of the Constitutional Convention*, Volume 4, p. 840.
26. *Ibid.*, pp. 588-590.
27. *Ibid.*, Volume 3, pp. 240-241.
28. *Ibid.*, Volume 4, p. 893.
29. *Ibid.*, p. 945.
30. Penelope Debell, *The Craven controversy*, in *The Age*, 15 May, 1995.
31. The references which follow to Professor Craven's views on the monarchy and the republic are taken from his two articles of March, 1999; see note 23 above.
32. Greg Craven, *The High Court of Australia: A Study in the Abuse of Power*, The 1997 Alfred Deakin Lecture, given at the University of Melbourne, 9 October, 1997, and reported by Richard Salmons, *Judges ‘put dishonesty to good use’*, in *The Australian Financial Review*, 10 October, 1997. Professor Craven was reported as saying:
“We have reached the point in constitutional cases where the reasoning in a decision essentially does not matter, so long as the conclusion is correct. What this means is that we now assume the willingness and the enthusiasm of the High Court for intellectual dishonesty in a constitutional context, and care only whether that dishonesty is put to good use”.
33. The views quoted in this paragraph are taken from articles contributed by the authors and published in *The University of New South Wales Law Journal Forum*, Volume 4, Number 2, June, 1998.
34. See note 23 above.
35. See Gregory Melleuish, *Crown, People and Republic*, in *Quadrant*, July-August, 1999, pp. 11-13. Melleuish writes:
“One of the problems that has bedevilled the whole ‘republican debate’ in Australia has been an imperfect understanding of the meaning of republicanism and the

possible reasons for this country becoming a republic. If republic means the common good, then it is clear that one should only replace the Crown, and the Monarchy, by a President if the public good will thereby be enhanced. It is clear in the case of the ARM proposal that such will not be the case”.

He describes the Crown as:

“..... part of our political fabric; it is something solid, known, objective and representative of the ‘common good’ through its activity in both the political system and the law. It has an established reputation of speaking for the people as against particular interests. Because of its somewhat intangible qualities and its embeddedness in the institutional framework, it is not open to ideological manipulation”.

Melleuish warns against adopting “a rhetorical device [that] does nothing to protect the common good or the rights of ordinary people; rather it becomes the tool of politicians and ideologues seeking their own ends”, and he concludes that “the worst possible scenario would be the current republican model on offer that deprives us of the Crown without moving towards the people.”