

## Chapter Seven: The Referendum: A Post-Mortem

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*“We have a lust to destroy in Australia. It is not that Australians are cynical – they are just unaware of what they are doing. They really think they are engaged on work of national progress and are unconscious of being on work of national destruction. What we need to spread throughout this land is the idea that before you knock something down you take a second look at it. We need to decide whether you knock it down or whether it is valuable enough to keep”.*<sup>1</sup>

Earlier this year *The Canberra Times* published the following extract from the transcript of a court case in South Africa:

Question: “Doctor, before you performed the autopsy did you check for pulse?”

Answer: “No”.

Q: “Did you check for blood pressure?”

A: “No”.

Q: “So, is it possible that the patient was alive when you began the autopsy?”

A: “No”.

Q: “How can you be so sure, Doctor?”

A: “Because his brain was sitting in a jar on my desk”.

Q: “But could the patient have been alive nevertheless?”

A: “It is possible that he could have been alive and practicing law somewhere”.

Many republicans are still trying to breathe life into some version or other of a republic, but the Keating/Turnbull republic – the subject of last November’s referendum – is as dead as the patient in that court case. I was proud to be one of the many who helped kill it off, and I am delighted to have been invited to conduct this post-mortem.

In fact, the Keating/Turnbull republic died several deaths. The first occurred when two late-night deals were struck in Old Parliament House, Canberra in the concluding days of the 1998 Constitutional Convention, in an attempt to gather in the support of the many republicans who refused to support the original Keating/Turnbull model.

That model had called for the President to be appointed, and dismissed, by a two-thirds majority of a joint sitting of both Houses of the Commonwealth Parliament. When the former Governor of Victoria, Mr Richard McGarvie, pointed out that this virtually placed control over removal of a President in the hands of the Opposition, the model was amended to put removal in the hands of the Prime Minister alone, subject only to later ratification by the House of Representatives – the Senate, though involved in the appointment process, was to be ignored in the removal process.

This deal was designed to attract the support of the so-called conservative republicans, and they fell for it hook, line and sinker. But the voters turned away when they read the fine print, the more so when they found that, in the event that the House of Representatives should fail to support the Prime Minister’s action, the dismissed President would not be reinstated. The Prime Minister would have absolute control over the President, no matter what Parliament said. This neutering of the constitutional umpire clearly was not acceptable to the electorate.

The second deal provided for the establishment of a nomination process that would have enabled members of the public to make nominations to a Presidential Nominations Committee. That Committee, in turn, would submit a short list of suitable candidates to the Prime Minister.

This seemingly very democratic process was designed to appeal to the direct-elect republicans, but was perceived to be a fraud and a sham when, once again, the electorate read the fine print and found that the Prime Minister would be able to ignore the Committee's recommendations and choose his own candidate anyway.

Not content with inflicting fatal wounds on their republican model even before the Constitutional Convention was ended, the republicans allowed it to suffer further deaths during the ensuing referendum campaign. A slow and lingering death was inflicted by their republican friends in the media, who treated the Australian people as idiots, and who prostituted their professional roles as observers and commentators by becoming partisans and advocates.

The final fatal wound resulted from that unholy alliance towards the end of the referendum campaign between Gough Whitlam and Malcolm Fraser. The electorate quickly realised that any constitutional arrangement on which these two could agree had to be bad for the rest of us. I shall have more to say about the media and the two former Prime Ministers.

The death of the Keating/Turnbull republic was formally announced early on the night of 6 November, 1999, even before the close of polling in Western Australia, in separate speeches by Mrs Kerry Jones and Mr Malcolm Turnbull, the leaders of Australians for Constitutional Monarchy and the Australian Republican Movement respectively, and who had also chaired the official "No" and "Yes" campaign committees for the referendum.

In claiming victory, Kerry Jones said that she did not feel elated, just a great sense of relief that the Australian people had finally had the chance to have their say on this issue, and deeply humbled by the confidence that the Australian people had shown in our country and its Constitution. And before she thanked all those who had made victory possible, she said this:

"I would like to offer our commiserations to Malcolm Turnbull and the 'Yes' campaign team. The 'Yes' campaign is full of good Australians who want the best for their country too. This vote means that the country did not find favour with their vision for Australia. It is my wish, and the wish of all those involved in the 'No' campaign, that Australians who voted 'Yes' will join together with us so that we can celebrate the Centenary of Federation as a united nation. All of us want the best for our country. All of us are proud Australians".

Malcolm Turnbull in defeat was less gracious. After thanking "Yes" supporters and giving a serve to republicans who had voted "No", he turned on the Prime Minister, claiming that "fighting for the republic in John Howard's Australia has been gruelling and heartbreaking". This was the Prime Minister who gave the republicans a national Constitutional Convention so that they might sort out the raft of republican models that they had been arguing about for years; who promised in advance, sight unseen, to put their chosen model to the Australian people; who was thanked and congratulated by Turnbull in the concluding stages of the 1998 Constitutional Convention when he announced that their model would be put to the people; who asked the Parliament to pass a referendum Bill to which he personally was opposed; who gave his parliamentary colleagues, including his Ministers, a conscience vote while the Opposition refused to do the same; who publicly funded the republican campaign to the tune of \$7.5 million, (and it will be interesting to see whether a future Prime Minister, from either side of politics, will give the monarchists an equally even break next time round); and who finally held a referendum to enable the Australian people to have their say. To describe fighting for a republic in such favourable circumstances as gruelling and heartbreaking was just plain dishonest.

Turnbull concluded his televised diatribe on referendum night with this gem:

"My friends, 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. Whatever else he achieves, history will remember him for only one thing. He was the Prime Minister who broke a nation's heart".

Apparently the 55 per cent of the national electorate who voted "No"; the 72 per cent of all federal electorates that voted "No"; the 40 out of the 40 polling booths in Mr Whitlam's

former electorate of Werriwa that voted “No”; and the six out of six States (and the Northern Territory) that voted “No”, are not included in Turnbull’s definition of the Australian nation. Right to the bitter end and beyond, Turnbull’s rhetoric of division and hostility stands in sharp contrast to Kerry Jones’s plea for national unity. Even the ABC’s Kerry O’Brien apparently found Turnbull’s concluding paragraph beyond the pale, for he edited it out when he replayed the speech on national television on referendum night, just a few minutes after it had been delivered.

If there were any hearts that might claim to have been broken, it was the hearts of constitutional monarchists when we discovered just how many stumbling blocks “the system” was able to put in our path during the referendum campaign.

The first was money. Not for us the backing of wealthy republicans able and willing to use their personal fortunes to try and change the Constitution. Not for us the millions of private dollars that would be used to try and persuade Australians that the republic was “inevitable”. On the final day of the February, 1998 Constitutional Convention, a republican delegate told a group of constitutional monarchist delegates that he had \$1 million of his own money to put into the referendum campaign. His message was clear and unambiguous – we would lose because we would never be able to match the republican war chest.

Our next major problem was with certain aspects of the publicly funded education campaign. With the exception of the two 1967 referendum questions relating to Aborigines, a constitutional referendum is normally supported by the Government of the day and opposed by the parliamentary Opposition. The political parties and their supporters do the campaigning, the advertising and the letterboxing, and parliamentarians write the “Yes” and “No” cases that are required to be distributed to all voters.

In 1999 the situation was different, and called for different measures. The “Yes” case was to have the campaign support of the Labor Party, the minor parties, the trade union movement, and a major part of the Liberal Party. To further complicate the matter, the referendum Bill was a Government Bill, and Government members were bound to support it in Parliament, even if they intended to campaign against it later. It was therefore arranged that a token number of Senators and Members would vote against it so that they would then have the right to draft the “No” case to be distributed by the Australian Electoral Commission to all electors.

In order to ensure that the electorate could be as fully informed as possible, the Government decided that there should be publicly-funded “Yes” and “No” campaigns, using television, radio, newspaper and other material, to present the competing arguments during the final and intensive stage of the referendum campaign. Two committees, chaired by Kerry Jones and Malcolm Turnbull respectively, were appointed from among Constitutional Convention delegates, to prepare and disseminate this material. Each committee was to have \$7.5 million dollars to spend in accordance with guidelines laid down by the Government. I was appointed a member of the official “No” Case Committee.

In addition, an Expert Panel, chaired by former Governor-General Sir Ninian Stephen, and with a budget of \$4.5 million, was appointed to prepare and distribute neutral educational material some months before the referendum campaign. This material was to explain the proposed republican model, the existing constitutional arrangements, and the referendum process: it was not to present arguments for or against change.

As these committees were spending public funds in accordance with government guidelines, they were accountable to the Ministerial Council on Government Communications, and their activities were subject to the supervision and control of a Referendum Taskforce of officials set up within the Department of the Prime Minister and Cabinet. Each committee had attached to it a seconded official – a senior officer from the Referendum Taskforce who worked with the committee and its consultants on a day-to-day basis and helped them to ensure that whatever they did was in accordance with the government’s guidelines.

In view of what I am about to say, may I make it clear that none of what follows refers to

the officer who was seconded to the “No” Committee. That officer performed her duties efficiently, competently and with integrity. She quickly earned the respect and, importantly, the trust of all members of the “No” Committee. We relied on her advice and experience and she never let us down, all the while being mindful of her responsibility to ensure that the rules were complied with.

Both the “No” Committee and the “Yes” Committee were required to submit their advertising material and their strategies for its use to the Ministerial Council on Government Communications for approval. We knew that most of the parliamentarians on this committee were republicans, and that gave us some concerns about the confidentiality of our campaign intentions, as did the membership of the Taskforce of officials, about whom we knew nothing. We soon experienced the first example of just what we were up against when, within hours of one of our supposedly confidential decisions, Kerry Jones received a telephone call from a member of the parliamentary Press Gallery asking her about that decision.

One of the “No” Committee’s first tasks was to approve the appointments of those who would guide our campaign – a Campaign Director, a market research company, a creative advertising agency, and a Campaign Coordinator – and to decide on the location of the campaign administrative headquarters. With each of these appointments we obviously made the right decision, for we had the services of some of the best professionals in their respective fields.

On 10 June, 1999 the Attorney-General introduced the *Constitution Alteration (Establishment of Republic) Bill* and the *Presidential Nominations Committee Bill* in the Parliament.<sup>2</sup> Their introduction had been anticipated by the Parliament which, some two weeks earlier, had resolved to appoint a Joint Select Committee on the Republic Referendum to inquire into and report on the provisions of the Bills.<sup>3</sup> That Committee presented its report on 9 August, 1999.<sup>4</sup> In the Foreword to the Report, the Committee chairman noted:

“Generally, the [two Bills] faithfully reflect the findings of the 1998 Constitutional Convention. The Committee accepts the evidence that the provisions in the Bills are workable. When raised, criticisms of the Bills usually went to matters of fine tuning, and even with no amendments, most critics felt the Bills should proceed”.

Nonetheless, the Committee proceeded to make no less than 14 amendments in a report of 168 pages.<sup>5</sup>

The Committee’s first, and most significant, recommendation, and the only one that I shall deal with in this paper, related to the long title of the *Constitution Alteration (Establishment of Republic) Bill*. A referendum question sets out the long title of the proposed law to alter the Constitution, and then asks whether the voter approves of the proposed law, so the language used in the long title is very significant. The original long title proposed by the Government was:

“A Bill for an Act to alter the Constitution to establish the Commonwealth of Australia as a republic with a President chosen by a two-thirds majority of the members of the Commonwealth Parliament”.

In other words, it told voters that the Bill would give us a republic and a President, and described the President’s method of election – i.e., by the Parliament.

Some witnesses before the Joint Committee, including republicans such as former Prime Minister Malcolm Fraser, considered this long title to be satisfactory. However, the chairman of the Australian Republican Movement, Malcolm Turnbull, and the convenor of Conservatives for an Australian Head of State, Andrew Robb, amongst others, objected to the inclusion of the words “republic” and “President” on the grounds that they were confusing and misleading! Robb also urged the removal of reference to the method of election of the President by the Parliament because he felt it might provoke a negative reaction from voters!

Although the Joint Committee was able to resist the representations to remove the words “republic” and “President”, it accepted the view of former Labor Attorney-General, Michael Lavarch, that the long title should make it clear that the President would replace the Queen and

the Governor-General. It also accepted Robb's objections to the method of election of the President being included, and it therefore recommended that the long title should be:

"A Bill for an Act to alter the Constitution to establish the Commonwealth of Australia as a republic, with the Queen and the Governor-General being replaced by an Australian President".

The Government accepted the Committee's recommendation to include reference to the Queen and the Governor-General being replaced by a President, but insisted on retaining its original reference to the President's method of appointment. Accordingly, the Attorney-General, Daryl Williams, moved that the long title of the Bill be amended to read:<sup>6</sup>

"A Bill for an Act to alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and the Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament".

As the Queen's only constitutional duty, which is to appoint the Governor-General, would pass to the Parliament and not to the President, and as the President would inherit only the Governor-General's powers and not the Queen's, the President would replace the Governor-General but would not replace the Queen. Thus, the Lavarch proposal and the Joint Committee's recommendation misrepresented the effect of the Bill. One can only assume that the Government accepted the recommendation in a spirit of compromise.

On the other hand, the Government's insistence on retaining the reference to the method of appointment of the President by the Parliament – a most significant element of the proposed constitutional alteration, one would have thought – was vigorously opposed by the republicans, not because it was inaccurate, for it was not, but because, as Andrew Robb had put it, it might provoke a negative reaction from voters!

Our next hurdle was the supposedly neutral education campaign. After the Taskforce officials had drafted the pamphlet which was to be distributed as part of this campaign, and it had been cleared by the Expert Panel, the two Ministers responsible for referendum arrangements – the Attorney-General, Daryl Williams, and the Special Minister of State, Senator Chris Ellison – made copies available to the "Yes" and "No" Committees and invited their comments.

The "No" Committee responded by pointing out what we regarded as serious errors of fact and of emphasis which we asked be removed from the pamphlet, as well as the omission of other matters which we believed were necessary to be included for a proper understanding of the referendum question. The details need not concern us here but our main objections may be summed up in a couple of extracts from our response to the Ministers.

In the matter of an incorrect description of the Queen we said:

"We believe the description to be legally and constitutionally incorrect: the point will feature in our publicity campaign, and it therefore has no place in a neutral pamphlet. As the pamphlet is intended to be neutral, we do not presume to ask that it makes our claim for us – we shall do that ourselves in the course of the campaign – but nor should it make for the republicans a claim that will be central to their campaign and which we shall hotly dispute".

We were equally concerned about what we regarded as a misleading reference to the powers of the Governor-General viz-a-viz those of the President, and we said:

"We have more than ninety years of legal and judicial opinions to support us, as well as decisions of past Prime Ministers and Governments from both sides of politics, and we shall resist most strongly any attempts to gloss over or misrepresent the Governor-General's true position under the Constitution or any aspect of the proposed republican model".

Our letter to the two Ministers included a number of suggested amendments to the pamphlet that would meet our objections, and ended by offering to provide them with documentation in support of our arguments.<sup>7</sup> To make sure that our material would be considered, we sent a copy of that documentation to the Taskforce anyway.

In due course we saw the final version of the neutral education pamphlet. While we were not given everything that we had asked for, some changes had been made and we were reasonably happy with the outcome. We also learned that the “Yes” Committee was furious when it saw the final version, and claimed that its campaign would be disadvantaged by it. Which only served to prove how right we were to object to the original draft, and to confirm our need to keep as close an eye on the departmental Taskforce as it was keeping on us.

Our next crisis involving the Taskforce related to an intended electronic blackout of referendum advertising. The Government had stipulated that the advertising campaigns of the “Yes” and “No” Committees would be limited to the four weeks immediately prior to the referendum, and we had planned our campaign to continue right up to and including polling day.

Commonwealth legislation administered by the Australian Broadcasting Authority – the *Broadcasting Act* – provides that, for federal elections, an advertising blackout will apply on all electronic media from midnight on the Wednesday before polling day to the end of polling day on the Saturday. But the Act contains no provision for a similar advertising blackout on the electronic media in the case of a federal referendum. Despite this, we were informed just two months before referendum day that an administrative decision had been taken by Taskforce officials to apply the election advertising blackout to the referendum.

This decision was a disastrous one for us. Not only were we already committed to an advertising campaign that was to take us right through to Saturday, 6 November: the decision also meant that we would spend the last three days of the campaign with both hands tied behind our backs. The Government had stipulated that the two committees would be limited to the \$7.5 million of public money allocated to them and that they would not be permitted to spend other funds from private sources.

As I mentioned earlier, Australians for Constitutional Monarchy has never had access to the level of private funding available to the Australian Republican Movement, and what limited funds it did have had already been committed. With an electronic blackout in place, the “Yes” and “No” Committees would have to stop their advertising on the Wednesday before polling day. However, the Australian Republican Movement would be able to use its vast private funds to mount an advertising blitz in those last three days, with the monarchists unable to match it with any kind of response whatsoever. Not only did the decision of the Taskforce lack any basis in law: it was also manifestly discriminatory, unfair and damaging to the monarchist cause and to the “No” case, as evidenced by the loud complaints of our opponents when finally we were able to have it rescinded.

The final attempt to load the dice against us came from the Australian Electoral Commission, and here the system beat us. The referendum ballot paper required each voter to write the word “Yes” or the word “No” in a box alongside the question on the paper. One would think that this was a simple enough instruction requiring one of two very simple alternative responses. But that would be to underestimate the inventiveness of Australian voters, as well as that of the Australian Electoral Commission.

Shortly before the referendum, the Electoral Commission issued a booklet called *Guidelines to Scrutineers*. Amongst other things, it contained instructions as to what would constitute a formal vote. Examples of formal “Yes” votes, apart from the word “Yes”, included the letter “Y” and the words “OK”, “Sure”, and “Definitely”. Examples of formal “No” votes, apart from the word “No”, included the letter “N” and the words “Never” and “Definitely not”. In addition, scrutineers were instructed that a tick would be accepted as a valid “Yes” vote but that a cross would not be treated as a valid “No” vote and would be treated as an informal vote. To compound this extraordinary ruling, the word “No” crossed out and “Yes” or a tick written above it would constitute a formal “Yes” vote, and the word “Yes” crossed out and “No” written above it would constitute a formal “No” vote. Of course, scrutineers would have no way of knowing whether the alteration had occurred while the ballot paper was still in the hands of the voter or afterwards.

Having identified seven ways of saying “Yes” without using the word, and only four ways of

saying “No” without using the word, the Electoral Commission then gave the following instruction to scrutineers:

“To be a formal vote, the answer to the question need only clearly express the voter’s support for or opposition to that question’s proposed constitutional change, in *a language or symbol the person conducting the scrutiny understands*”. (Emphasis added).

In other words, the validity of a particular vote could be dependent upon the linguistic skills, or the imagination, of each individual electoral official. These instructions must surely represent the most adventurous administrative interpretation one could ever hope to see of the simple legislative requirement to write “Yes” or “No” on a ballot paper.

As there was no organisation with legal standing that would have enabled it to challenge these rulings by the Electoral Commission, an individual did so in his own name. When the case came before the Federal Court, the Judge ruled against the application “on the balance of convenience” – that is, the convenience of the Electoral Commission and its Divisional Returning Officers – and awarded costs to the Commission: the lawfulness of the Commission’s interpretation of the legislation and of its instructions to scrutineers was simply not tested by the Court.

I now want to turn to the progress of the referendum campaign, as seen through the eyes of this member of the “No” Committee while we were spending \$7.5 million of public money in an attempt to make the electorate aware of the issues and to help voters cast an informed vote. The national advertising campaign was to begin on 13 October, 1999 and end on polling day, 6 November, 1999. It was to involve the use of television, newspapers, radio and online internet. Special programmes were prepared for rural and regional, print handicapped, Aboriginal and Torres Strait Islander, and non-English speaking audiences, as well as for the different age groups in the community. The campaign was successful, and came in under budget. It resulted in the Keating/Turnbull republic being comprehensively rejected by the Australian people. That result was achieved in the face of a highly concentrated and one-sided Press campaign in support of the republic.

Given the overwhelming assumption by the media and the republicans that the republic was inevitable, it is interesting to note that an AC Nielsen poll held on 13 and 14 February, 1998, almost two years before the referendum, accurately predicted the final outcome. It reported that only 43 per cent of voters were prepared to back what it described as the compromise republican model.<sup>8</sup> As the “Yes” vote 21 months later was only 45 per cent, and allowing for the usual margin of error associated with opinion polls, the February, 1998 poll was a most accurate predictor of the referendum result.

And while I am acknowledging early accurate predictions, may I also salute our colleague John Stone who, fourteen weeks away from the referendum, predicted that the referendum would be defeated nationally and in all six States.<sup>9</sup> It was indeed, as John said at the time, “a very brave (in the Sir Humphrey Appleby sense of that word) prediction”, the more so as the republicans have always had (and again I use John’s words), “buckets of money, lots of superficially impressive support from various meretricious media ‘personalities’, and the support of virtually all the print and electronic media”.

Three months out from the referendum our research had told us that between the committed “No” voters and the soft “No” voters on the one hand, and the committed “Yes” voters and the soft “Yes” voters on the other, lay a significant group of undecided voters. We had found that there were disturbingly high levels of ignorance and misunderstanding among voters. We had found that the more they were informed of, and the more they understood, the details of the proposed republican model, the more they would move towards the “No” case. We also had found that not only was it vital to provide that information, but that the quality, tone and style of that information were most important.

For example, we had found that voters not only wanted to hear the views and opinions of

ordinary folk like themselves, but that they positively did not trust, and did not want to hear, the views of celebrities and personalities and other high profile public figures. So you can imagine our delight when, towards the end of the campaign, the republicans went to air with that ridiculous double act of Whitlam and Fraser and their attempt to persuade the electorate that “It’s time” for the republic. As I said earlier, the reaction seemed to be that any change to the Constitution that those two could agree upon had to be bad for the rest of us. Former Federal Minister, Peter Walsh, described it in these terms:

“In the current debate, one of the many ironies is the Turnbull republic unity ticket of sorts, forged between Whitlam and Malcolm Fraser. Fraser, rejected by almost all Liberals, resembles a mangy stray dog, desperate for a pat on the head from anyone”.<sup>10</sup>

So, we set about planning our campaign strategy. To begin with, we carefully put together the different types of advertisements we would use for the various elements of the media and the various sections of the community; we carefully selected the characters who would feature in those advertisements; we booked time and space in the various media formats; and we prepared our campaign launch that was to be held four weeks before polling day. Once the campaign was under way, we continually carried out market research, and we continually fine-tuned our materials and our strategies in the light of that research. Soon we would be accused of simply muddying the waters for the inevitable republic; but, as one policy research analyst was to put it in a study published five months after the referendum, we

“... very quickly redefined the focus of the campaign. It moved from being a debate about the nationality of our Head of State to one about the proposed procedures for the appointment and dismissal of the President”.<sup>11</sup>

In the meantime the media were conducting their own campaign for the republic. They occasionally published articles and letters to the editor contributed by supporters of a “No” vote, but there was no attempt at anything approaching balance, and supporters of a “Yes” vote were given open slather, as also were the journalists themselves and their editors. For example, when former Governor-General Sir Zelman Cowen and former Chief Justice Sir Anthony Mason signed an open letter for the republic, it was published on page 1 of *The Australian*. The open letter in reply, signed by, amongst others, former Governor-General Bill Hayden and former Chief Justice Sir Harry Gibbs, was published on page 10 of *The Australian*. This media campaign was so insidious, even intimidating, that our research revealed that, out in the community, while “Yes” voters seemed always ready to declare their voting intentions, “No” voters did not want other people to know how they intended to vote.

One of the best summaries of just what the media tried to do to and for the republican campaign came from the pen of Federal Minister Tony Abbott. In an article published just before the referendum, Abbott noted that:

“The key difference between the republic referendum and every other vote is the way the media are openly campaigning for one side”.<sup>12</sup>

He cited some particularly nasty and offensive examples of the one-sided nature of the debate: *The Daily Telegraph*’s “Queen or Country” masthead; *The Australian*’s “scales of justice” motif featuring a Crown *versus* a slouch hat; and that newspaper’s offer of “Vote Yes” bumper stickers to readers. Even in republican Canberra, at least one newsagency refused to distribute these to customers when they learned that “Vote No” bumper stickers would not also be made available.

Abbott also quoted others who had drawn attention to the partisan nature of the media’s campaign: former Governor of Victoria, Richard McGarvie, who said that the media had clearly taken sides, almost unanimously; media analyst Michael Warby, who said that no media coverage on any issue of the past 25 years had been as partisan, and who had suggested a new slogan for the anti-republican campaign – “Annoy the Media – Vote ‘No’ ”; and Professor John Henningham, of the University of Queensland’s School of Journalism, who had conducted an attitudinal survey that had provided hard data to support the argument that the media were trying to shape events rather



than report them.

Abbott concluded that there was:

“... hard evidence to demonstrate that the media are quite unrepresentative of community thinking. The latest polls showing support for the ‘Yes’ case crumbling, just when media boosterism is reaching a crescendo, are significant straws in the wind”.

And indeed they were.

Writing again just after the referendum, Abbott, himself a former journalist at *The Australian*, noted that:

“The reputation of the media can hardly be enhanced by so consistently misreading the public mood, so unrelentingly barracking for the losing side – and by subsequently insisting that voters got it wrong. ... But if the media’s job is to reflect (as well as to lead) a pluralist society, journalists as a class should be embarrassed at the way they have allowed ideological enthusiasm to get the better of professional detachment”.<sup>13</sup>

Even the editor of *The West Australian*, himself a direct electionist republican, had this to say about *The Australian*’s coverage of the referendum debate:

“I think it’s one of the lowest ebbs in Australian journalism because *The Australian*’s become totally partisan. It’s boosterism at its worst and it’s propaganda that goes beyond the rights of a newspaper to have a point of view. It was semi-hysterical most days, and as it became apparent that the ‘Yes’ case was in trouble, it got more hysterical”.<sup>14</sup>

And a senior British journalist, out here to cover the referendum for *The (London) Daily Telegraph*, sent back this comment:

“I have rarely attended elections in any country, certainly not a democratic one, in which the newspapers have displayed more shameless bias. One and all, they determined that Australians should have a republic and they used every device towards that end”.<sup>15</sup>

One-sided boosterism was not confined to the media, and Kerry Jones has given some chilling examples which, in a democracy such as ours, should have no place in the actions of publicly-funded community organisations. In her account of the referendum campaign, published only this week,<sup>16</sup> she describes how a stand at the Royal Easter Show, and the use of the Sydney Town Hall for a public rally, both available in previous years on many occasions as venues for hire by Australians for Constitutional Monarchy, were suddenly no longer available to them, yet they continued to be available to the republicans. To add insult to injury, in the last month of the campaign, flagpoles outside the Sydney Town Hall and across the city were bedecked with “Yes” banners. One can just imagine how those who approved this arrangement would have reacted had their opponents been in control of the City Council and used ratepayers’ money to fund a similar display of “No” banners.

At the start of the final four weeks of the campaign, it was clear that we would have lost the referendum had it been held then. But now the “No” campaign was no longer dependent on the crumbs that grudgingly came our way from the tables of the media. Now we could pay our way, and we could have all the time and all the space we could afford.

No amount of campaigning was going to change the minds of voters who were rusted on to one or other side of the debate: the battle was for the undecided voters. We had encouraged ourselves to think that, once we started getting our message out, the undecided voters would come our way, and by the end of the first week of the official campaign, which was just three weeks before referendum day, we started to see the definite “No” votes moving ahead of the definite “Yes” votes for the first time, and we saw the prospect of a win on the national vote. As these “No” vote gains started appearing in all States, we began to hope for a better result than three – three on the States’ vote. We could see more of the undecided votes coming to us. And the line that was being pushed by the “Yes” case, that a “No” vote was unpatriotic, had suddenly lost its earlier momentum.

Nevertheless, it was still too early to start feeling confident, and we knew that these results

needed to be interpreted with caution. The electorate was volatile, depending on what issue or message was dominating the media at any particular time. It was at this point that the Australian Republican Movement and the Australian Labor Party complained to the Australian Electoral Commission and to the Federation of Australian Commercial Television Stations, alleging that the “No” campaign advertisements were misleading and deceptive and therefore in breach of the *Referendum (Machinery Provisions) Act*. On advice from the Director of Public Prosecutions, these complaints were rejected. By now we knew that we were hurting our opponents.

By the third week the earlier warning about electorate volatility was borne out as we saw some of the previous gains decline slightly. However, the overall trend still favoured the “No” campaign, and we began to hope for a win in four States, as well as a small margin in our favour in the national vote.

With one week still to go, the trend towards a stronger “No” vote was confirmed, with strong “No” voters maintaining a good lead over strong “Yes” voters. More significantly, while the strong “No” vote had almost doubled since the start of our polling, the strong “Yes” vote had remained static. During the same period, large numbers of the earlier undecideds had become strong “No” voters. The campaign to attract young voters was paying off, and we appeared to have made ground with women and with certain ethnic voters. The typical “Yes” voter remained high income-earning, male, aged between 30 and 50. A “No” vote nationally and in five States now seemed likely.

At the “No” Committee’s final meeting, two days before polling day, our polling predicted what turned out to be the final result – a win for “No” nationally and in all six States, with the Northern Territory as a bonus. This was an extraordinary result, given that our polling at the start of the campaign had seen the “Yes” vote at 43 per cent and the “No” vote at 30 per cent, with the remaining 27 per cent undecided. But once we were able to have equal access to the media and to get the details of the proposed changes to the Constitution across to the electorate, the “Yes” vote picked up only 2 of the 27 undecided percentage points, while the “No” vote picked up the other 25.

To put it another way, after years of being told by the Australian Republican Movement that the republic was inevitable, and after being subjected to a massive brainwashing exercise by the Australian media that the republic was inevitable, 27 per cent, or more than one quarter of the electorate, had been still undecided. After a four week advertising campaign in which both sides, for the first time, had equal access to the media, the “Yes” case had been able to convince only 7.4 per cent of the undecided voters and the “No” case had been able to convince a massive 92.6 per cent of the undecided voters. No doubt there about who received the better value for their \$7.5 million.

As the total “No” vote was more than 55 per cent nationally, and more than 58 per cent in three States, it will require an 8 per cent swing for Australia to become a republic, assuming the republicans are able to agree on which of the three main republican models in contention – parliamentary election, popular election, and McGarvie – they next wish to put to the electorate.

As the final section of this post-mortem, I now wish to look at what the media themselves had to say after the referendum in which they too, as well as the Australian Republican Movement, had been so firmly rejected by their readers and their listeners and their viewers. In doing so, may I apologise in advance to Dr Nancy Stone for any inadvertent trespass, either by what I have said or am about to say, onto matters that she will cover in her paper tomorrow morning.

On the Monday following the Saturday referendum, with the final count in Victoria still in the balance, *The (Sydney) Daily Telegraph* had this to say in its editorial about the defeat of the referendum:

“Not only is it a vote of confidence in the Queen, but the referendum result is a triumph for all that is genuine and homespun in the world of politics. In particular, it is a victory for the

prime minister, John Howard, who provided a consistent, softly spoken endorsement of the monarchy. While there was a respectable case for an elected head of state, it was silly for republicans to argue that Australians needed to ditch the Queen in order to show that they had ‘come of age’. In doing so, they treated their countrymen like so many stropky teenagers, embarrassed by having their parents around. In fact, Australians have demonstrated their maturity by rising above any such need to prove themselves. The campaign itself was conducted in an admirably friendly spirit. But, since the result, the republicans have behaved with an unedifying gracelessness”.<sup>17</sup>

But most of the media simply went into denial about what really had happened. In editorials, opinion pages and in news items, the Australian people were told that we were on the way to hell in a hand-basket; we were warned of the opprobrium that the rest of the world would heap on our heads; and we were presented with a variety of scenarios for revisiting the republican issue so that next time we might get it right.

Monday morning’s editorial in *The Australian* was headed *Referendum reflects a split society*, though it first acknowledged that the verdict had to “be accepted, for the referendum is the purest expression of democracy under our system of government”.<sup>18</sup> But then it went on to describe this “purest expression of democracy” as reflecting the divisions in our society:

“...the cities and the bush; those who embrace, and gain from, change and those who are confused and left behind; the so-called élites and the battlers; knowledge-rich and knowledge-poor; highly educated and less well-educated; high income and low”.

*The Sydney Morning Herald* took up the same theme in its editorial headed *A failure of leadership*, and attacked the Prime Minister, John Howard, for dividing the country – for bringing about a vote that:

“...reflects the divisions of our country – between city and bush, the prosperous and the strugglers, those with opportunity and those who resent the lack of it”.<sup>19</sup>

But, excuse me, wasn’t it another Prime Minister, Paul Keating, who had dredged up the idea of a republic out of nowhere and had tossed it onto the table as a distraction from his Government’s problems? Wasn’t it he who had divided the country over the issue, with his inflammatory insults directed at those who wished to preserve the constitutional *status quo*?

*The Age* also fell into line, with an editorial headed *The republic vision will endure*.<sup>20</sup> It, too, bemoaned:

“...a lost opportunity ... to demonstrate to ourselves, and to the world, who we are: a strong, independent and united country, whose national identity is built on notions of fairness and egalitarianism”.

And it, too, blamed the Prime Minister, John Howard, for the failure of the referendum. No acknowledgment here of the referendum as the “purest expression of democracy”, but instead a warning to the politicians “to prevent the defeat eroding national unity and confidence”, and the clear implication that the people had got it wrong.

A similar line was taken in so-called news stories, and in articles and comments by senior journalists,<sup>21</sup> many of whom used their opinion pieces on the Monday morning to launch Opposition leader Kim Beazley’s multi-plebiscite proposal, the details of which he has only recently released, one year later. The fact is that the Australian media in general, and *The Australian* newspaper in particular, not only misread the public mood and barracked openly and relentlessly and shamelessly for the losing side: they also further tarnished their damaged reputation by subsequently insisting that only the less-educated voters had voted “No”; that they had got it wrong; and that they had better get it right next time.

By way of contrast, on that frenetic Monday morning, Christopher Pearson was able to write:

“Some of the biggest losers from Saturday’s result are the journalists who imagined themselves ‘the instruments of Manifest Destiny’ ”.<sup>22</sup>

By the end of the first week, at least one Associate Editor at *The Age* was beginning to get matters into perspective. Rejecting the defeat of the republic as symptomatic of a cultural schism, Tony Parkinson wrote:

“It requires a bleak and disdainful view of society to argue that a decisive majority of the electorate are stupid, gullible and short-sighted”.<sup>23</sup>

And the editorial in the December, 1999 edition of *Quadrant* opened with this paragraph:

“The voting on the referendums on 6th November was not really surprising. What was surprising was the astonishment and disappointment of those who invested so much emotion in them, especially the republican question. But its significance should not be underestimated, since it amounted to a wholesale rejection by a very substantial proportion of the electorate of the social and political agenda of the last twenty-five years. In particular, it marks the failure of the baby boom generation, despite its large relative size, to capture the support of the majority of the electorate”.<sup>24</sup>

But undoubtedly the best summary of the referendum result was that of a Canadian journalist. In an article in the Canadian *National Post* five days after the referendum, Mark Steyn, who happened to dine with the Queen and the Duke of Edinburgh at Buckingham Palace on the eve of the referendum, noted that:

“... the overwhelmingly republican press took defeat particularly hard. It seems Australians do resent a remote autocratic foreigner from thousands of miles away running the place and lording it over them. Unfortunately, it turned out to be Rupert Murdoch rather than Elizabeth Windsor. ... Even after the republican side had conceded, the Murdoch press seemed reluctant to accept the actual result. ‘Queen “Hurt” By “No” Vote Despite Win’ was the headline on *The Sunday Times* of London. Mr. Murdoch’s poodle, anxious to please, began his report as follows: ‘The Queen was hurt and disappointed by the strength of republican feeling in Australia ...’”<sup>25</sup>

Steyn’s article continues:

“Come again? Her Majesty was ‘hurt and disappointed’? How does *The Times* hack know? He was down the pub with her? She’d called him at home, choked up with tears, to confide her innermost feelings? As the only journalist on the planet present at Buckingham Palace on the eve of the big vote, I think I can speak with complete authority on this matter when I say: I haven’t a clue as to the Royal Family’s state of mind and private thoughts”.

Steyn confesses that he kept trying to slip Australia into the conversation but it got him nowhere.

Then, in a warning to those republicans who had immediately begun to talk of the next time, Steyn had this message:

“The defeated republican forces now say that next time the question should simply ask whether Australians favour a republic *per se* and leave it until later to work out whether it’s going to be the Mary Robinson model or the Saddam Hussein model. The devil is in the details – and to demand that the electorate reject an actual, specific monarchy in favour of a vague, unspecified republic is as absurd as asking them to vote for a monarchy and reassuring them you’ll let ’em know afterwards whether they’ll be getting Elizabeth II, Emperor Bokassa or Mad King Ludwig of Bavaria”.

None of this seemed to deter the Australian media, and over the following weeks and months we were besieged with articles about what went wrong and how to do it better next time. While some blamed Turnbull for the model and the republicans generally for their botched campaign, others blamed the anti-republicans for the success of their campaign and the electorate for being so stupid as to buy it. Opposition leader Kim Beazley floated the idea of actually trying to find out what sort of republican model the people might find acceptable, but he immediately ran into trouble with the Labor Premiers, with three of them advocating direct election and two of them opposed to it. In fact, New South Wales Premier Bob Carr went so far as to say that he believed that the monarchy was preferable to a direct election republic.<sup>26</sup>

And now, a year after the referendum, Opposition leader Kim Beazley has finally filled in the details of his plans for a ten-year campaign towards a republic, and a four-step process for achieving it.<sup>27</sup> Beazley's plan is based on a series of non-binding plebiscites over a number of years. His first plebiscite, so he hopes, would have us declare our Constitution no longer acceptable and ready for replacement. We would then spend several years trying to decide what sort of Constitution we would put in its place, and in the meantime we would go on being governed by a document which a majority of us would have been persuaded to declare no longer acceptable. And this constitutional limbo, so the man who would be Prime Minister tells us, would be preferable to continuing to govern ourselves under the Constitution which has given us a century of stable parliamentary democracy!

The Beazley plan would require, first of all, several terms of Labor Government and yet another comprehensive civics education campaign, as well as a "Yes" vote in the initial plebiscite that would ask voters whether they favoured Australia becoming a republic. It would then require a single model to emerge from the second plebiscite at which voters would be asked to choose between several different models. Here the issue gets a bit murky, for we now would have three models – not just parliamentary election and direct election, but also the McGarvie model, which some Labor Premiers have said would need to be in contention. And if one appeared as a clear favourite – a by no means certain prospect – it would still require bipartisan political support for it to get through the required referendum.

Yet even at the very seminar at which Beazley outlined his ten-year four-step plan, two other leading republicans – Professor George Winterton, a republican delegate to the 1998 Constitutional Convention, and Professor Greg Craven, also a republican delegate to the 1998 Constitutional Convention and a member of the "Yes" Case Committee for the 1999 Referendum – were still taking different positions from Beazley and from each other.<sup>28</sup> The republicans could not agree on a single model in February, 1998; they could not agree on a single model in November, 1999; and now they cannot agree on a single model in November, 2000. How they will ever agree on a single republican model in the future I cannot imagine.

Despite the overwhelming rejection of the republic at the referendum, and their own loss of credibility in the process, the media will not give up, and snide, even dishonest, references to the so-called inevitable republic still creep into news items. For example, only this week, in an ABC television news item about separate functions held in Sydney by Australians for Constitutional Monarchy and the Australian Republican Movement to mark the anniversary of the referendum, the voice-over commentary by the ABC news reader told viewers that the republic would continue to be an issue "because most Australians still wanted independence". Who said anything about ABC bias?

If there should still be an unanswered question it is this: why was the nation put through this pointless, fruitless, draining and expensive exercise? One Queensland anthropologist, Ron Brunton, writing in *The Courier Mail* this time last year, provided one answer when he wrote:

"The republican push did not derive from a groundswell of popular sentiment. It was imposed from above, motivated at least in part by some rather shabby political considerations".<sup>29</sup>

We had been told that we lacked a national identity and that the republic would give us one. Old anti-British sectarian hatreds had been stirred up, and "loyalty" became a word of opprobrium. Eight superannuated diplomats had warned us about what the neighbours might think if we failed to embrace the republic. Expatriate Australians, some of whom haven't lived here for decades, also longed for a new national identity, no doubt so they could desert that one too.

But in the end most of us were not persuaded. Again to quote Brunton:

"Unlike the élites, [most Australians] feel comfortable about their national identity. Their justifiable pride in being citizens of a decent and highly successful nation has not been compromised by Australia's status as a constitutional monarchy. After all, it wasn't

‘Australia’s heart’ that was broken last Saturday night, but the hearts of Malcolm Turnbull and his mates. Given their role in our national life, it is not a good sign that our élites are so lacking in confidence. But it is hardly surprising. Many prominent people in politics, academia and the arts have achieved their positions through patronage networks which provide protection and advancement in exchange for loyalty and conformity. Such an environment encourages self-doubt, because people cannot be sure whether their success is a result of their own talents, or a consequence of their connections. ... Until they feel good about themselves, they will never feel comfortable and relaxed about Australia”.

It was these same insecure élites who had warned us that, come the Olympic Games, we would be the laughing stock of the world if we hadn’t changed our flag and our Constitution. Well, the world came to our “best ever” Olympic and Paralympic Games but they didn’t laugh: they marvelled, they applauded and they congratulated. And when all the Games were over and our guests had departed, SOCOG’s chief executive, Sandy Hollway, summed it all up when he said that the Australian people had shown the world “that we are a decent and cohesive society, that we are a fundamentally international society, and that we are unapologetic about our Australian culture”.<sup>30</sup>

Perhaps republicans, and particularly republican journalists, should look back at what *The Canberra Times* journalist, Frank Cassidy, a republican delegate to the 1998 Constitutional Convention and A.C.T. Convenor for the Australian Republican Movement, wrote in the aftermath of the referendum.<sup>31</sup> In a lengthy opinion piece dated 1 January, 2000, Cassidy wrote of:

“...the still-warm body of last November’s republic referendum, whose prolonged death throes still stir[s] up optimism for a rosy republican future, despite the unequivocal decision of the popular umpire. Wound-licking acolytes of the republic are soothing their grief with the belief that the narrow referendum loss was but a stumble on the inevitable road to success; that another round of debate and decision was on the radar and next time the same mistakes won’t be made. But a quick glance at where we really are in time and space and a view towards the threats and promises on the horizon conspire, I believe, to throw cold water on republican optimism”.

And Cassidy concluded:

“It’s my reluctant view that in 100 years’ time Australia will still not be a republic. We’ve had our chance. We missed it”.

If Cassidy is right, and I hope he is, then my post-mortem is over and the republic is indeed dead: no pulse, no blood pressure, and with its brains in a jar on Kerry Jones’s desk.

## Endnotes:

1. Sir Paul Hasluck, 1969. Quoted in Mary Ryllis Clarke, *In Trust: The First Forty Years of the National Trust in Victoria, 1956-1996*, National Trust of Australia (Victoria), Melbourne, 1996, p. 28. Sir Paul Hasluck, then Governor-General, was speaking of historic buildings, but his observations could be said to be just as relevant to the Constitution.
2. Second Reading Speech, House of Representatives *Hansard*, 10 June, 1999, pp. 6656-6663.
3. Senate *Hansard*, 26 May, 1999, pp. 5931-2; and House of Representatives *Hansard*, 31 May, 1999, pp 5567-71.
4. Senate *Hansard*, 9 August, 1999, pp. 7033-40; and House of Representatives *Hansard*, 9

August, 1999, pp. 8061-8071.

5. Joint Select Committee on the Republic Referendum, *Advisory Report on Constitution Alteration (Establishment of Republic) Bill 1999 and Presidential Nominations Committee Bill 1999*, The Parliament of the Commonwealth of Australia, Canberra, August, 1999, p. vii.
6. House of Representatives *Hansard*, 9 August, 1999, p. 8159.
7. The documentation was based on material which was presented in a paper to the March, 1997 conference of The Samuel Griffith Society: see Sir David Smith, *The Role of the Governor-General*, in *Upholding the Australian Constitution*, Proceedings of The Samuel Griffith Society, Volume 8 (1997), pp. 167-187.
8. Michael Millett, *Republican change fails test run – Hybrid adopted by convention would have been snubbed by voters, poll finds*, in *The Sydney Morning Herald*, 16 February, 1998.
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10. Peter Walsh, *1975 revisited*, in *The Adelaide Review*, November, 1999.
11. Richard Miles, *Matters of the heart and the heart of the matter: The constitutional referendum in Australian politics*, in *Alternative Law Journal*, Vol. 25, No. 2, April, 2000, p. 57.
12. Tony Abbott, *Annoy the media - vote "No"*, in *The Adelaide Review*, November, 1999.
13. Tony Abbott, *Biased press blots its copy*, in *The Weekend Australian*, 13-14 November, 1999.
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16. Kerry Jones, *The People's Protest*, ACM Publishing, Sydney, 2000, pp. 184-5.
17. *A vote of confidence*, in *The Daily Telegraph* (Sydney), 8 November, 1999.
18. *Referendum reflects a split society*, in *The Australian*, 8 November, 1999.
19. *A failure of leadership*, in *The Sydney Morning Herald*, 8 November, 1999.
20. *The republic vision will endure*, in *The Age*, 8 November, 1999.
21. See, for example, Michelle Grattan, *Wiser heads will rule those broken hearts*, in *The Sydney Morning Herald*, 8 November, 1999; Mike Secombe, *Beazley: we will deliver a republic*, in *The Sydney Morning Herald*, 8 November, 1999; Louise Dodson, *The referendum is over, but long live the republic*, in *The Australian Financial Review*, 8 November, 1999; Paul Kelly, *New class divide rooted in distrust*, in *The Australian*, 8 November, 1999; Mike

- Steketee, *One Queen, two nations*, in *The Australian*, 8 November, 1999; Brendan Nicholson, *Beazley outlines plan for new vote*, in *The Age*, 8 November, 1999.
22. Christopher Pearson, *Plenty of red faces in this royal blue*, in *The Australian Financial Review*, 8 November, 1999.
  23. Tony Parkinson, *Australia after the referendum*, in *The Age*, 13 November, 1999.
  24. *Voting NO to the Baby Boomers*, in *Quadrant*, December, 1999, pp. 2-4.
  25. Mark Steyn, *Australia picks a people's Queen over a politicians' President*, in *National Post* (Canada), 11 November, 1999.
  26. *Republic: where will it go from here?*, in *News Weekly*, 20 November, 1999; also Louise Dodson, *'Election' campaign needed for republic*, in *The Australian Financial Review*, 12 November, 1999.
  27. Mike Steketee, *Beazley: Republic in ten years*, in *The Weekend Australian*, 7-8 October, 2000; also *Public has key role in Beazley plan for republic*, in *The Canberra Sunday Times*, 8 October, 2000.
  28. Steketee, *ibid.*
  29. Ron Brunton, *Insecure élites*, in *The Courier Mail*, 13 November, 1999.
  30. Matthew Moore, *A heavy blow to the cultural cringe*, in *The Sydney Morning Herald*, 31 October, 2000.
  31. Frank Cassidy, *Reigning on parade*, in *The Canberra Times*, 1 January, 2000.