

THE GREATEST SHOW ON EARTH

Mark McKenna

The 1998 Constitutional Convention.

Undeniably, this is currently the greatest political show on earth

The Hon Tim Fischer MP
Constitutional Convention, 5 February 1998

In Australia, history is made easily. In a country where any weather-board can lay claim to being a historic site, the sight of 152 delegates gathered in the national capital in February to attend a constitutional convention brought the word history to the fore.

On the stage set of 'old' Parliament House, completed in 1927, a theatrical event of 'historic' significance was played out before a national TV audience. On the floor of the Convention, delegates constantly reminded one another of the importance of the occasion. Some came for their 'moment in history,' some to 'create history' and some to stop 'history being made'. All seemed to be convinced that the making of 'history' was inevitable — 'no matter what we do here over the next two weeks,' said Kim Beazley on the opening day, 'we will create history'. For many delegates, sitting on green leather was history enough.

Reading the transcripts of the Convention, one could be forgiven for thinking that Australian history began in 1991 with the formation of the Australian Republican Movement. Addressing the Convention on 6 February, Mary Delahunty (ARM Victoria) asked delegates — 'What has been the genesis ... the story so far of the Australian push for a republic'? Her answer was mere self-congratulation — 'The historians have told the story but it is the ARM that has carried the labour of love for the last seven years to get this convention on, to fight for this convention when it looked a bit shaky'. The fact that the ARM had campaigned consistently against the Constitutional Convention from the moment it was first proposed under Alexander Downer's leadership in 1995, and lobbied successfully for its defeat when the Howard Government first placed it before the Senate in 1996, seemed to elude delegate Delahunty. Her labour of love was to rewrite history.

Although the word history appeared frequently throughout the Convention debates, historical awareness was largely absent. In a convention which focused on the issue of an Australian republic, little mention was made of Australia's rich republican history. When delegates did make historical references, they often left half of the history out. Australia's constitution was frequently referred to as the 'Westminster system'. The importance of American federalism in the making of the Constitution passed under, over, or through the heads of certain delegates. Unlike the federal conventions of the 1890s, few delegates referred to written works. The emphasis was on the 'numbers', the 'models' and the 'pong of Eucalyptus oil.' As for the true historical significance of the Convention, it is too early to tell — in terms of the push for a republic, much will depend on the result of the referendum to be held in late 1999. In other respects, the Convention reflected some interesting shifts in Australia's political culture.

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Ship of state or ship of dreams?

Keeping in mind that the Constitutional Convention was not the result of a people's initiative — fewer than half of enfranchised Australians having bothered to vote for candidates who stood for the 76 elected positions — and that the Convention was only tentatively embraced by the Howard Government before Senator Bob Brown's last minute change of heart in September 1997, it would be myopic to portray the Convention as a triumph of Australian democracy. But there were still positive aspects which emerged from the Convention.

To some extent, the Convention enjoyed a measure of success in spite of itself. The fact that the face of the unknown citizen could be seen mixing it with the political elite was one which proved refreshing. It didn't much matter that some of the speeches on the floor were less than edifying, it was more important that a mechanism and a public space other than Parliament had been found in which constitutional issues could be debated and moved forward. The media — especially the ABC — assisted this process by giving the Convention broad coverage. Instead of watching Oprah or Donahue, people could now turn to their daily political soap — a program with all the right ingredients. A simple plot, a pitched battle between the old guard and the new, and a cast which included the conniving, the comic, the innocent and the pathetic. This was one way of educating the people.

While the Americans watch court proceedings to pass the time, Australians may well find themselves subscribing to the Convention channel. The Convention's communique included a resolution encouraging the Federal Government to consider holding further Conventions on a range of issues. Convention theatre may become a regular feature of Australian democracy. Yet aside from the procedural importance of the Convention — a now established means of breaking a political impasse — perhaps the most significant feature of the convention was the language used by certain delegates to describe the Constitution. No longer content with a Constitution which is seen as a mere operation manual, Australians have begun to imagine the Constitution as an article of civic faith.

From the inception of the Australian Republican Movement in 1991 until the holding of the Constitutional Convention in 1998, the issue of a republic was primarily focused on the Head of State. At the Convention, this form of minimalism was finally augmented by the inclusion of a new Preamble in the republican platform. On the first day of the Convention, Malcolm Turnbull asserted — 'We believe that the Preamble should be amended. If it is to remain a statement of history, then it should pay appropriate regard and respect to Aboriginal history ... the Preamble should also affirm our commitment to those core political values which define our nation.' In the days that followed, this sentiment received almost unanimous support, while debate surrounding the Preamble attracted some of the most inspiring and unusual speeches of the Convention. For many delegates, the Preamble had become an essential and defining element of the future republic. Delegates in favour of writing a new Preamble employed language which, only a decade ago, would have been unthinkable in the context of the Australian Constitution. A list of words and phrases used by delegates as metaphors for the Preamble proves revealing:

- 'a new beginning'
- 'a euphonic useful and uniting statement of fact'

- 'a moral imperative'
- 'a moral charter'
- 'a mission statement'
- 'a vision statement'
- something to 'tell us who we are'
- something 'to believe in.'
- a document to 'reinvigorate the national narrative'
- 'the things we hold dear'
- 'a welcome mat'
- 'the lymph gland'.

This catalogue of sometimes clumsy poetic images also included words such as truth, meaning, origins, values, aspirations, hopes, ownership, inclusion, heritage, spirituality, desires, feelings, justice, equality, cohesion, settlement, stability and dreams. For the first time, Australians were imagining their constitution as a civic creed. Much was being asked of the Preamble. Some wanted a creation myth, some a myth of nationhood, others wanted a statement of historical truths or a democratic covenant — some kind of antidote to the breakdown of traditional systems of belief and traditional institutions. A pill to cure the post modern malaise. An alternative to 'crass materialism'. A mission statement for the greatest share-owning democracy in the world. A document in which the people would 'belong' and be united in their diversity through their belief in shared democratic principles. Unlike the flawed and grimy world of day-to-day partisan politics, many delegates hoped that the Constitution would be beyond cynicism and corruption. It should be something to revere — a tablet of stone to cherish. At times, it seemed as if the Convention was witnessing a profound change in the republic debate — a shift from mechanics to rationale, from pragmatics to poetry.

On occasions, this yearning for the vision thing got the better of some delegates — their sense of the poetic descending unintentionally to parody. Delegate Stott Despoja thought that the Preamble should instruct every citizen to 'cherish and love the great sky'. Delegate Holmes a Court wanted the aromatic cocktail of 'eucalyptus ... red dust and swimming in the Australian sea'. Some delegates relied on the language of the crystal set — syrup laden waffle best left in the New Age bookshop. Phrases such as 'developing way of life' and Preambles which began like bedtime stories ran the risk of giving too much ammunition to those who wanted to shoot the Preamble down as an adolescent 'wish list' or a 'time bomb' to be set off by the High Court. Despite the many calls for a more uplifting Preamble, the traditional Australian concern for practicalities was still in evidence. Delegate Ruxton reminded the Convention that the Preamble should fit onto an A4 sheet of paper. Brigadier Alf Garland wanted an even smaller piece of paper — insisting that the proposed Preamble be 'flushed down the toilet.'

God is a republican

One of the more remarkable aspects of the Convention was the contribution of God. Not only was there broad agreement that God's blessing be included in any new Preamble, God was claimed to be a supporter of the republican cause. On 6 February, Archbishop Hollingworth told the Convention that 'Change is in the air; there is an impatience for change. I embrace change, not for its own sake but because it is the right thing to do and, as a Christian, I would say because it is pleasing to God.' God had apparently e-mailed his approval. The republic was now a just and good cause. The God of

Lloyd Waddy and Kerry Jones had transferred the divinity of the monarch to the Australian Presidency. Delegate Sheil was not impressed — ‘under a republic,’ he said, there would be more ‘disrespect to God ... the Queen is a lot closer to God than any republic is ever going to be’.

Unwittingly, Hollingworth and Sheil had made the perfect case for God’s omission from the Constitution. To ensure that no-one be afforded the opportunity of claiming God is on their side, the only sensible option is to give to Caesar what is Caesar’s and to God what is God’s. After all, the inclusion of God’s blessing in the Constitution of 1901 did little to protect the culture of indigenous Australians, rather, it often sanctioned its destruction.

But not one delegate could make this connection. Instead, like the Crown 100 years earlier, God provided a unifying bond. Abstract enough to be multicultural and diverse enough to be non-denominational, God was an uplifting and visionary symbol. Delegates seemed to agree that the acknowledgment of a higher power in the Constitution lent the document gravitas, humility and some sense of spirituality. Including God was one means of re-imagining the Constitution as more than a legal document.

Future prospects

Looking back, the Constitutional Convention was full of irony. A Liberal Prime Minister who had been one of the most vocal defenders of the old regime during his political career, was now seen to be facilitating a resolution to the republic debate. Paul Keating, the person largely responsible for making the minimalist republic a major political issue, was strangely absent from the proceedings. Even republicans disowned him. The ARM, an organisation bent on employing the power of celebrity to garner support for its cause, warned of the dangers of a popularity contest if the President were to be elected by the people. Conservatives enamoured of Richard McGarvie’s council of elders model, one eerily reminiscent of William Wentworth’s bunyip aristocracy in 1853, were strangely suspicious of another council of elders — the High Court. Yet for all this irony, some things were clear. The old guard was giving way. The Convention gave overwhelming, in principle support to an Australian republic. It demanded constitutional recognition of Aboriginal and Torres Strait Islanders as Australia’s indigenous peoples. It

insisted on a new republican Preamble. These achievements should always be balanced against its failures.

The prospects of the referendum bill being approved in late 1999 are strong — especially if some of the obvious deficiencies in the bipartisan appointment model are corrected. The dismissal mechanism is flawed. The Prime Minister must apparently seek the sanction of the lower house after he sacks the President. Although the Senate is included in the appointment of the President, it is inexplicably excluded from the processes of removal. Furthermore, the lower house is unlikely to overturn the Prime Minister’s decision when to do so would mean a federal election. We would be left without a President, who would not be reinstated, and a Prime Minister who had lost the confidence of the House. Why not have the President removed by a single majority of each house or a majority of a joint sitting? This would be more consistent with the method of appointment.

The second hurdle to overcome will be the main argument of those who will oppose the bill — the Convention was simply a mechanism to allow the political elite to deny the people a real choice. The model is not the people’s model it is the politician’s model. The only way of countering this argument is to point out the hypocrisy of monarchists — given that the model they fear most of all is popular election. Second, it is necessary to expose the shallow populism of those who advocate popular election — many of whom seem to be ignorant of the best arguments for their cause. A popularly elected President is not the simple fix all, people power solution. There are many ways of democratising the Constitution such as enshrining the right to vote and ensuring that all votes are of equal value. These will do more for the ‘people’ than a TV poll for President and they are entirely compatible with the bi-partisan appointment model.

Last of all, there is one coming event which will surely toll the bell for the death of Australia’s monarchic Constitution — the ubiquitous new millennium. This furphy should be milked for all it is worth. The Sydney Olympics, the magic 2000, the centenary of Federation. Take your pick, the closer we come to the referendum date the more millenarian passions will hold sway. I look forward to the declaration of the Australian Republic on 1 January 2001 — a new millennium needs a new nation!

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