

# The Palace Letters



Ancient history?  
Or lessons for our future republic?

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Chair  
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The recently released and much anticipated "Palace Letters" make for interesting reading and, as expected, have prompted much debate and speculation while settling few of the arguments that have raged since 11 November 1975.

There is considerable and legitimate historical interest in the letters and what they may or may not reveal of the late Sir John Kerr's motives and thinking at the time.

To younger Australians the letters and the players then on the national stage who feature in them must all seem like ancient history.

The one surviving significant actor (or at least one who remained in the wings) is, of course, our current head of state, Queen Elizabeth II.

A clearly intriguing aspect of the letters is the fact that the

Queen's representative, the Governor-General, was very openly canvassing the option of sacking Gough Whitlam with our head of state, but not formally with the PM himself.

Sir John was engaged in much communication and was receiving much advice from the most senior courtiers far away in Buckingham Palace without the knowledge of the person meant to advise him, the Australian Prime Minister.

But the Palace Letters revealed no devastating or spectacularly unpredictable information.

That is not to discount their value and contribution to our nation's historical record. But much of what they revealed had been speculated upon in the period up to their release.

The quest for an Australian republic has never rested on the discovery of some "gotcha" information in the Palace Letters, but rather with what is best for our own nation.

It is our decision to make.

*"The quest for an Australian republic has never rested on the discovery of some 'gotcha' information in the Palace Letters."*

The Queen and members of her own family know and have acknowledged that in the past.

The quest for an Australian republic will also never depend on denigrating Queen Elizabeth or members of her family.

By definition, as members of a hereditary monarchy they have little say in the roles life has handed them.

So there is little point in attacking them. Those we need to convince are the current gatekeepers of Constitutional reform — mainly the Prime Minister.

At a bare minimum the Palace Letters point to the need for republic by reminding us that our head of state is a monarch sitting on a hereditary throne in a foreign land.

The royal family adds value to the UK. What we need is a system of government that adds value to Australia.

Having our own directly elected head of state who can represent a truly independent Australia at home and on the world stage — and who has an allegiance to our nation alone — would deliver that much-needed value.

Once again in the wake of the release of the Palace Letters" the view that any move to a republic needs to wait for the Queen's reign to be over.

In other words, we must wait for the Queen to die.

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## The debate is about us not the royal family

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But that argument has never been valid and has been used largely by those who seek excuses for inaction, notably Malcolm Turnbull who as Prime Minister failed to show any sign of the dedication he had to the republican cause decades earlier.

The falsity of the argument is proved by the fact he saw no problem pushing for a republic 20 years ago with the Queen on the throne.

Admittedly at that time he pushed the wrong model for a republic, favouring “the politicians” republic”.

Yet when he occupied the Office of Prime Minister and became the one person who could initiate a republic referendum and wider Constitutional reform, he claimed we should all wait for a new monarch to take the British throne.

As the Real Republic Australia keeps insisting, the debate is not about the Queen or the royal family. It is about Australia’s future and it is for Australians to decide.

Unfortunately, media coverage continues to frame the republic debate in the context of “us versus the royals”.

All of us who support a republic, and especially one with a directly elected head of state, need to ensure we focus on the real debate and that we press our case with those decision-makers who can make a difference.

They include our elected representatives in Federal Parliament who need to show leadership and begin putting the republic back on the political agenda.

That is the way we can begin to seriously discuss a republic and choose a preferred model while also examining other Constitutional reforms to benefit Australians.

# Letters spark discussion of republic model

A leading academic says the “Palace Letters” help illustrate the shortcomings of the model for a republic put to voters and defeated at the November 1999 referendum.

Writing for *The Conversation* website, Dr Michael Duffy, senior lecturer and researcher at Monash University’s Business School in Melbourne, said: “Aside from the symbolism of having a foreign head of state.... there is also the practical question of whether the legal status and system of appointment (and removal) of the Australian governor-general is the best we can do.

“This challenge is highlighted by the palace letters.

“They illustrate quite clearly that in extreme situations, such as when Prime Minister Gough Whitlam was dismissed by the Governor-General Sir John Kerr in 1975, this arrangement can invite what has been referred to as a game of “constitutional chicken”.

“This occurs when a governor-general is in fear of being



dismissed by the queen (on the advice of the Australian prime minister), while the prime minister can simultaneously be in fear of being dismissed by the governor-general.

“This situation gives each an incentive to act first to dismiss the other.

“The republican model put to voters in a referendum in 1999 didn’t really fix that problem, as it still gave the prime minister the direct power to remove the head of state.”

Dr Duffy said for a future republic



referendum to succeed “there must be a model that somehow unites the republican cause by allowing for a popular election but retaining a ceremonial, non-executive head of state”.

“This head of state, apart from reserve powers, essentially defers to the parliament and prime minister,” he said.

Read Michael Duffy’s full article at [The Conversation](#)

## Midnight Oil fuels recognition debate

Australian rock band **Midnight Oil** is releasing its first new album in 17 years with some of the proceeds from sales going to support efforts to enshrine Constitutional recognition of first Australians.

The band’s new mini-LP, the *Makarrata Project*, is due for release in October. One of its tracks, *Gadigal Land*, contains politically charged lyrics calling on the federal government to back the 2017 [Uluru Statement from the Heart](#).

The band, fronted by former Labor Party federal cabinet minister Peter Garrett, said it would donate its share of proceeds from the release to groups working to elevate the Statement From The Heart and the broader issue of indigenous reconciliation and recognition.

Sony Music Entertainment Australia will match the band’s contribution.



Midnight Oil ... politically charged

In a statement Midnight Oil said: “We urge the federal government to heed the messages in the Uluru Statement From The Heart and act accordingly. Hopefully this song and the *Makarrata Project* mini-album we’ve created alongside our First Nations friends can help shine a bit more light on the urgent need for genuine reconciliation in this country and in many other places too.”



# Poll shows strong support for change

An opinion poll published in August shows a majority of Australians continue to support a move to a republic.

The YouGov poll of more than 4,500 people across Australia showed a clear majority of respondents believed an Australian should be our head of state, not the British monarch.

The poll posed the question: "Australia's head of state is Queen Elizabeth II, who is resident in the United Kingdom, and represented in Australia by a Governor General — do you think Australia should have an Australian as our head of state?"

The results were:

- 52% YES
- 32% NO
- 16% DON'T KNOW.

When the question was asked without a "don't know" option the results were:

- 62% YES
- 38% NO.

The breakdown of the YES vote by states was:

- SA 67%
- Tasmanian 65%
- WA/Victoria 64%
- NSW 61%
- Queensland 59%

The YouGov poll results were predictably dismissed by the Australian Monarchist League.

"A warped poll is going to create a warped response," the AML said in a [statement](#). "We find

that the emphasis in the question is misleading and would corrupt any response."



## History proves direct election is the key



The latest YouGov polling reflects the historically strong support among Australians for a republic as well as a preference for a directly elected head of state.

Previous Newspolls for *The Australian* newspaper (blue table at right) for the period before and after the 1998 Constitutional Convention and the unsuccessful 1999 referendum show more respondents expressing a pro-republic view than those against, albeit with double-digit figures for those "uncommitted".

The Newspoll figures drawn from a November 2002 poll also show (green table) that a republic with a directly elected head of state was clearly favoured over a model involving parliamentary appointment.

The bottom (orange) table shows that when those who were uncommitted or opposed to a republic were hypothetically faced with the inevitability of change, they overwhelmingly opted for a direct election model.

The tables below are drawn from a [November 2002 Newspoll](#) for *The Australian* newspaper based on 1,200 interviews.



NOW THINKING ABOUT WHETHER AUSTRALIA SHOULD BECOME A REPUBLIC, ARE YOU PERSONALLY IN FAVOUR OR AGAINST AUSTRALIA BECOMING A REPUBLIC? IF IN FAVOUR - IS THAT STRONGLY IN FAVOUR OR PARTLY IN FAVOUR? IF AGAINST - IS THAT STRONGLY AGAINST OR PARTLY AGAINST?															
	TOTAL ADULTS														
	MAR 1995	JUN 1995	FEB 1997	JUN 1997	SEPT 1997	NOV 1997	DEC 1997	JAN 1999	FEB 1999	MAR 1999	JULY 1999	AUG 1999	MAR-APR 2000	JULY 2001	NOV 2002
STRONGLY IN FAVOUR	28	28	27	27	33	31	32	29	30	33	29	30	33	39	33
PARTLY IN FAVOUR	19	22	20	22	21	21	19	19	21	16	17	21	19	13	18
TOTAL IN FAVOUR	47	50	47	49	54	52	51	48	51	49	46	51	52	52	51
PARTLY AGAINST	15	15	12	14	15	15	15	13	11	15	14	15	15	12	13
STRONGLY AGAINST	19	20	16	16	15	18	20	20	20	23	19	21	20	23	22
TOTAL AGAINST	34	35	28	30	30	33	35	35	33	34	34	35	35	35	35
UNCOMMITTED	19	15	25	21	16	15	14	17	16	17	20	14	13	13	14

NOW I'D LIKE YOU TO CONSIDER THREE BROAD POSSIBILITIES FOR AUSTRALIA IN REGARDS TO A REPUBLIC. ONE POSSIBILITY IS TO CHANGE TO A REPUBLIC WITH A PRESIDENT WHO IS ELECTED BY THE PEOPLE. A SECOND POSSIBILITY IS TO CHANGE TO A REPUBLIC WITH A PRESIDENT WHO IS APPOINTED BY PARLIAMENT. AND A THIRD POSSIBILITY IS TO NOT CHANGE ANYTHING, KEEPING THE QUEEN AND THE GOVERNOR GENERAL IN THEIR CURRENT ROLES. WHICH ONE OF THESE THREE POSSIBILITIES WOULD YOU YOURSELF MOST PREFER?										
	NOVEMBER 2002									
	SEPT 1999	OCT 1999	TOTAL ADULTS			AGE			COALITION SUPPORTERS	LABOR SUPPORTERS
	TOTAL VOTERS	TOTAL VOTERS	TOTAL ADULTS	SEX MALE	SEX FEMALE	18-34	35-49	50+	TOTAL ADULTS	%
CHANGE TO A REPUBLIC WITH A PRESIDENT DIRECTLY ELECTED BY THE PEOPLE	50	46	46	51	42	53	46	40	34	58
CHANGE TO A REPUBLIC WITH A PRESIDENT APPOINTED BY PARLIAMENT	14	15	12	15	8	9	14	12	12	12
NOT CHANGE ANYTHING KEEPING THE QUEEN AND THE GOVERNOR GENERAL IN THEIR CURRENT ROLES	32	36	40	33	48	37	38	45	52	29
UNCOMMITTED	4	3	2	1	2	1	2	3	2	1

Preferences for a republic if Australia decided to become a republic	
	TOTAL ADULTS %
PRESIDENT DIRECTLY ELECTED BY THE PEOPLE	79
PRESIDENT APPOINTED BY PARLIAMENT	18
UNCOMMITTED	3

(Question asked of those choosing to not change anything or uncommitted - AND IF AUSTRALIANS DECIDED THAT AUSTRALIA SHOULD BECOME A REPUBLIC, WOULD YOU PREFER TO CHANGE TO A REPUBLIC WITH A PRESIDENT DIRECTLY ELECTED BY THE PEOPLE OR, A PRESIDENT APPOINTED BY PARLIAMENT?)

# Online forum canvasses selection

**An ARM online forum in July provoked robust debate on how to choose a head of state.**

During the discussion, I outlined how a direct election is the most democratic model for a republic – and the only model that I believe will be accepted and supported by Australians.

This differs to a hybrid or minimalist model in that the selection panel would not be made up by serving members of parliament – that leads to a politician’s republic.

Overall there was support for a direct election model, with an acknowledgement that a unified approach to a future referendum – with an agreed model upfront – is essential to a successful campaign.

There are six key take-outs from my presentation.

## **1. The path to achieving reform is as critical as the model**

This requires a measured and informative process, working in partnership with Australians well before any referendum.

Going straight to a referendum with model options is risky, so first, we need a plebiscite that asks not one but two important questions.

The first: Should Australia to become a republic? The second: What is Australians’ preferred model – be that minimalist, direct election or a hybrid?

The people should have their say.

Asking only the first question risks seeing a republic killed off then and there by a scare campaign along the lines of the old argument “don’t sign a blank cheque”.

Ahead of a two-question plebiscite there must be an education campaign that provides insight into the strengths and potential pitfalls of each model.

## **2. Ireland provides a successful example**

Ireland provides inspiration and a template as a starting point for a directly elected head of state.

There a Westminster-style government works comfortably with a directly elected president with codified powers.

There is no fear of, or existence of

**The Queensland arm of the Australian Republic Movement recently held an online “Town Hall” meeting to discuss how to select a head of state in an Australian republic. The Real Republic Australia’s MIKAEL COSTELLO, took part and outlined her ideas of how a direct election model might work.**



an alternative or competing source of power with the Prime Minister. If anything the Irish President represents an alternative source of influence by being able to focus on issues and ideas at home and on the world stage, not party politics or policies.

An Australian republic could have a similar directly elected head of state with broadly the same role and powers as the current Governor General, but codified.

**“Ireland provides inspiration and a template as a starting point for a directly elected head of state. There a Westminster-style government works comfortably with a directly elected president with codified powers.”**

In terms of the selection process we need to overcome the perceived risk of a popularity contest — one where a person is elected based on their Instagram following or success on the Voice. The Kanye Wests of Australia.

## **3. A model that supports the people’s choice, while ensuring our head of state is fit for duty is absolutely achievable.**

An open call for nominations should be complemented by appropriate checks and balances:

- robust selection criteria that weeds out anyone without the required skills and relevant experience, but also precludes recent serving politicians from eligibility,

- five-year terms that overlap incoming / outgoing governments
- an apolitical, borderless selection committee with any Australian able to nominate another.

Through this, an open call for nominations will be converted into a well-vetted shortlist that is presented back to the Australian people for voting.

A true people’s choice.



## **4. A selection committee to present a shortlist of eligible candidates**

This selection committee could comprise all state Governors and the Administrator of the NT, and a representative of the ACT.

They would be supported by a secretariat that could filter nominations and assess them against set criteria.

Eligibility criteria could include the need to possess a working knowledge of our Constitution and of our federated system of government.

This and other criteria would rule out potential nominees trading on their “celebrity” alone.

**Other panellists speaking at the online ARM forum included Benjamin Jones who outlined a hybrid model for the appointment of a head of state and Jennifer Menzies who favoured a model of appointment by Federal Parliament.**

Other criteria could include a prohibition on nomination by former politicians entirely or for a set period post-politics; and perhaps a track record of service in the voluntary, charity, or NGO sectors.

## **5. No lavish election campaigns**

Spending on any election campaigns should be capped, and supported with public funding to ensure an equitable approach, free from lavish advertising campaigns.

This could include an explicit prohibition or strict limit on donations and the provision of a central publicly funded website or social media channels for candidates to promote themselves and their ideas.

With codified powers, a robust selection process, publicly funded campaigns with strict rules and the genuine voice of the Australian people, a direct election will deliver the real reform our great country is seeking through becoming a republic.

## **6. A politician’s republic has already been rejected**

A minimalist approach, or a hybrid for that matter, will bring change – yes, absolutely – but real reform will never be achieved when a head of state is selected by the small handful of Australians that is our country’s political leaders — state or federal. That model was rejected at the referendum held in 1999.

The ARM forum produced robust discussion and was a worthwhile addition to the ongoing republic debate.

The proposals I outlined are just some of the ideas the Real Republic Australia seeks to have discussed more widely.

The more we all talk about a republic as part of a wider program of Constitutional reform the more Australians will come to realise its value and benefits.



# Remembering a great Australian

August marked the centenary of the death of one of the key thinkers behind the Australian Constitution. **ANDREW FRASER** looks at the contribution of Sir Samuel Griffith.

**What if our “border wars” were real? What if the unseeable lines of our continent were in fact national borders, at which citizenship not residency determined our movements?**

Instead of state-based police forces peaceably overseeing the regulated movement of Australians in the name of public health, imagine the armed forces of separate nations preventing movement at the Tweed, or Albury, or Bordertown.

Imagine this had been the case for more than 100 years.

This dystopic alternative reality is not inconceivable. If nothing else, 2020 has taught us that many accepted, fundamental truths are far more brittle than we might have considered.

This year is also significant as it marks the centenary of the death of a man who arguably did more than anyone to deliver us the security of a continent to ourselves, and the ability to live freely within it.

August 9 marked the centenary of the death of Sir Samuel Griffith. If we had a Mount Rushmore, his face would be on it.

Instead Brisbane has Sir Samuel Griffith Drive encircling Mount Coot-tha, near the Toowong cemetery in which Griffith is buried, in a grave of no distinction.

But without Griffith, there is no Australia. And Australians should know more about this man.

Our peaceable formation as a nation of federated states on 1 January 1901 is under-appreciated. It is a giant story that remains relatively unknown, and largely not well told.

If the actions of Griffith, and others, had failed we could easily be a continent of more than one nation.

Nations don't get many chances like the one our colonial forebears converted into our Commonwealth.

Griffith is the author of our nation's Constitution, author of the law that created the High Court of Australia,

then later its first Chief Justice and much, much more.

It was Griffith who held the pen as our Constitution was drafted in 1891. In his papers are handwritten annotations to this draft which was amended only slightly at the subsequent Federal Conventions before coming into force and creating the Commonwealth of Australia as the calendar clicked over to 1901.

Griffith brokered the foundations of the Australian constitutional compact upon the Hawkesbury River aboard the Queensland Government yacht *Lucinda*.

It also had on board Edmund Barton, as well as Andrew Inglis Clark, and John Kingston.

Griffith was not the stenographer, but a negotiator, broker, draftsman and advocate. To pull together the interests of the smaller states and larger states has been an enduring challenge for all Australian leaders.

Griffith's giant capability gave future Australian Prime Ministers the chance to face that challenge.

***“If the actions of Griffith, and others, had failed we could easily be a continent of more than one nation.”***

Without him, there are no Australian Prime Ministers.

Griffith was a substantial public figure before his role as one of the “Fathers of Federation”.

Twice a Premier of Queensland, he was then Queensland Chief Justice prior to his call-up to the same role in the new nation in 1903.

He was a barrister who became Attorney-General, and author of the criminal code which remains in force today in Queensland, and in Western Australia and was adopted in other Commonwealth jurisdictions.



There may be argument as to the respective contributions of Henry Parkes, Alfred Deakin, Barton and Griffith when it comes to our federating.

There may be conjecture about the draftsmanship

of the Constitution as between Griffith and Inglis Clark.

There will be various views as to who is our greatest jurist.

But there can be no doubt that Griffith was a towering figure in our history. Yet so little is known of him. So little is he recognised.

As far as I am aware the author of our founding statute does not have a statue anywhere in Australia.

He has a suburb of Canberra, and a Brisbane federal electorate named after him, and of course, Griffith University.

Sir Samuel Griffith was a great Australian, perhaps one of the greatest.

He brokered a path that paved the way for South Australia, Western Australia and Tasmania to agree with Victoria and New South Wales upon a federation of the colonies.

That gifted us a continent to ourselves, rich and abundant.

It gifted us a peaceful formation, and a security that we should not take for granted.

At the very least, we should remember him and perhaps resolve anew how we might better honour his contribution.

He was a man of letters and translated Dante from the original Italian as a hobby. He believed in education and introduced the first Queensland laws to provide for free, secular, compulsory, public education. He advocated for the building of universities in colonial Australia.

He was a fierce intellect, with a fierce worth ethic. He was reported to have worked late into the night, stopping only when the whisky bottle was dry.

Griffith is hard to categorise through modern labels, or judge by today's sensibilities.

He was damned by landholders for his abolitionist stance on labour drawn from the Pacific,

then heralded by them when he reversed his view in government.

He spoke in favour of the then emerging labour movement, introducing laws recognising unions, but then deployed armed forces to break the shearer's strike of 1891. Perhaps this means he was like any other politician through the ages, and not much has changed.

Or maybe these contradictions recognise that views can evolve, priorities can change, and leaders must be responsive as well as resolute.



**Andrew Fraser is a former Deputy Premier of Queensland and a member of the Council of Griffith University.**

# Republics have a mixed reputation



The My Republic section is a forum for supporters to outline their ideas for Constitutional reform, how an Australian republic might be achieved, and how it might work. In this edition, former Queensland state MP and Cabinet minister, **BERYCE NELSON**, explains why she backs a republic but not necessarily with a directly elected head of state.



In doing some *vox populi* and other research for this article I soon discovered that many Australians have little knowledge or understanding of how our country is governed and have confused perceptions about the idea of becoming a republic.

So, what is Australia actually and what is a republic? What is Australia and how is it governed?

Australia is a federation, a constitutional monarchy, and a parliamentary democracy.

This means that Australia:

- has a Queen, who resides in the United Kingdom and is represented in Australia by a Governor-General
- is governed by a ministry headed by the Prime Minister
- has a two-chamber Commonwealth Parliament to make laws
- has a federal government, led by the Prime Minister, which must have a majority of seats in the House of Representatives, and
- has six state and two territory parliaments.

This model of government is often referred to as the Westminster System, because it derives from the United Kingdom parliament at Westminster.



So, when the current pandemic is resolved, Australia needs to hold a referendum and decide how we are to be governed in the future.

A republic is a form of government in which the country is considered a "public matter", not the private concern or property of the rulers.

The primary positions of power within a republic are attained, through democracy, or a mix thereof, rather than being unalterably occupied.

It has become the opposing form of government to a monarchy and has no monarch as head of state.

A "democratic" republic is a form of government operating on principles adopted from a republic and a democracy. Rather than being a cross between two entirely separate systems, democratic republics may function on principles shared by both republics and democracies.

It usually has an elected president as head of state and a parliamentary system which is also elected by the people.

Across the world today, the powers of a president can vary widely and whilst there are many successful democratic republics there are a number of high-profile nations that have brought the term "republic" into disrepute in more recent times. This has made it more difficult for Australians to understand why we need to change from a constitutional monarchy to a republic.

Australia's current system of government is simply a legacy of our colonial past and did not recognise the rights of the country's indigenous people in the Constitution when the country became a federation in 1901.

It is also a constant reminder that we were established by Britain in 1788 as a penal colony as a means of hiding away the failures of their own justice system.

It is time for change for the better.

My preference is for an elected parliament with a Prime Minister, supported by a Governor General appointed by a judicial Constitutional Committee which has the support of the two houses of the Parliament.

That committee would develop and monitor the powers of the Governor General and those powers would also have the support of the two houses of Parliament.

The State Governments SHOULD also maintain a similar role for their Governors.

In my view, this system would lessen the risk of any authoritarian or dictatorial behaviour by a future Government.

## FURTHER READING

### Links to items of interest

#### On automatic pilot

The Australian Capital Territory works without a governor, head of state or administrator. Why can't our federal government do the same? Crispin Hull, former editor of the *Canberra Times*, floats a proposal for redrafting our Constitution to make the whole system "self-exercising".

[Newspost](#)

#### Virtually possible

During the COVID-19 lockdown our Federal Parliament has scaled back its sittings, with some observers promoting the idea of "virtual" sittings while others say the Constitution forbids such online or remote sittings. Constitutional expert, Professor Anne Twomey, believes the argument for virtual sittings is strong.

[The Conversation](#)

#### It's my right! Right?

Border closures and other responses to the COVID-19 pandemic are alleged by some to infringe their human rights under the Constitution and other statutes, treaties, and charters. Morry Bailes, senior business advisor to Tindall Gask Bentley Lawyers and past president of the Law Council of Australia, looks at the validity of some of the wilder claims.

[InDaily](#)

#### A Bill of Needs?

Our Constitution should be the founding document of good government. Which is why Dr Robert Wood, chair of [PEN Perth](#), thinks we must consider enshrining in it a Bill of Needs, not a Bill of Rights.

[Independent Australia](#)

## About the Real Republic Australia



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*Constitutional Conversation* is published quarterly by the Real Republic Australia.

It aims to foster public debate about potential reforms to the Australian Constitution such as a republic with a head of state elected directly by Australians.



The Real Republic

to the 1998 Constitutional Convention in Canberra who

The Real Republic Australia was formed by former Brisbane Lord Mayor, the late [Clem Jones](#) (pictured) and other delegates

advocated for the direct-election republic model.

In line with his wishes the Real Republic continues to campaign for a republic based on the direct-election model with support provided by the Clem Jones Group.



The Real Republic also supports a range of other changes to the Constitution to make government more efficient and to deliver real reforms to benefit Australians.