ENABLING THE REPUBLIC: LOOSE ENDS AND CONSTITUTIONAL METHOD – A COMMENT

John Williams*

> 'Out of the fullness of the heart of republicanism came the proposal to subvert the authority and dignity of the Crown, to cut the last link of connection with the Crown, and to establish the republic of Australia. That is what we are coming to, and it is the inevitable destiny of the people of this great country. When England sent her pioneers to subdue the wilds of Australia, to civilise them and to make "the desert rejoice and blossom as the rose" – when she planted her colonies in this country she planted them with that germ and spirit of independence which must, as time rolls on, develop into the establishment of a great republic.'[1]
>
> George Dibbs, Federal Convention, Sydney 1891.

The image of tidying up the loose ends, as Peter Johnston notes, appears to be something like 'trimming the edges and smoothing the wrinkles'.[2] Yet, these rough edges have proven to be some of the more challenging aspects of the republican debate. Explaining the machinery for constitutional change to a republic at the Commonwealth level was one thing. However, confusing that message with the spectre of further constitutional change at the State level became almost an impossible task to explain to a reluctant public. Add to this the variable Congo-line of constitutional 'ambassadors', experts and commentators that both sides deployed in the run up of the November 1999 referendum and there appeared to be a problem big with confusion. As one weary citizen put it to me after yet another republican debate: 'Three constitutional lawyers – five opinions'.

So what are the loose ends that we should be considering in a future run

---

* Senior Lecturer, Law School, The University of Adelaide. I would like to thank Dr Greg Taylor for his monarchical input into an early draft.

1 *Official Record of the Debates of the Australasian Federal Convention.* Vol 1, Sydney: Legal Books, 1986, 186.

2 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 189.

at the monarchical barricades and what are some of the lessons to be learnt from the latest experience? Johnston categorises the various issues related to a move to a republic into the 'consequential'[3] (which may be merely optional or desirable or both) and those which will be necessary. In the former camp he notes changes to the Preamble and in the latter, arguably changes to Covering Clauses 5 and 6.

CONSTITUTIONAL AESTHETICS

Underlying the categories that Johnston establishes, and I think the paper as a whole, is a perceived larger constitutional aesthetic. As Johnston notes 'tidying up'[4] could mean cleaning up to produce a 'more elegant, intelligible and symmetrical Constitution'[5] or even more radical surgery to produce a 'conceptually coherent and cohesive document'.[6] I think that there is clearly a tension between doing what is necessary to produce a republic, and what we might think is desirable in the larger scheme of constitutional renewal. The call for a more elegant constitution conjures up visions of the poignant prose of the framers of the United States Constitution with its contentions that the Union would:

> '… establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and sure the Blessing of Liberty and our Prosperity.'[7]

Australians, however, have been less poetic in their constitutional drafting. Indeed, Parkes dismissed Andrew Inglis Clark's draft Constitution as being too 'literary'.[8] As he stated:

> 'I am really much obliged by your courtesy in sending me your draft Constitution Bill. I fear I cannot find time to look at it just now, and I must confess I have some dread of literary Constitutions.'[9]

Parkes could not have been accused of actually reading the document he was sent, or the drafts that built upon it. The Australian Constitution, as was to be expected, reflects the language of a parliamentary enactment and is limited in its rhetorical inclinations.

---

3 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 189.

4 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 189.

5 Johnston, P 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 189.

6 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 189.

7 The United States of America Constitution 1788 preamble.

8 Parkes, H. Sir Henry Parkes to Andrew Inglis Clark, 18 February 1891. IN Mitchell Library. *Parkes Papers*. A899, Vol 29, 143.

9 Parkes, H. Sir Henry Parkes to Andrew Inglis Clark, 18 February 1891. IN Mitchell Library. *Parkes Papers*. A899, Vol 29, 143.

The theme of an asymmetrical Constitution is evident in the first part of the Johnston paper. In dealing with the lot of the States in the Commonwealth, Johnston reminds us that *if* consistency is the driving force – that is, harmonising the republican Commonwealth with the republican States – then there remains larger constitutional issues to be traversed. In this part of the paper the general question is raised regarding what is the current relationship between the Commonwealth and the States. Are the States forever moored to their colonial past and maintaining a historical relevance? Or did Federation cut the painter subsuming them into the larger polity?

In attempting to answer this general question Johnston bemoans the fact that the High Court has rejected harmonising arguments regarding the place of s106 in the *McGinty*[10] decision. This blocked the 'conduit pipe linking the *Commonwealth Constitution* and the individual State constitutions into one corpus'.[11] The result in *McGinty*[12] is made all the more unpalatable given the embrace of the integrity argument in *Kable*[13] in terms of exercise of federal judicial power by courts of the States.

There would appear to be two arguments running here, both of which may be said to be unrelated to the position of the States in the coming Republic. The first argument is the fact that the Constitution contains much 'dead wood'[14] or redundant sections. If these sections were to be further defined then the first would be those sections, such as:

- Sections 69, 84 and 85 which deal with the transfer of functions and functionaries to the Commonwealth from the States; and
- Sections 88 and 95 dealing with various financial arrangements.

These sections are now spent and of no constitutional operation beyond the historical references that they contain. Another category is those sections, such as:

- Section 25 dealing with race qualification for voting; and
- Sections 59 and 60 that provide for disallowance and reservation of laws and proposed laws of the Commonwealth Parliament.

These sections are now repugnant to modern sentiments and should be dispensed with. A final category is those sections which the High Court has:

---

10 *McGinty v Western Australia* (1996) 186 CLR 140.

11 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 193.

12 *McGinty v Western Australia* (1996) 186 CLR 140.

13 *Kable v Director of Public Prosecutions (NSW)* (1996) 189 CLR 51.

14 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 191.

15 *Commonwealth Constitution* s41; *R v Pearson; Ex parte Sipka* (1983) 152 CLR 254.

- Interpreted to be of limited value, such as the 'guarantee' of the vote[15]; or has
- Stripped of its effective operation such as the Inter-State Commission.[16]

Like the previous categories, any clean out of the Constitution may wish to remove or make operative these sections.

Changes such as these are presumable within the aesthetic argument hinted at by Johnston. While it is true our Constitution is not endowed with rhetorical flourish and that many of its sections are now spent: are these issues to concern republicans? It is true that the literal text of the Constitution is the least useful aid in educating the public as to the operation of our democracy and thus a clean out may speak to some larger republican principle of transparency. Yet a clean out or update would appear to be a separate task to the republicanisation of the Head of State. Indeed, it may in fact crowd out the simple republican message by arming its foes with means for diversion and obscuration.

The second limb of the argument presented by Johnston appears to be that the political evolution has seen the States and the Commonwealth approach the 'Omega point' (that is, 'as a natural consequence of creation, all entities progress towards convergence and a merging of elements'[17]). It is argued that the chief proponent of the 'Omega point' thesis was Justice Deane in decisions such as *Leeth*[18] and *Street*,[19] where arguments based on national unity or equality are advanced to inform the text of the Constitution. This is notwithstanding textual arguments to the contrary.[20]

If the point of the argument is that the States and Commonwealth have proceeded towards an 'Omega point' at different rates (or indeed retreated from it) then it is possible to find many such examples. Perhaps the best is in the area of fiscal federalism. As Deakin famously noted the States may have left 'legally free, but financially [they are] bound to the chariot wheels of the central Government'[21] from 1901. Yet even Deakin would have found it hard to appreciate the degree of

---

16 *Commonwealth Constitution* s101; *NSW v Commonwealth (Wheat Case)* (1915) 20 CLR 54.

17 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 194.

18 *Leeth v Commonwealth* (1992) 174 CLR 455 at 486-491.

19 *Street v Queensland Bar Association* (1989) 158 CLR 461 at 527-529.

20 *Kruger v Commonwealth* (1997) 190 CLR 1 at 63-68 per Dawson J, 153-154 per Gummow J.

21 Deakin, A. and La Nauze, J.A. (ed) *Federated Australia: Selections from Letters to the Morning Post 1900-1910*. Carlton: Melbourne University Press, 1968, 97.

22 *Ha v NSW* (1997) 189 CLR 465.

23 *South Australia v Commonwealth (the First Uniform Taxation Case)* (1942) 65 CLR 373 and *Victoria v Commonwealth (the Second Uniform Tax Case)* (1957) 99 CLR 575.

that dependence. The ever-restricting interpretation of s90[22] and the *Uniform Taxation* decisions[23] has meant that the capacity of the States to maintain their presence in the larger Commonwealth has been diminishing.

Johnston notes, that the Australian Constitution is an evolutionary document.[24] So too is Australian federalism. The problem that is identified is along the path to some kind of 'Omega point'; that there are bolters and plodders should come as no surprise. That we have in some areas intergovernmental co-operation (such as the recent corporations power referral[25]) and in other areas threatened interstate litigation (such as the Murray river) is a product of the co-operative and competitive federalism.

Johnston's point that governmental structures may be in advance of or behind public sentiment is the very nub of the republican problem. If, as others have said, we have some combination of a 'captive republic'[26], 'fettered republic'[27] or 'federal republic'[28] then getting public sentiment and institutions into sync is the very task at hand. However, that will have to be at the pace that the States choose. As Johnston states:

> 'The argument here is *not* that the States are required to assume *a uniform* constitutional system to realign themselves in a new constitutional relationship with the Commonwealth consequent upon the adoption of a republic'.[29]

In reading this sentence I was waiting in anticipation for the 'but'. However, no 'but' was forthcoming. What Johnston acknowledges is that there is little to be gained in forcing the issue. It is possible to use s128 to deal with those States that remain within the monarchical fold. As the Republic Advisory Committee noted:

> 'If the prospect of monarchical States remaining within a federal

---

24 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 193, at 198.

25 Compare *Re Wakim; Ex parte McNally* (1999) 198 CLR 511.

26 McKenna, M. *The Captive Republic: A History of Republicanism in Australia 1788-1996.* Melbourne: Cambridge University Press, 1996.

27 Warden, J. 'The Fettered Republic: The Anglo-American Commonwealth and the Traditions of Australian Political Thought' (1993) 28 *Australian Journal of Political Science*, 83.

28 Galligan, B. *A Federal Republic: Australia's Constitutional System of Government*. Melbourne: Cambridge University Press, 1995.

29 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 197.

30 Australia. Republic Advisory Committee. *An Australian Republic: The Options.* Vol 1, Canberra: Australian Government Publishing Service, 1993, 129.

31 Johnston, P. 'Tidying Up The Loose Ends : Consequential Changes to Fit a Republican Constitution' (2002) 4 *UNDALR* 189, at 193.

> republic is seen as unacceptable, it is possible for the Commonwealth, with the approval of the people under section 128, to force the issue by inserting in the Constitution provisions abolishing the monarchy at State levels.'[30]

However, this would appear to undermine the very 'organic'[31] argument, which is usually attributed to the development of the Australian Constitution (and I assume the essence of the 'Omega point' approach). Either way it would be politically counterproductive. To press onto the States would surely be an inevitable conclusion of a successful republican vote at the national level.

The second theme that is dealt with by the paper is the role of the Crown in right of the Commonwealth and States. As is acknowledged, the concept of the Crown in its various guises is complex. In the paper Johnston raises a number of issues regarding the severance of Crown in right of the Commonwealth and what effect that would have on the Crown in right of the State. Many of these arguments return us to the debate regarding whether there is 'one Crown' and one nation, or that there exists a number of Crowns for the purpose of the federal system. Any doubts about this appeared to have been addressed by section 5 of The Constitutional Alteration (Establishment of Republic) Bill 1999 which made provision for the continuing existence of the State Crowns. As it stated:

> 'A State that has not altered its laws to sever its links with the Crown by the time of the office of Governor-General ceases to exist retains its links with the Crown until it has so altered its laws.'[32]

Johnston asks whether or not the abolition of the Crown has implication for the continuing basis for powers and privileges traditionally classified as inhering in the Royal prerogatives and immunities from suit. I would have thought the answer to this is yes. However, the question would appear to be rather what will be the similar powers and privileges to be vested in the Crown's replacement? Section 70A of the Constitutional Alteration (Establishment of Republic) Bill 1999 made provision for transferring 'any prerogative enjoyed by the Crown in right of the Commonwealth immediately before the office of the Governor-General ceased to exist shall be enjoyed in like manner by the Commonwealth'.[33] Similar provision was made for the prerogatives enjoyed by the Governor-General to be exercised by the President. Obviously at a State level there would need to be like transfers.

---

32 The Constitutional Alteration (Establishment of Republic) Bill 1999 s5.
33 The Constitutional Alteration (Establishment of Republic) Bill 1999 s70A.
34 Premier Beattie, 'Australia and the Republic' Speech delivered at London celebrations of the Centenary of Federation, 7 July 2000.

Lastly in terms of the States and the republic some interest has been shown from the States to take on the challenge. As Premier Beattie noted in London in 2000 the 'Australian republic must arise from the states and territories working together'.[34] He has advanced the prospect that:

> 'At state level we can experiment with new forms of constitutional arrangements. Does a head of state appointed by Parliament work? Let's find out by trying out the proposed system in one of the Australian States. A Governor could be chosen by calling publicly for nominations then election by a two-thirds majority of the State Legislative Assembly.'[35]

To date it remains unclear whether or not a State will take up the challenge to elect the Governor. Yet the proposal offers one of the best means by which the workability of the proposed system offered by the 1999 republican model could be assessed.

The Federal Citizen

The question of citizenship, the 'Commonwealth' and the future republic have had a long and obvious interplay that can be traced back to the Federation period. As is well known the name 'Commonwealth' raised monarchical eyebrows when it was first suggested in Sydney in 1891, as the following interchange demonstrates:

> 'Sir JOHN DOWNER: Commonwealth is a very nice word indeed, but it is very important to recollect, as the hon. member, Sir Henry Parkes, pointed out at a somewhat early stage of the proceedings, that we have to consider, not only the technical meaning of the law, but also the popular understanding of the law, and the popular understanding of the word 'commonwealth' is certainly connected with republican times.
> Mr. DEAKIN: No!
> Sir JOHN DOWNER: It is, in my opinion, connected with republican times, and it is certainly disconnected with that loyalty which we all, I am sure, not only profess, but very honestly feel towards the Crown.
> Mr. DEAKIN: The most glorious period of England's history!
> Mr. CLARK: Hear, hear!
> Dr. COCKBURN: Was it under the Crown?
> Mr. DEAKIN: There was then no Crown!'[36]

The choice of the name is attributed to Parkes[37], though it has also been associated with the influence and debt owed by the framers to James

---

35 Premier Beattie, 'Australia and the Republic' Speech delivered at London celebrations of the Centenary of Federation, 7 July 2000.

36 *Official Record of the Debates of the Australasian Federal Convention.* Vol 1, Sydney: Legal Books, 1986, 551-552.

37 Deakin, A. and Brookes, H. (ed) *The Federal Story: The Inner History of the Federal Cause*. Melbourne: Robertson and Mullens, 1944, 46-47.

38 La Nauze, J.A. 'The Name of the Commonwealth' (1971) 15 *Historical Studies* 59, at

Bryce and his work *The American Commonwealth*.[38] Notwithstanding the republican overtones, the framers adopted the name. Yet the same was not true of that other republican mainstay: the citizen. Higgins J gives one explanation for its non-inclusion:

> 'As Rousseau pointed out, in a note to his *Contrat Social*, the title of "citizens" is not applied to the *subject* of a prince, not even to British subjects. Our Constitution has substituted "residents" for "citizens", avoiding the republican implication (see s117 which uses the expression "a subject of the Queen, resident in any State").'[39]

It is well known that John Quick advanced the idea of a federal citizenship in the Australian Constitution at the Melbourne Convention in 1898.[40] However, as with Andrew Inglis Clark's provision of a '14th amendment' in the Constitution, it was unsuccessful.[41] The remnants of Clark's interest in rights can be found in s117 of the *Commonwealth Constitution*, with its protection of the 'subject of the Queen'[42] from discrimination by legislating States. More fully the section states:

> 'A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in any such State.'[43]

One of the loose ends that needed to be considered in the move to a republic will be the issue of the 'subject of the Queen' in s117. The Constitutional Alteration (Establishment of Republic) Bill 1999 provided a neat solution for the problem. It proposed to omit 'a subject of the Queen' and simply substitute the words 'an Australian citizen'.[44] The Bill then went on to state an 'Australian citizen means a person who is an Australian citizen according to the laws made by Parliament'.[45]

Two points should be made about this method of putting a republican stamp on s117. The first is that this change may limit the scope of the guarantee offered by s117. That is, if 'subject of the Queen' and 'citizen' are distinct categories (with 'subject of the Queen' presumably

---

71.

39 *Australasian Temperance and General Mutual Life Assurance Society Ltd v Howe* (1922) 31 CLR 290 at 327 per Higgins J. A similar reasoning is adopted by Toohey J in *Street v Queensland Bar Association* (1989) 168 CLR 461 at 533.

40 See Rubenstein, K. 'Citizenship and the Constitutional Debates: A Mere Legal Inference' (1997) 25 *FLRev,* 295.

41 The reason for its rejection was not related to its republican tarnish. See Williams, J.M. 'Race, Citizenship and the Formation of the Australian Constitution: Andrew Inglis Clark and the "14th Amendment"' (1996) 42 *AJPH*, 10.

42 *Commonwealth Constitution* s117.

43 *Commonwealth Constitution* s117.

44 The Constitutional Alternation (Establishment of Republic) Bill 1999 s39.

45 The Constitutional Alternation (Establishment of Republic) Bill 1999 s127.

46 *Nolan v Minister for Immigration and Ethnic Affairs* (1999) 165 CLR 178 at 186. See also *Street v Queensland Bar Association* (1989) 168 CLR 461 at 505, 525, 541 and

incorporating a wider category of people) then after the change the States could arguable discriminate against interstate 'subjects' in the provision of welfare or other benefits. This of course is dependent upon there being a distinction between 'subject of the Queen' and 'citizen'. The High Court has on a number of occasions suggested the view that 'subject of the Queen' in its 'modern context' means 'a subject of the Queen in right of Australia'.[46] Thus the category of individuals who are subjects of the Queen in right of Australia and who are not citizens may be relatively small. However, the amendment offered may run contrary to the purpose that has now become the expansive nature of the guarantee.[47]

The second point relates to the way the section is given its constitutional meaning. If the section picks up the legislative definition of 'citizen' and then converts that into a constitutional definition then it would appear to be a strange constitutional position to establish. Read literally, it would appear that the Commonwealth Parliament, not the Constitution, would be defining the scope of the guarantee in s117. This raises obvious constitutional questions. If the Commonwealth Parliament were defining the limits, and ultimately the operation of s117 by its definition of citizenship, then it would appear to privilege Parliament over the Constitution. 'Resident' is itself a constitutional term and as such is subject to judicial interpretation, not parliamentary description. Similarly, the insertion of 'citizenship' into s117 will create a constitutional term to be determined by the High Court.

A further issue of the use of 'citizenship' and its relationship to legislative definition needs to be considered. That is the haphazard and confusing way in which the indicia of 'citizenship' have been developed and the difficulty in extracting a comprehensive and exhaustive definition. A broad understanding of 'citizenship' can be found in the common law, the *Electoral Act*[48], the various Jury Acts as well as the *Australian Citizenship Act*[49] itself. This of course leaves to one side the even broader cultural and social significance attached to 'citizenship'. As Kim Rubenstein has argued:

> 'the gap between the formal legal meaning of citizenship and the greater, broader notions of citizenship influences and contributes to a confused understanding of citizenship. A stronger constitutional statement could be better utilised by courts, policy makers and the public to more readily understand and articulate our sense of community in Australia.'[50]

554.

47 *Street v Queensland Bar Association* (1989) 168 CLR 461.

48 *Electoral Act 1918* (Cth).

49 *Australian Citizenship Act 1948* (Cth).

50 Rubenstein, K. The High Court of Australia and the Legal Dimension of Citizenship. IN Rubenstein, K. (ed) *Individual, Community, Nation: Fifty Years of Australian*

Where this leaves us is back with John Quick in Melbourne, 1898. The problem remains that Australia has created the silhouette of citizenship. We in essence define 'citizens' by what they are not. They are not aliens, they are not subjects, but at the same time we invest subjects with many of the rights associated with citizens. It may well be that the constitutional sidestepping of the citizenship issue in s117 may cause more problems then it resolves. One solution, and in fact the obvious one, would be to affirm what the framers failed to do in 1898: that the Constitution should contain a power with respect to 'Commonwealth citizenship'.[51]

ENABLING THE REPUBLIC

There were many features of the 1999 push for the republic that emulated the movement towards Federation, not least the inevitable setbacks and false starts. One obvious example was the use of a series Conventions to draft the Bill. In 1998 the approach unfortunately only partially mirrored the events of one hundred years earlier. As Saunders has argued, the fact that the Convention failed to reconvene meant that its deliberations were rushed and ill explained to the public:

> 'With hindsight, there would have been benefit in scheduling two sessions of the Convention with a significant interval in between as had been done, deliberately, in 1897.'[52]

The other major departure from the example of the 1890s and one that it is argued must be central to any future republican campaign is the use of an Enabling Act to provide structure and certainty to the process.[53]

The failure of the 1891 Convention on Federation can be explained in terms of a number of factors including the undemocratic nature of the Bill, the economic and political upheavals of the early 1890s and the lack of a popular federation movement. One of the critical factors in the success of the final stages of Federation was the passage of the colonial Enabling Acts that linked process to outcomes. The election of the delegates, the timetable and the ratification were all established from the outset. [54]

Mr Kim Beazley outlines the lessons that the have been learnt from the 1999 campaign. As he notes:

Citizenship. Melbourne: Australian Scholarly Publishing, 2000, 30.

51 *Official Record of the Debates of the Australasian Federal Convention.* Vol 5, Sydney: Legal Books, 1986, 1751-1768.

52 Saunders, C. 'How Important Was the Convention' (1998) 21 *UNSWLJ,* 868 at 872.

53 Contrast this to the *Constitutional Convention (Election) Act 1997* (Cth).

54 See for example the *Australasian Federation Enabling Acts of NSW 1895* (NSW).

55 Beazley, K. 'How may the People be heard? – Planning for a new Republican Referendum – Process and Content' (2001) 3 *UNDALR,* 1 at 5. (Emphasis Added.)

> 'Probably the major one is that we need a consultative process to advance the republic cause. People need a choice at each stage of the *process*. They will not accept a *process* in which they feel their views are being ignored. We need a *process* to give all Australians a greater ownership over, and genuine involvement in, any proposal for a republic. All options must be on the table, including the option for a direct election of the President. If it emerged from a thorough consultative *process* that there was a majority in favour of a direct elect option, who would have the right to forbid that?'[55]

Mr Beazley then outlines the three-stage plan that Labor took to the 2001 election.[56] While I agree that process is critical to the success of the republic it needs to be given statutory form. In doing so it will be determined at a time before the passion and distortions of the actual republican campaign begins. Moreover, given the likely timeline involved in any future republican considerations, a structure should be established at the outset to which both republicans and royalist/ monarchists can work towards. An education programme, time for reflection and criticism of the models, the timing of the plebiscites and the ultimate referendum should be determined prior to the debate proper. Thus each stage would have a statutory commitment to move to the next if the requisite requirements were met.

CONCLUSION

The tidying up of loose ends need not be in the forefront of the next republican campaign. Often they are the stuff of drafting niceties and federal necessity. What is critical is that they do not intrude onto the main arena of the republican debate. This can only be achieved if there is a systematic and defined process that explains and informs the move to the Australian republic.

---

56 Beazley, K. 'How may the People be heard? – Planning for a new Republican Referendum – Process and Content' (2001) 3 *UNDALR*, 1.