

# **Whatever happened to political reform?**

**By**

**Emeritus Professor Geoff Gallop**

**2019 Reid Oration**

**Perth, Western Australia**

**27 August 2019**

I would like to acknowledge that we are meeting tonight on the traditional lands of the Noongar people, whose strength, resilience and capacity we recognise. In saying this I note the agreement reached between the Barnett Government and the Noongar People and supported by the Parliament in a bi-partisan manner. I congratulate all concerned for the leadership displayed in putting together this history-making agreement.

I'm delighted too, to be delivering the Gordon Reid Oration this evening, in fact for the second time, the first being in 1999 when I examined the issue of the line we need to draw between the public and private sectors. My target was ideologically driven privatisation and the way it was unsettling the mixed economy and the balance it created between private and public interests.<sup>1</sup>

This question related to the lines that need to be defined, drawn and promoted between institutions was one that interested the late Gordon Reid, former Professor of Politics here at UWA and then Governor of Western Australia. Unlike many in his discipline, he was interested in the big picture - in particular as it related to the way the legislature, executive and judiciary interacted with each other. He believed in the separation of powers doctrine and was concerned that too much power was being accumulated by the executive arm of government. He liked the fact that the Senate was not for taming as the House of Representatives had become and didn't like the way non-elected statutory authorities were being used by the executive to replace or undermine local government. Nor did he approve of the increasing role being given to the judges to report on and determine matters he considered "political". Politics he saw as "the means for settling differences by words". He'd seen the horrors of war first hand and the idea of talking things through very much appealed to him.

In one part of his brilliant essay "The Changing Political Framework", he utilised this framework of thinking to criticise the decision of the Governor-General to dismiss the Whitlam Government in 1975.<sup>2</sup> He described it as "an Executive resolution of a party-political conflict" in a situation where time was still available to find a political resolution. The action of the Governor-General, he said, "was another instance of the preference in Australia for decisive and professional - style initiatives over less tidy and less quick parliamentary - political solutions".<sup>3</sup> Give and take, critical reflection and deliberation before decision; these were all values we downplay at the peril of missing out on what should be a genuinely public

interest outcome. How our system should promote rather than dismiss them in a rush for decision he saw as a most important way of looking at politics.

His insight about executive impatience as one of the key drivers in Australian politics is important - and it is one I will return to later in my lecture. Let me begin, however, by saying a few things about the times in which I have lived and how they have impacted on my generation - the post-war baby-boomers.

## **OLD AUSTRALIA**

Australia in the 1950s was still highly conscious of itself as a New Britannia – as Humphrey McQueen had put it in his New Left revision of our history<sup>4</sup>. The English Monarch was our Head of State and we were still all too often happy to receive British dignitaries as our Vice-Regal representatives. We sang “God Save the Queen” at school assemblies and we celebrated Empire Day. Laying over all of this was the Cold War and our active support of the United States, most notably in Vietnam. Labor had split in the 1950s and the DLP which emerged backed the Coalition and its prioritisation of the War against Communism over and against anti- colonialism which was the third force of the times. Loyalty to Empire and the post-war Alliance against Communism was coupled with economic and social conservatism.

Life in Australia had its good points for the majority. Jobs, increasing living standards and the freedoms that come from that but there remained rumblings about a range of issues. To put it crudely but not inappropriately it went like this: Australia’s economy was highly protected and regulated, its indigenous people were discounted and discriminated against, society was governed by many laws that were racist, sexist and homophobic and its natural environment was seen as there to be “developed” and “populated” rather than properly “managed” and “conserved” according to sustainability principles.

In and amongst all of this there were those who made the case for reform, for example, our own Kim Beazley, snr, who saw the assimilation policies as a form of “extermination”, showing no respect for Aboriginal traditions and the religion that underpinned them.<sup>5</sup> He’d made a personal effort to find out about these things by consulting widely with Aboriginal people and brought his findings to the Labor Party, in particular as they related to land rights.

Even Geoff Gallop, a youngster at the Geraldton Senior High School wrote a school essay in 1967 making the case for the republic.<sup>6</sup> “Australians”, he said, “are becoming more and more aware of their need to be thoroughly independent of British rule even if it happens to be only formal rule. The British people now look to Europe for their betterment and we in Australia are becoming more aware of the need to be able to express ourselves as an Asian country, not as a subsidiary company to the monarchy”.

Not bad if I say so myself!

## **THE REBELLION**

Starting in the 1960s what had been critical commentary on this or that aspect of what came to be seen as “Old” Australia became a tidal wave of rebellion. Historians re-examined our past and the blindnesses and prejudices contained therein. Anthropologists made the case for an indigenous identity and spirituality. Sociologists brought human rights to considerations of gender, race, ethnicity and class. Psychiatrists took the scalpel to the simplistic doctrine of freedom of will, offering up self-awareness as a better alternative. Economists shifted the agenda from tariffs and protection to trade and competition. Ecologists saw dependency and inter-connection rather than power and control between Australians and their environment. Political scientists and lawyers pointed to the importance of the means by which things are done as well as the ends being sought. The accountability of government to people came to be seen in much broader terms than those just related to free and fair elections and higher incomes. Into the agenda of the public interest went community well-being and environmental sustainability as well as economic growth.

Added to all of this intellectual renewal came political activism. It was, as Donald Horne, put it in a book by the same name, “a time of hope”.<sup>7</sup> On the surface it looked like a rebellion against conscription and the Vietnam War but underneath it all was a case for political, social, economic and environmental change.

When it came to political reform a new set of political rules and structures were proposed. Six stand out:

- We would become a republic with an Australian citizen as Head-of-State.
- Indigenous rights would be recognised.

- A Bill of Rights would underpin all of our laws and their administration.
- New agencies of accountability would be established to hold the executive government to account and see to it that the public interest was respected.
- New instruments of engagement to involve citizens would be incorporated into policy making and implementation.
- The 1901 Constitution would be rewritten so that it would reflect our values as a free, equal and reconciled society.

This last element was seen as particularly important because it was the current Constitution which gave expression to an Australia that was no more and one that could not inspire a people to do more and better. Donald Horne put it this way in an essay on the importance of symbolism:

“How we see Australia is not just a theoretical matter, but a practical matter, affecting our actions - because if we see the world, or our nation, as a certain kind of place, then we act as if it is that kind of place”.

He saw the existing 1901 Constitution as an expression of a world now gone and that our “symbolic system” had become “defunct”. Like many radicals of the time he wished his citizens would rid themselves “of a dependent mindset and of a symbolic centre of nothingness”.<sup>8</sup> These are strong words that give us a good flavour of the feelings of the times.

Whilst symbolism was accorded not to be under-estimated importance in the radical agenda so too were the practical implications of changing the very rules under which we are governed. It did not go unnoticed, for example, that the gaps in rights protection made it easier for the executive arm of government to ignore or in fact work against those rights. After all, a lot of that “politics” to which Gordon Reid had referred developed from felt injustices experienced by marginalised groups. Messy the politics of all of this may be, but when given legal support, particularly constitutional support, a fairer society was given a real fillip. That’s why constitutional reform was accorded special significance as the most important political reform of all because it embedded certain ideas into the very fabric of government and not easy to change.

Changing these rules, then, was seen to be both expressive and instrumental in its potential effects on life in Australia. In particular a new Constitution would better express our values and better protect our human rights and promote a fairer and more sustainable community. What, then, became of this radical agenda to change our constitution? What became of the campaigns for more rights and freedoms, for a republic and for indigenous recognition? Yes, there's been much change to the legal landscape but why not to a constitution that was written in a different time for a different generation?

## **A CONSTITUTION HARD TO CHANGE**

Before I address those questions, I should remind us all that the Australian Constitution was made to be difficult to change. Proposed changes need a majority of all electors and a majority of votes in a majority of states. Anne Twomey in an essay dealing with the debates in the 1890s has noted that making change an uphill battle was an important objective given the belief in federalism and the need to protect the position of the States.<sup>9</sup> She notes too how our Founding Fathers deliberated at a time when the legendary A.V. Dicey made a strong case for a referendum as both democratic and conservative. "It is democratic" he said, "for it appeals to and protects the sovereignty of the people; it is conservative, for it balances the weight of the nation's common-sense or inertia against the violence of partisanship and the fanaticism of reformers".<sup>10</sup> This belief that the people voting as a nation and in their states would protect the system from radical change brought an important populist element to constitutional considerations. Whose Australia is it, ours the people or yours the politicians?

This reality has generated a negative view about the prospects of constitutional change and has emboldened conservatives even when a change proposed is hardly radical in its implications. Emboldened too are they by their success rate in opposing change. Overall only eight of the forty-four have been successful. In the period I'm considering tonight, that starting in the 1960s, there has been twenty and only four successful. Since 1977 eight changes have been proposed and none have been successful.

The debate around this issue of failure, has focused on many factors that come into play with the Referendum:

- The degree of bipartisanship achieved across the political divide.
- Proper care or otherwise in drafting the proposals.

- How the issue was managed and the effectiveness or otherwise of the various campaigns for and against.
- The “mood of the times” generally and the degree of concern shown for “public opinion” and its education.
- The conservatism or otherwise in particular states or communities.

It's the case, of course, that such factors are worthy of consideration in respect of all of the proposals voted on.

Tonight, however, I wish to suggest to you that there is an over-arching issue at stake when it comes to this question, particularly as it relates to that awkward issue of public attitudes and opinion and how they manifest themselves in the political process. It's that issue which has been labelled by Megan Davis and George Williams as relating to “popular ownership” of a proposal as opposed to “politicians’ self-interest”.<sup>11</sup> It's back to 1901 again and what was built into our constitutional culture and law by way of the referendum clause. To illustrate let me focus on three parts of the radical agenda - the republic, rights and liberties and indigenous recognition.

### **1967 AND ABORIGINAL AUSTRALIA**

By the end of the first quarter in the era of new politics it seemed as if progressives were in charge of the political agenda. I refer you to the 1967 Referendum in which 90 per cent of the electorate supported two changes to the Constitution:

“First, it removed an exclusion from the races power in section 51(xxvi) that had prevented the Federal Parliament from enacting laws for Aboriginal people. Second, it repealed section 127, which had prevented Aboriginal people from being included in reckoning the numbers of the people of the Commonwealth”.<sup>12</sup>

No new rights here, but certainly a new attitude that “was an important part of changing Australia's conception of itself as a nation” and not to be under-estimated.<sup>13</sup>

Section 127 was clearly discriminatory and its removal a reflection of a new and proper way of thinking about First Peoples as part of the nation. Explicitly putting the Commonwealth into the law and policy equation was quite an achievement, particularly given the strength of our federalist culture. There was little opposition to the proposal and

some deft and effective campaigning by the Aboriginal leadership at that time. Even though it allowed for laws that could be adverse or beneficial to Aboriginal people, it was seen as giving a mandate for Commonwealth activism in the area. For example, Gough Whitlam's legislation to support land rights in the Northern Territory followed. On the other side of the coin, the words of 51(xxvi) were used to back up the intervention in the Northern Territory. That this negative possibility hadn't been ruled out in 1967 amendments had been noted by constitutional lawyers like Geoffrey Sawer and parliamentarians like William (Billy) Wentworth. Clearly there was much unfinished business.

All of these things being said, you can't run away from the enormity of the occasion – ninety per cent voting Yes! This emboldened Aboriginal people and supporters of political reform generally. Surely, they believed, it would mean other changes to follow. National Land Rights? A Bill of Rights? An Australian Republic? What happened, however, didn't follow the pattern expected and hoped for.

## **HUMAN RIGHTS**

Let's start with the case for legally protected rights and liberties.

Lionel Murphy, Whitlam's Attorney-General, favoured their inclusion in the Constitution but attempted statutory protection. He failed. In the Hawke years there were further attempts made, firstly by Gareth Evans and then by Lionel Bowen. Both failed - and in Bowen's case it was a relatively bold, but still limited attempt at constitutional change.

The whole thing was badly botched, running to a timetable set by the about to be held Bicentennial celebrations in 1988, instead of what was required to explain the proposals and win over popular support. In 1985 the Government had set up a high-powered Commission chaired by Sir Maurice Byers to recommend changes to the Constitution that would guarantee democratic rights. Its other members were Gough Whitlam, Sir Rupert Hamer, Justice John Toohey, Professor Leslie Zines and Professor Enid Campbell. In their work they were assisted by an Advisory Committee on Individual and Democratic Rights under the Constitution.

The Byers Commission had been requested to provide an interim report so that the referendum could be held in 1988. This was provided and four proposals were adopted with some variations from the recommendations in the interim report. It's interesting



to note that the final report of the Byers Commission which came soon after recommended a new chapter be inserted into the Constitution, containing a wide range of fundamental rights drawn heavily from the Canadian Charter of Rights and Freedoms.<sup>14</sup> In other words it proposed the big picture reform that had inspired the radicals of the 1960s and 70's.

The four proposals actually put to the people rather than the Canadian-style Charter were four-year terms for the Federal Parliament and recognition of local government as well as one-vote one-value, a guarantee of trial by jury in serious cases, an extension of "just terms" for state acquisitions of property and religious freedom when it comes to State or Territory as well as Commonwealth law.

All four proposals were defeated nationally and in every state. Attempts to minimise change and focus on a few changes only - as opposed to a comprehensive Charter - didn't deliver the support expected. As John McMillan put it: "...the referendum was held before the Constitutional Commission had finally reported, one of the four proposals was framed at variance with the Commission's Interim report, there had been no real public debate, national and state opposition to the referendum seemed certain, and the Government adopted a low key strategy that the proposals should largely sell themselves".<sup>15</sup> I remember it only too well, Lionel Bowen visiting us in WA and optimistically predicting victory on the basis of opinion polling. What he didn't take into account was that the other side had become expert at manufacturing a no vote. The campaign against the changes was a "no-holds barred" one and despite initial support for change being expressed in opinion polls, the "no" campaign was victorious and by a large margin. Amongst the arguments used were those relating to rural and regional disadvantage, Commonwealth control over the States and, perhaps surprisingly, claims of threats to the public funding of religious schools.

Why fiddle with a good system, they said to their fellow citizens, particularly if you've played little or no role in the formulation of the proposals. Indeed, they urged the citizenry to recognise that it's "your system" and "your right" to defend it just as its "your right" to determine who is to represent you in Parliament. This real and effective populist edge to debates about the Constitution had been evident in 1967 in relation to the other item - that to remove the nexus between the two Houses of Parliament; that the House of Representatives must be as near as practicable twice the size of the Senate. Removing this nexus was supported by both major parties but defeated by the No campaign that "was vigorous and astonishingly effective". The final vote was just below sixty per cent against.<sup>16</sup>

In a telling comment, Prime Minister Holt blamed the voters for the result in that a majority “chose to ignore the advice of those to whom they normally look for guidance”.<sup>17</sup>

This being said, Australia wasn't barren ground for reformers. The Commonwealth passed laws related to race discrimination, sex discrimination and disability discrimination. A Human Rights Commission was established and, in three states at least, there are now Charters of Rights and Responsibilities. Later too the High Court established a constitutional right for both Native Title in its Mabo decision and freedom of political communication. Add to all of that the creation of new agencies of accountability with wide-ranging powers and a brief to protect and promote transparency and the public interest.

This being the case, some on the reform side of politics began to think - if not say - that all of this effort to change the words of the Constitution was unnecessary and counter-productive. This is exactly what constitutional conservatives hoped would result from their vigorous campaigning for “NO” whenever the chance arrived. They have sought to make the very idea of change unpalatable and unachievable!

## **THE AUSTRALIAN REPUBLIC**

So it is that we come to the 1990s and the ill-fated attempt to establish an Australian Republic. It came on top of - and in connection with - a whole range of changes to “Australianise” the system - a new national anthem, an Australian Honours system, new Oaths of Office and no more appeals to the Privy Council in the UK. The Queen was now “the Queen of Australia” and to be seen as such. In all of this republicans were hard at work ensuring that Australia was as independent as it could be even though our Head-of-State was British. Their work has been described by some as the realisation of a “Crowned Republic”.

Even so as Australia entered the 1990s there was a movement backing an Australian rather than a Crowned Republic, a Prime Minister in support and a Republic Advisory Committee chaired by Malcolm Turnbull to consider options. Once again, however, this question of a timetable was included, in this case to achieve a republic to take effect on 1 January 2001. Even with the defeat of Labor, momentum continued and John Howard convened a Constitutional Convention, partly appointed and partly elected. In two weeks of sittings it recommended for a republic, but one that didn't provide for the widely supported idea of an elected Head-of-State. Winning over support from minimalist republicans was seen as more important than searching for a model that could muster popular support. In

fact, very little time was devoted to popular deliberation on what type of model to be taken the people. We were left with a badly divided republican movement within which there were those who wouldn't compromise on direct election, whether for or against.

For those opposed to a republic, whether committed monarchists or pragmatists who saw no need to change the system, it was manna from heaven. The pattern had been set out in earlier campaigns; a strategy based on framing the issue as one of "the people" versus "the politicians" and a "workable system" versus the "uncertainty of change". Add to that the proposition put by a group of direct-election radicals who supported a no vote: Why change things if they make insufficient difference? There was just too much opposition. Defeat was inevitable - and despite strong support for the "idea" that one of our own should be Head-of-State, the people voted fifty-five per cent no to the proposals put before them.<sup>18</sup>

It should have been assumed that this was going to be the political reality and that those involved in high-level parliamentary politics weren't always the best to judge what will and won't be acceptable for the people in a constitutional referendum. It comes from the attitude that Gordon Reid was so interested in - uncomfortable with "politics from below" and impatient for decision. Indeed, some of this attitude has expressed itself in referendum proposals themselves, as we saw with the nexus case. We saw it too in 1988 and again in 1999 a decade later.

There's a real sadness that arises in people like me who believe our Constitution should better reflect our values and better define the working of government. It's led many to say that constitutional reform is utopian and should be removed from an agenda for progressives. Indeed, we've almost realised the point when **any** opposition to **any** constitutional proposal is deemed to be enough to bench it.<sup>19</sup> Very little if anything can be achieved without a fight as I'm sure the LGBTIQ community would tell us in relation to Marriage Equality. Note, however, this was a fight that was won, and decisively, just as it was for indigenous Australia in 1967.

## **A NEW APPROACH**

This raises the issue as to whether it's possible to win over the Parliament and People when it comes to an Indigenous Voice to Parliament. This is a proposal that has been extensively discussed and debated throughout indigenous communities in 2016 and 2017. Indeed, the Referendum Council noted that "it engaged a

greater proportion of relevant population than the constitutional convention debates of the 1800s from which First Peoples were excluded”.<sup>20</sup> Add to that the constitutional work done by Professor Anne Twomey to find the words needed for a new section 1A of the Constitution. There “shall be”, it says, “an Aboriginal and Torres Strait Islander body...which shall have the function of providing advice to the Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander peoples” and goes on to deal with establishment and function, the powers to establish it, and the advisory function. <sup>21</sup> It doesn't deal with how such a body is to be chosen, just as the Constitution leaves it to legislation to determine how MPs are elected and how Parliament operates.

Yes, there is opposition to the proposal as setting up an alternative power base to Parliament - and doing so on the basis of race<sup>22</sup>. Australians with those views won't go away but nor should they be enough for the rest of us to give up on constitutional recognition. Why, we might ask, shouldn't the government and parliament facilitate a process that allows the matter to be discussed and debated throughout the community and then voted on by the Australian People in a s128 referendum? This is what John Howard did with the republic, even if one could argue - and I would - about the specifics. He was against the republic but didn't use his position to stop its progress to a vote. The notion I have in mind here is “government as facilitator” rather than government as “gatekeeper” and “controller”. It's that type of issue - special to indigenous people and important for national decision, just as was marriage equality special to the LGBTIQ community and important for national decision.

What I have in mind here is an acceptance that there are two major players in this, the First Peoples and the Australian Electorate. Of course Parliament has to be involved if the matter is to go to a referendum but there is no impediment to them setting up a process that allows indigenous Australia to frame a proposal, have it legislated and for a national discussion (and debate) to follow before the final vote of the people as required under section 128. It would request of the Prime Minister and others who oppose such a proposal to go to higher ground and take into account the good will that lays behind the proposal for a Voice. Indeed, in and of itself delegating the process in this way would be a formidable act of reconciliation and recognition.

It's my view that determined advocacy by a united indigenous voice and community leaders would make for a formidable force, remembering the five-year work by the Recognise Campaign (2012-2017) to raise awareness and marshal support from the

business and community sectors. In another place I put it this way: “There would be critics of course – “one nation or two” they would cry - but how vigorous and broadly based would that opposition be when confronted with a united indigenous voice, a well worked out proposal and their own consciences in the face of a people long wronged but hungry for co-existence...All too often in politics we assume the future will be the past. It isn't, politics being an art not a science.”<sup>23</sup>

A similar principle should apply to issues like the republic or rights and freedom. In practice, however, there would be a difference in that a properly appointed and convened Citizens' Assembly - as was utilised in Ireland when it came to changing their Constitution - would need to be convened to deliberate on the detail and desirability of change. In the Irish case one-third participants came from their Parliament and two-thirds were randomly selected in a way to ensure representativeness. A different but appropriate deliberation was practised to create the proposal for a Voice but the principle of popular engagement was the same. In saying this it's worth noting what may have happened if after the 1998 Constitutional Convention an Assembly like that used in Ireland was convened to consider a model to be taken to referendum. One thing is for certain it would have given much more authority to the yes case than what actually transpired.

What's happening in Australia and like countries is a crisis in representative democracy. No longer can elections and parliaments, even those elected by proportional representation, do all that we wish from them.<sup>24</sup> Nor is parliamentary reform as currently conceived going to be enough<sup>25</sup>. There's a clamour for change but all too often this manifests itself as unthinking populism rather than a more broadly-based conversation about what the public interest means in relation to important matters. It's also become clear from numerous examples, both here and abroad, that such a conversation can be encouraged by adding juries and assemblies to our machinery of representative government<sup>26</sup>. Certainly, it's the case if you want major and complex issues like constitutional reform properly dealt with, a facilitated dialogue involving a randomly selected “mini-public” like a jury or assembly can meet the twin requirements of deliberation and democracy; the people and ideas coming together in the search for best outcome.

There are no guarantees in all of this; nor indeed are there from existing practices deemed evidence-based and representative but all too often unthinking and limited. The people matter but there needs to be more to our democracy than just free and fair elections, as important as they are. In a sense what we need is a republican means to

achieve a republican end, one that brings genuine popular ownership to the process of governing. All too often we forget that trust from above is just as important as trust from below. Take popular ownership out of the equation and don't be surprised that there will be kick-back from "the mob". Just think 1988 and 1999. Either we learn from the past or continue to make the same mistakes.

---

<sup>1</sup> "Drawing the line between the public and the private" Reid Oration, Perth, 7 December 1999.

<sup>2</sup> Quadrant, January - February, 1980, pp. 5-15.

<sup>3</sup> See also Geoff Gallop, "Reid, Gordon Stanley 1923-1989", Dictionary of National Biography, Vol.18, 2012.

<sup>4</sup> A New Britannia (1970).

<sup>5</sup> See Kim E Beazley, Father of the House (2012), pp. 150-160.

<sup>6</sup> The essay is in Geoff Gallop Collections: Curtin University: [John.Curtin.edu.au/gallop/collection/html](http://John.Curtin.edu.au/gallop/collection/html).

<sup>7</sup> Donald Horne, Time of Hope: Australia 1966-72 (1980).

<sup>8</sup> See "The Importance of Symbolism: Australia Should Become a Republic" in Donald Horne: Selected Writings, edited by Nick Horne (2017).

<sup>9</sup> "Changing the Australian Constitution was always meant to be difficult", The Conversation, 17 July 2019.

<sup>10</sup> Quoted in Twomey, "Changing the Australian Constitution".

<sup>11</sup> Everything You Need to Know about the Referendum to Recognise Indigenous Australians, (2015), pp. 138-140.

<sup>12</sup> Ibid., p. 25.

<sup>13</sup> Ibid., p. 33.

<sup>14</sup> Quoted in George Williams, "The Federal Parliament and the Protection of Human Rights", Australian Parliamentary Library, Research Paper 20 (1998-99).

<sup>15</sup> "Constitutional Reform in Australia". Senate Practice and Procedure Papers on Parliament, Number 13, November 1991.

<sup>16</sup> Everything You Need to Know, p. 40.

<sup>17</sup> Quoted in Everything You Need to Know, p. 53.

<sup>18</sup> For my own take on this see Geoff Gallop, "A republican history of Australia", Labour History, Number 107, November 2014, pp. 197-209.

<sup>19</sup> I've discussed this in my Daniel Deniehy Oration "Where to for an Australian Republic?", 18 August 2018. It's reproduced by the Australian Republican Movement in [republic.org.au](http://republic.org.au). See also Eric Sidoti, "Re-Imagining Bi-Partisanship", Pearls and Irritations, 16 August 2019.

<sup>20</sup> Final Report of the Referendum Council, 30 June 2017, p. 10.

<sup>21</sup> "Putting words to the tune of indigenous constitutional recognition", The Conversation, 20 May 2015.

<sup>22</sup> Just one example: James Allan, "Constitutional Recognition and Those Judges", Quadrant Online, 14 August 2019.

<sup>23</sup> "Where to for an Australian Republic?"

<sup>24</sup> See David van Reybrouck, Against Election: The case for democracy (2016).

<sup>25</sup> On this point it's interesting to reflect on what Gordon Reid's view would be today. A strong believer in representative government he was for a much more robust parliament and politics. Whether he would have embraced random selection and Citizens' Assemblies as an important addition to the current system is a moot point. He would certainly have liked the emphasis placed on proper scrutiny and respectful dialogue in the various models of deliberative democracy.

<sup>26</sup> See Nicole Curato, John Dryzek, Ercan Selen, Caroline Hendriks and Simon Niemeyer, "Twelve Key findings in Deliberative Democracy Research", Daedalus, 156(3), Summer 2017.