



Unit 11: Changing the Constitution (referenda) – Year 9 -
C & C Strand: Government & Democracy

Topic 9.1: Referendum: the process for Constitutional change

Referendum – success and failure in Australia

In Australia, the Commonwealth Constitution can only be amended with the approval of the people in a referendum – being an overall majority of voters and majorities in at least four States. How often does this succeed?

Successes and failures

There have been [44 referendum](#) questions to amend the Commonwealth Constitution. Only 8 have succeeded. The successful ones were:

1. 1906 – shifting Senate terms to start on 1 July rather than 1 January.
2. 1910 – new power for the Commonwealth to take over State debts.
3. 1928 – new power for the Commonwealth to enter into financial agreements with the States and enforce them.
4. 1946 – new power for the Commonwealth Parliament to make laws with respect to maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services, benefits to students and family allowances.
5. 1967 – expansion of power for the Commonwealth Parliament to make laws with respect to Aboriginal people and the repeal of section 127 of the Constitution.
6. 1977 – filling Senate casual vacancies with persons from the same party.
7. 1977 – including Territory voters in the national count in a referendum.
8. 1977 – compulsory retirement of High Court and federal judges at the age of 70.

While the 1946 and 1967 referendums have had significant ongoing effects, the other changes have been relatively minor in nature. They have had nowhere near the consequences of the

amendments to the US Constitution, including the Bill of Rights. There has been no major reform of the Constitution or the institutions of government. The Constitution remains an 1890s document, written for a different time when Australia was a colony.

COMMONWEALTH OF AUSTRALIA
THE REFERENDUM (CONSTITUTION ALTERATION) ACT, 1906.

BALLOT PAPER.

STATE OF QUEENSLAND.

Submission of a proposed law for the Alteration of the Constitution, Entitled Constitution Alteration (State Debts), to the Electors.

DIRECTION TO VOTER.—The voter should indicate his vote as follows:—

If he approves of the proposed law, he should make a cross in the square opposite the word "Yes."

If he does not approve of the proposed law, he should make a cross in the square opposite the word "No."

QUESTION.—Do you approve of the proposed law for the alteration of the Constitution entitled Constitution Alteration (State Debts)?



YES.



NO.

The Northern Miner advocating a
Yes vote in April 1910
Source: National Library of
Australia

Among the referendum questions that have most often failed are those that have sought to expand the Commonwealth's power to legislate about trade and commerce, corporations and industrial relations. The recognition of local government has also failed twice and been withdrawn from referendum shortly before its third go. Amendments to ensure that Senate and House of Representatives elections are held at the same time have also failed, as has the attempt to break the requirement that the House of Representatives be twice the size of the Senate.

There has not been a successful referendum since 1977 and no referendum has been held since the 1999 ones on a republic and a preamble to the Constitution. This means that people have got out of the habit of voting on referendums and politicians are wary of holding one. Some say a referendum [cannot succeed unless](#) it is supported by both sides of politics, the idea comes from the people (not the elites) and there is good public education to explain it to everyone.

Reasons for failures

There has been much speculation about [why referendums tend to fail](#) in Australia, at least at the national level. Here are some of the reasons that have been given to explain the failure of particular referendums:

1. The referendum proposal was ill-considered or badly explained.
2. Constitutional amendments are necessarily technical in nature and voters tend to vote against proposals that they don't understand.
3. Voters are wary of entrenching things in the Constitution (ie making them very difficult to change) if they might have unexpected consequences or be interpreted differently in the future.
4. Voters have a stronger desire to keep what they have rather than to risk it in the hope that change will bring something better.
5. Most referendum proposals have been perceived as giving advantages to the Commonwealth Government (sometimes political advantages) and voters don't think it deserves to get larger powers.
6. The proposal is considered to be unfair (eg the Communist Party referendum).
7. Too many things are mixed into the one question (so if a voter objects to just one aspect, he or she will then vote against the entire question).
8. Oppositions see the failure of a referendum as a Government defeat, so they oppose proposals they had previously supported, whip up hysteria and raise false concerns, just to get a backlash against the Government.



Sir Edward McTiernan sat on the High Court from 1930 to 1976 and was 84 when he retired. The Constitution was altered in 1977 to prevent such long tenure
Source: High Court of Australia

9. States frequently do not support reforms because they involve increasing Commonwealth power, so they campaign against them and influence voters.

Is failure to amend the Constitution a good thing or a bad thing?

Some people have argued that the failure to make major amendments to the Commonwealth Constitution is a good sign. Major constitutional change usually occurs as a result of war, revolution or constitutional upheavals.

Other people argue that there are many updates needed to the Constitution, but they simply are not made because politicians fear that they will be defeated in a referendum. This leaves the Constitution out of sync with current society and results in the High Court effectively forcing the change by altering the way constitutional provisions are interpreted.

This raises democratic issues about whether the High Court is taking over the role which the Constitution gives to the people, in a referendum. Should an unelected body do this? Does it have any choice if the people fail to fulfil their role in updating the Constitution?

Referendums and constitutional interpretation

Judges in countries where the Constitution is more easily amended, and particularly where the people are actively involved in amending the Constitution through citizens' initiated referendum, are usually far less activist in their constitutional interpretation, as they do not want to trespass on a role that is being regularly exercised by the people.

In the [Work Choices Case](#), a majority of the High Court rejected the view that failed referendums should inform the way the Court interprets the Constitution. It pointed out that few referendums succeed, party politics affects outcomes, much turns on the way a proposal is put and considered, and the choice by electors may not be an informed one. The Court concluded that it should interpret the Constitution as it sees fit, without regard to voters.



Bill Onus, President of the Victorian Aborigines' Advancement League at a march for Aboriginal rights | May 1967
Source: National Library of Australia



Teacher Reference Document 93



AUSTRALIAN
CONSTITUTION
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Topic 9.1: Referendum: the process for Constitutional change

Successful referendum – the 1967 Aboriginal referendum (teacher resource)

The 1967 referendum made two changes to the Commonwealth Constitution. First, it repealed [section 127](#) of the Constitution, which was about counting the population for constitutional purposes. Second, it removed the exclusion of Aboriginal people from the application of the 'race power' in [section 51\(xxvi\)](#) of the Constitution, giving the Commonwealth power to make laws about Indigenous affairs.

A Campaign Perspective

From the point of view of Aboriginal and Torres Strait Islander peoples, the 1967 referendum marked the culmination of a long campaign for the end of constitutional exclusion and for public acceptance by the broader Australian population.

There was no consultation of Aboriginal and Torres Strait Islander people in the writing of the Constitution in the 1890s. There were no Indigenous representatives at the constitutional negotiations. Their voices were not heard. [Photos](#) of the Constitutional Conventions of the 1890s show that it was white men from British backgrounds who were making the decisions. In the referendums where the people of the colonies voted to approve the Commonwealth Constitution, few Aboriginal people had the right to vote or were encouraged to do so where they did have such rights. Some may have decided not to vote as they did not recognise the sovereignty of the British Crown, under which the Constitution was to be enacted. The Constitution did not have a mandate from Aboriginal and Torres Strait Islander peoples, who argued they had not surrendered their sovereignty.

While the constitutional compact united the colonies in a federation – the Commonwealth of Australia – Aboriginal and Torres Strait Islander peoples were excluded from that compact.

The Constitution did not recognise Indigenous laws and customs or ongoing title to lands and waters. Its only recognition of Aboriginal and Torres Strait Islander peoples was by way of exclusion. Section 51(xxvi) of the Constitution gave the Commonwealth Parliament power to make laws with respect to 'the people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws'. While this excluded Indigenous Australians from being subject to special Commonwealth laws that discriminated against them, it also prevented the Commonwealth from making special laws to their benefit.

Efforts had been made as early as the 1920s to convince the Royal Commission on the Constitution that it should be amended to grant the Commonwealth power with respect to Aboriginal people. The '[Day of Mourning](#)' protest in [1938](#) called for full equality for Aboriginal people and more federal government involvement in their affairs.

In 1944 the Curtin Government held a referendum to give the Commonwealth, for five years, power to make laws on many subjects, including 'the people of the aboriginal [sic] race', but the referendum failed.

In the late 1950s and early 1960s both the [Aboriginal-Australian Fellowship](#) and the [Federal Council for Aboriginal Advancement](#) ran campaigns and organised petitions to publicise ongoing discriminatory laws and policies that affected the everyday lives of Aboriginal people. They also called for the amendment of the race power in the Constitution so that the Commonwealth could make laws for Aboriginal people, and for the repeal of section 127.



By the 1960s it was clear that the Commonwealth had greater wealth than the States and was in a better financial position to provide programs to help Aboriginal and Torres Strait Islander people. It could also enact laws that would override, under [section 109](#) of the Constitution, inconsistent State laws. This mechanism could be used to override discriminatory State laws. Indigenous campaigners took the view that the Commonwealth Government was less likely to discriminate against them than the States, and it was to their advantage for the Commonwealth's powers to be expanded to allow it to make special laws for Aboriginal and Torres Strait Islander peoples.

[Section 127](#) of the Constitution said: 'In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives [sic] shall not be counted'. This was seen as a symbolic denial of the existence of Aboriginal people – that they didn't count, in both the literal and figurative sense. Some people saw it as a denial of citizenship or human rights. This is why many of the signs during the 1967 referendum campaign said '[Vote Yes for Aboriginal rights](#)'.

Someone once made a bitter remark that if Aboriginal people weren't counted as persons, they must have been treated as 'flora and fauna'. This then turned into an [urban myth](#) that Aboriginal people were defined in legislation as flora and fauna until the 1967 referendum. It was [untrue](#)– no such legislation ever existed – but people believed it and were hurt by it.

Gordon Bryant MP, Faith Bandler, Harold Holt, Pastor Doug Nicholls, Burnum Burnum (Harry Penrith), Win Branson and WC Wentworth MP | 1967
Source: National Archives of Australia

The 1967 referendum campaign was run on the theme of giving Aboriginal people a fair go, equal rights and acceptance. Faith Bandler [told voters](#):

When you write Yes in the lower square of your ballot paper you are holding out the hand of friendship and wiping out nearly 200 years of injustice and inhumanity.

The referendum was overwhelmingly successful, with the highest Yes vote ever for a referendum in Australia. It provided strong evidence of public goodwill and acceptance of Aboriginal and Torres Strait Islander Australians. But it did not fix the problem that the Constitution still allowed the making of racially discriminatory laws and policies that might be considered unjust to Indigenous Australians. It did not wipe out 200 years of injustice and struggles continue for constitutional recognition and other legal reforms.

A Legal Perspective

After World War II, in 1949, Aboriginal and Torres Strait Islander people gained the right to vote in Commonwealth elections if they had served, or were currently serving in the armed forces, or if they had the right to vote in a State – which was the case for Indigenous voters in New South Wales, Victoria, South Australia and Tasmania.



Day of Mourning | 26 January 1938 Source: Mitchell Library, State Library of NSW

But this still left many Aboriginal and Torres Strait Islander people in Queensland and Western Australia disenfranchised. In October 1961, the Commonwealth Parliament's 'Select Committee on Voting Rights of Aborigines' recommended that all Indigenous Australians have the right to vote in Commonwealth elections. This recommendation was implemented in 1962 by legislation. No constitutional change was needed.

By the 1960s, section 127 of the Constitution was regarded as unnecessary and irrelevant. It was originally meant to deal with financial matters in the first ten years of federation, where tax was returned to States based on population. Due to uncertainty as to the number of Indigenous people in remote areas, they were excluded from the count for these purposes. Since 1911, these financial provisions ceased to apply. The only remaining use for section 127 was deciding how many electorates each State had in the Commonwealth Parliament. It did not affect voting rights or have any impact on Aboriginal and Torres Strait Islander people, other than a symbolic one.

It is often said that Aboriginal and Torres Strait Islander people were not counted in the census until after 1967. That is not true. They were counted from the very [first census](#) if they lived near settlements - just not if they were in remote areas that the census officials did not reach. The census figures in the first part of each census excluded what they described as 'full-blood' Aboriginal people, but included all other Aboriginal people. 'Full-blood' Aboriginal people were, however, included in tables at the end of each chapter in the census.

Teachers should be aware that this terminology used in the census is now viewed as offensive and may be regarded as disturbing to students. Accordingly, teachers may wish to be cautious in its use and careful to contextualise it if using it in class. Census reports contain a wealth of material about the lives of Aboriginal and Torres Strait Islander people, but the description and categorisation of that information would need to be contrasted with the attitudes of today.

The repeal of section 127 removed the need for separate counting in different tables in the census, and included all Aboriginal and Torres Strait Islander people in the population count for determining how many electorates each State gets in the Commonwealth Parliament.

The race power in section 51(xxvi) of the Constitution was originally intended to place restrictions on the lives of foreign labourers brought into Australia to work temporarily. By 1967 it was recognised that it could be used also in a beneficial way, to redress disadvantage and to override State discriminatory laws. Expanding its application to Aboriginal and Torres Strait Islander people would allow the Commonwealth greater power to make laws that affected their lives – but that power could be used in a beneficial or detrimental way, subject to any contrary interpretation by the courts.

The development of the referendum proposal

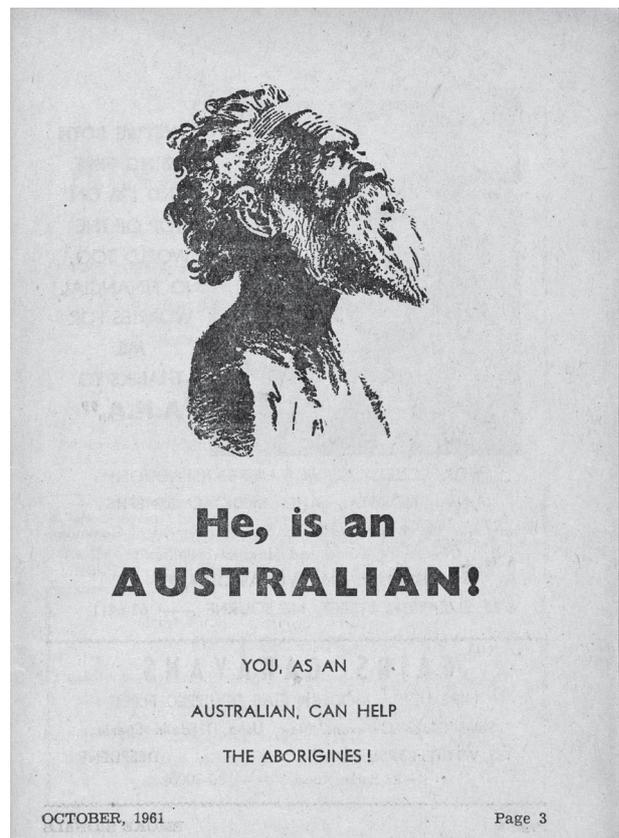
In 1961 the Labor Party resolved at its Federal Conference that the exclusion of Aboriginal people from the race power in section 51(xxvi) should be removed. Labor introduced a bill titled Constitution Alteration (Aborigines) 1964 into the Commonwealth Parliament on 14 May 1964. It would have repealed section 127 of the Constitution and removed the exclusion of Aboriginal people from the race power in section 51(xxvi). The Opposition Leader, Arthur Calwell [argued](#) that the only reason for section 127 was because it was impossible in 1901 to take an accurate census of the whole Aboriginal population, but this was no longer the case.

The Attorney-General, Billy Snedden, agreed that section 127 should be repealed, but said that there was no urgency in doing so. He rejected, however, the amendment of section 51(xxvi) on the ground that it would simply expand the capacity to discriminate. He said that it would amount to 'turning back the clock' and his party wanted to 'move to the stage where there is no special legislation, whether it is beneficial or disadvantageous'.

When the matter was [raised again](#) in 1965, the Prime Minister, Sir Robert Menzies, said he would put forward a referendum for the repeal of section 127, which was 'completely out of harmony with experience and modern thinking' and should be repealed. But he did not want to amend section 51(xxvi) to expand its application. He saw it as a power to make discriminatory laws in relation to the people of any race and said that the Government's preferred position was that Aboriginal citizens would stand equal with every other citizen before the law, enjoying its benefits and sharing its burdens.

Labor's Gough Whitlam responded that he had previously taken the same view about the amendment of section 51(xxvi), but that he had since changed his mind for two reasons. First, he noted that there were still some 'obnoxious' State laws and it was desirable that the Commonwealth be able to legislate to render them inconsistent and therefore invalid. Secondly, he noted the lack of social capital of Aboriginal people and the need for additional positive measures in relation to matters such as housing and education.

In November 1965, Menzies [introduced](#) a Bill titled *Constitution Alteration (Repeal of Section 127) 1965*. As the title made clear, it only addressed the repeal of s 127, which Menzies said was no longer relevant and should be removed.



He, is an Australian | © From Smoke Signals | October 1961
Source: State Library of Victoria

Section 51(xxvi) was not to be altered. Menzies discussed the case for repealing the race power altogether, as it had not ever been relied upon, but said that there might be a need for it in the future, for example if the people of the Nauruan race needed to be re-located to a place out of Nauru. Menzies also rejected the inclusion of an anti-racial discrimination clause, noting that this would produce a crop of litigation and could also invalidate laws meant to benefit Aboriginal people.

A Liberal Party MP, W C Wentworth, wanted to go further. He proposed that section 51(xxvi) should be repealed and replaced by a power to make laws with respect to 'the advancement of the aboriginal natives [sic] of the Commonwealth of Australia'. Wentworth was concerned that merely deleting the reference to Aboriginal people in section 51(xxvi) would mean that they could be discriminated against, as well as to their benefit. He wanted to exclude the possibility of adverse discrimination. Wentworth also proposed including an anti-racial discrimination clause in the Constitution, but one which would permit laws for the special benefit of Aboriginal people. Wentworth later introduced this as a [Private Member's Bill](#) in 1966 – *Constitution Alteration (Aborigines) 1966*.

In the meantime, Menzies' more limited proposal had passed Parliament in December 1965 and it was intended that the referendum would be held in May 1966. It was going to be run with another question about breaking the 'nexus' requirement that the House of Representatives be twice the size of the Senate – a matter in which the Government had far more interest than Aboriginal affairs. However, Menzies retired as Prime Minister in January 1966 and the new Prime Minister, Harold Holt, wanted time to establish himself before being thrown into a referendum campaign. So the referendum was deferred just as the Yes/No cases were about to be distributed. Holt argued that the delay would not affect Aboriginal people, who were already counted in the census.

This delay was critical because it allowed Cabinet to consider the Wentworth Bill and its broader proposals. The issue was brought back to the Cabinet in January 1967. The Attorney-General, Nigel Bowen, was critical of a provision concerning the 'advancement' of Aboriginal people, arguing that it would raise difficulties about what was meant by 'advancement' and whether it had to apply to all aspects of a law, or just some. He was worried that it would incorporate words in the Constitution that treat Aboriginal people as second class citizens – i.e. needing advancement.

Bowen also thought it might be necessary to retain the power to make laws with respect to races, both for their benefit and detriment. The existing power in section 51(xxvi) should therefore be retained. Bowen noted that the race power could be used to override discriminatory State legislation, and that the Commonwealth should not give up such a power. But Bowen recommended that the exclusion of Aboriginal people from section 51(xxvi) should be removed, so that the Commonwealth could make laws with respect to them (even though the intention was to leave primary responsibility with the States).

While Bowen accepted that there was some attraction in an anti-racial discrimination provision, he thought it would result in lots of litigation challenging the constitutional validity of provisions, which would cause difficulties out of proportion to the gains it might achieve. He thought that there may be questions about whether advantages given to people of one race might be regarded as discriminatory against the people of other races. He added that the elimination of racial discrimination can only be achieved by changing hearts and minds. The Cabinet accepted Bowen's recommendations and agreed to a new referendum proposal that would repeal section 127 and remove the exclusion of Aboriginal people from section 51(xxvi).

This was the proposal that was put to the people on 27 May 1967, along with a companion question about breaking the nexus between the size of the two Houses of Parliament.

The campaign

Despite popular belief, the 1967 referendum had nothing to do with giving Aboriginal people the vote or making Aboriginal people citizens in the legal sense, as they were citizens already if born in Australia. But the term citizenship was used by campaigners in 1967 in a looser political sense.

As [Russell Taylor](#), a Kamilaroi man, has said: 'Even if not entirely accurate, it is good to talk about citizenship in the context of the 1967 referendum as a collective marker and moral compass point regarding our existence and dignity, our cultural integrity, our quest for recognition and respect for our place in the fabric of the nation'. Taylor talked about the myths of the 1967 referendum, concerning voting and citizenship, and the fact that by 1967 most of the discriminatory legislation had already been removed, except in Queensland and Western Australia. But these changes in legislation did not necessarily remove the 'harsh reality of oppression and discrimination still suffered by Aboriginal peoples'.

Even though from a legal point of view, the proposed constitutional changes had nothing to do with rights or citizenship, in a symbolic sense they were all about obtaining equal rights, equal acceptance and equal citizenship. This was the basis upon which the campaign was run, and succeeded.

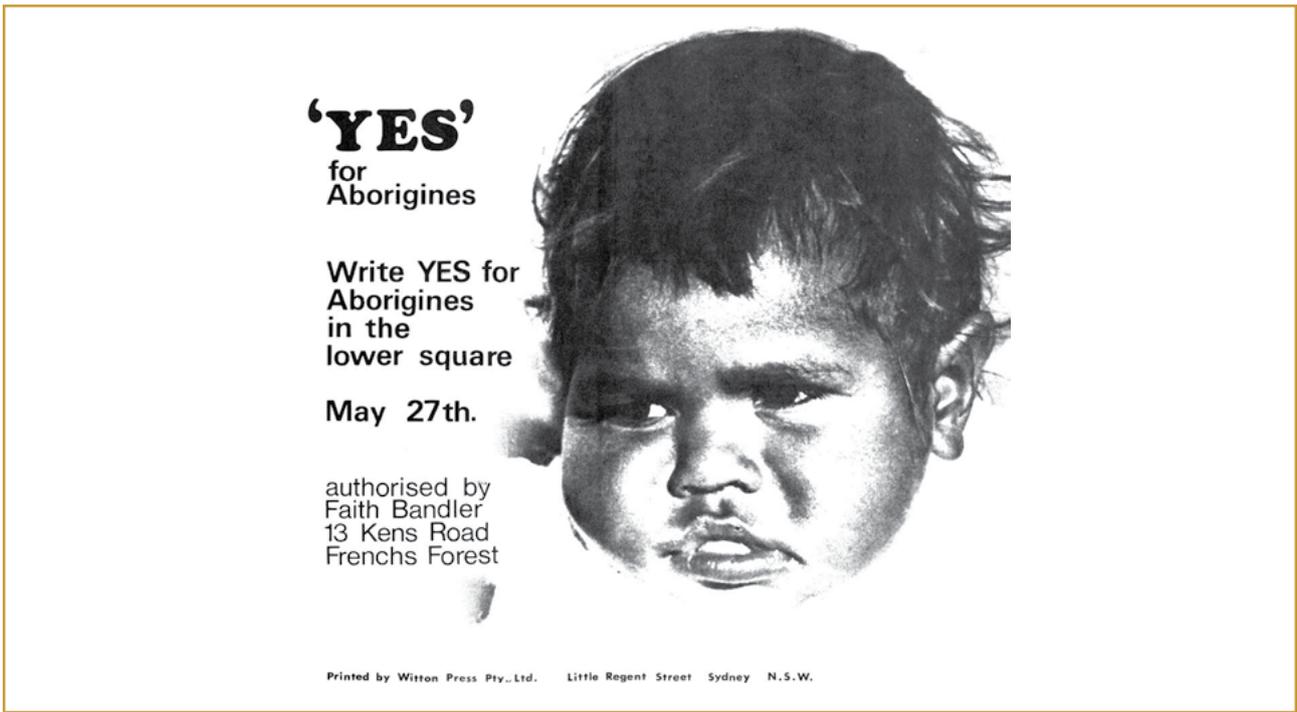
The Yes and No Cases

As the referendum bill was passed with unanimous support in Parliament, there was no 'No case'.

The Yes case argued that the amendment would remove words from the Constitution that discriminate against Aboriginal people. It would allow the Commonwealth and the States to cooperate for the benefit of Aboriginal people.

Terminology

Teachers may note that much of the above discussion refers to Aboriginal people, rather than 'Aboriginal and Torres Strait Islander peoples'. This is because the original terminology, including in the 1960s, did not make this distinction. Teachers should take care to contextualise this historical usage and contrast it with the terminology used more accurately today.



The Results

The referendum passed overall and obtained a majority in all six States:

	NSW	Qld	SA	Tas	Vic	WA	Total
For	1,949,036	748,612	473,440	167,176	1,525,026	319,823	5,183,113
Against	182,010	90,587	75,383	18,134	85,611	75,282	527,007
Informal	35,461	9,529	12,021	3,935	19,957	10,561	91,464

The referendum highlighted the evils of racism and enhanced public acceptance of the inherent dignity and value of Aboriginal and Torres Strait Islander peoples and their cultures.





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Topic 9.1: Referendum: the process for Constitutional change

Referendum – the 1967 Aboriginal referendum (students)

There are different perspectives to the 1967 referendum – here are two of them.

A Campaign Perspective

From the point of view of Aboriginal and Torres Strait Islander peoples, the 1967 referendum marked the culmination of a long campaign for the end of constitutional exclusion and for public acceptance by the broader Australian population.

There was no consultation of Aboriginal and Torres Strait Islander people in the writing of the Constitution in the 1890s. Their voices were not heard. There were no Indigenous representatives in the constitutional negotiations. [Photos](#) of the Constitutional Conventions show that it was white men from British backgrounds who were making the decisions. In the referendums where the people of the colonies voted to approve the Commonwealth Constitution, few Aboriginal people had the right to vote or were encouraged to do so where they did have such rights. Some may have decided not to vote as they did not recognise the sovereignty of the British Crown, under which the Constitution was to be enacted. The Constitution did not have a mandate from Aboriginal and Torres Strait Islander people, who argued they had not surrendered their own sovereignty. While the constitutional compact united the colonies in a federation – Aboriginal and Torres Strait Islander people were excluded from the compact.

The Constitution did not recognise Indigenous laws and customs or ongoing title to lands and waters. Its only recognition of Aboriginal and Torres Strait Islander people was by way of exclusion.

Section 51(xxvi) of the Constitution gave the Commonwealth Parliament power to make laws with respect to 'the people of any race, other than the aboriginal race [sic] in any State, for whom it is deemed necessary to make special laws'. While this excluded Aboriginal and Torres Strait Islander people from being subject to special Commonwealth laws that discriminated against them, it also meant the Commonwealth was not given a power to make special laws to their benefit either.

By the 1960s it was clear that the Commonwealth was in a better financial position than the States to provide programs to help Aboriginal and Torres Strait Islander people. It could also enact laws that would override, under [section 109](#) of the Constitution, inconsistent State laws. This mechanism could be used to wipe out State laws that discriminated against or unfairly burdened Aboriginal people and Torres Strait Islanders.



He, is an Australian | © From
Smoke Signals | October 1961
Source: State Library of Victoria



Indigenous campaigners took the view that the Commonwealth Government was less likely to be discriminatory than the States and it was to their advantage for the Commonwealth's powers to be expanded to allow it to make special laws for Aboriginal and Torres Strait Islander peoples.

Gordon Bryant MP, Faith Bandler, Harold Holt, Pastor Doug Nicholls, Burnum Burnum (Harry Penrith), Win Branson and WC Wentworth MP | 1967
Source: National Archives of Australia

[Section 127](#) of the Constitution said: 'In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives [sic] shall not be counted'. This was seen as a symbolic denial of the existence of Aboriginal people – that they didn't count, in both the literal and figurative sense. Some people saw it as a denial of citizenship or rights. This is why many of the signs during the 1967 referendum campaign said '[Vote Yes for Aboriginal rights](#)'.

Someone once remarked that if Aboriginal people weren't counted as persons, they must have been treated as 'flora and fauna'. This then turned into an urban myth that Aboriginal people were defined in legislation as flora and fauna. It was untrue – no such legislation ever existed – but people believed it and were hurt by it.

The referendum campaign was run on the theme of giving Aboriginal people a fair go, equal rights and acceptance. It won the highest Yes vote ever for a referendum in Australia.

A Legal Perspective

By 1967, the Commonwealth Government saw section 127 as unnecessary and irrelevant.

It was originally meant to deal with financial matters in the first ten years of federation, where tax was returned to States based on population. Due to uncertainty as to the number of Aboriginal people in remote areas, they were excluded from the count for these purposes. Since 1911, these financial provisions ceased to apply. The only use that remained for section 127 was in counting how many electorates each State would have. It did not affect voting rights or have any impact on Aboriginal and Torres Strait Islander people, other than a symbolic one.

It is often said that Aboriginal and Torres Strait Islander people were not counted in the census until after 1967. That is not true. They were counted from the very first Commonwealth census if they lived near settlements – just not in the remote areas. The census figures in the first part of each census included some Aboriginal people, but excluded others for the purposes of section 127. They were instead included in tables at the end of each chapter. The repeal of section 127 removed the need for separate counting in different tables in the census, and included all Aboriginal and Torres Strait Islander people in the population count for determining how many electorates each State gets in the Commonwealth Parliament.



Day of Mourning | 26 January
1938

Source: State Library of NSW

The race power in section 51(xxvi) of the Constitution was originally intended to place restrictions on the lives of foreign labourers brought into Australia to work temporarily. By 1967 it was recognised that it could be used also in a beneficial way, to redress disadvantage and to override State discriminatory laws. Expanding its application to Aboriginal and Torres Strait Islander people allowed the Commonwealth greater power to make laws affecting their lives.

Despite popular belief, the 1967 referendum had nothing to do with making Aboriginal people citizens (as they were citizens already if born in Australia) or giving them voting rights (as Aboriginal people had been enfranchised by 1949 or 1962 at the latest at the Commonwealth level). It did not provide any rights, but it did provide overwhelming symbolic acceptance.

The referendum bill was passed unanimously by Parliament, so only a 'Yes case' was published. It argued that the amendment would remove words from the Constitution that discriminate against Aboriginal people. It would allow the Commonwealth and the States to cooperate for the benefit of Aboriginal and Torres Strait Islander people. But it left a power in the Constitution that could still be used to make racially discriminatory laws against Aboriginal and Torres Strait Islander peoples. It did not end the struggle for constitutional recognition and other legal reforms.

The Results

The referendum passed overall and obtained a majority in all six States:

	NSW	Qld	SA	Tas	Vic	WA	Total
For	1,949,036	748,612	473,440	167,176	1,525,026	319,823	5,183,113
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Failed referendum – Republic (teacher resource)

Australia is a constitutional monarchy under King Charles III as 'King of Australia'. The King or Queen inherits their office as Sovereign and the Governor-General is appointed by the Sovereign on the advice of the Prime Minister. The people have no involvement in the choice of either the King or the Governor-General. From time to time there is discussion about cutting off this remaining colonial link to the United Kingdom, with Australia becoming a republic. It would involve replacing the Sovereign and the Governor-General with an Australian head of state, whether called a 'President' or some other title.

The Keating proposal

In 1993 the Prime Minister, Paul Keating, announced the establishment of a Republic Advisory Committee to prepare options for a federal republic of Australia that involved minimal constitutional changes. The Committee, led by Malcolm Turnbull, [reported](#) on 5 October 1993, setting out detailed information on how a minimalistic republic could be achieved. It discussed the possible methods for appointing and removing the Head of State, what to do with the Head of State's powers, and what to do with the role of the Sovereign in the States. The Committee preferred the election of the Head of State by a two-thirds majority at a joint sitting of the Houses of the Commonwealth Parliament, and removal by the same method.

In 1995 the Keating Labor Government set out a proposal to achieve a republic by the time of the centenary of federation on 1 January 2001. The Coalition Opposition was internally divided on the issue of a republic, with both strong monarchist and republican views held by its members.

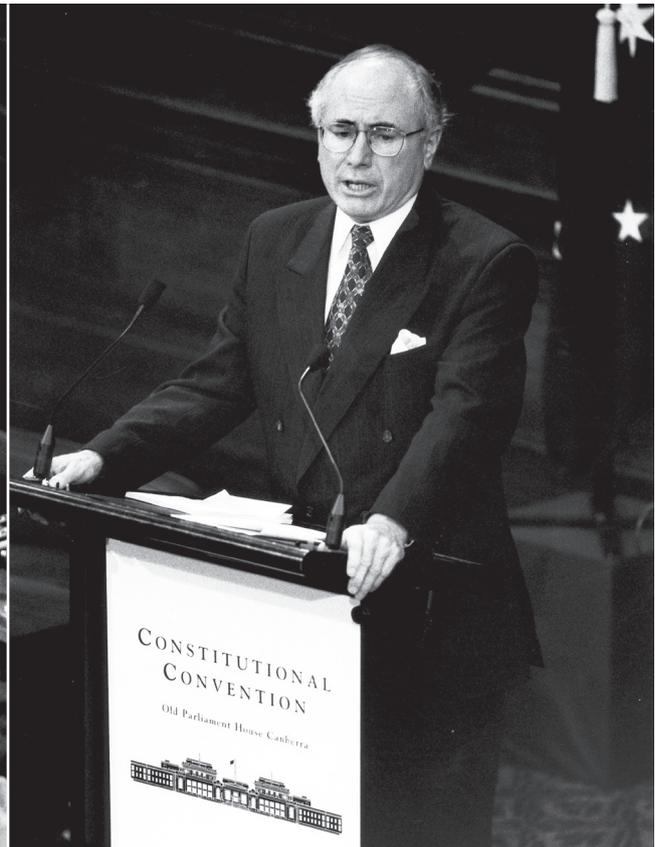
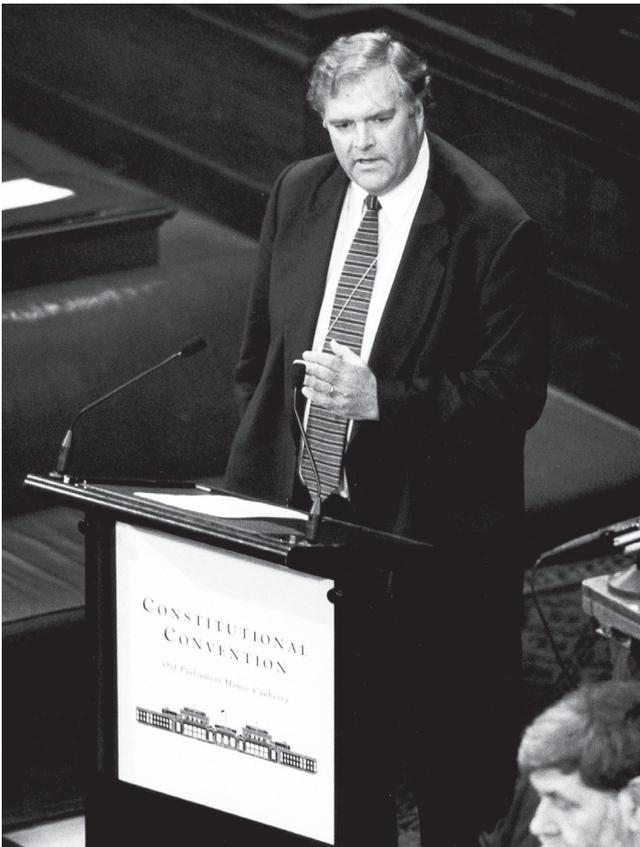


Source: National Library of
Australia

When Alexander Downer was Leader of the Opposition, he managed to calm this internal conflict by promising a Constitutional Convention on the issue, like the [conventions](#) that had been held in the 1890s prior to federation. When John Howard, who was a staunch monarchist, took over as Leader, he persisted with the policy to hold a convention, and it was this policy that the Coalition took to the election in March 1996.

The Constitutional Convention

Keating lost the election and the Howard Coalition Government was formed. Consistent with its promise, it agreed to hold a [Constitutional Convention](#). Controversially, it decided that half the Convention (76 delegates) would be [elected](#), while the other half of the delegates would be appointed by the Prime Minister (comprised of 40 parliamentarians, including all State Premiers and Opposition Leaders, and 35 non-parliamentarians, who ranged from constitutional experts to youth representatives).



Opposition Leader Kim Beazley (left) and Prime Minister John Howard (right) speaking at the 1998 Constitutional Convention
Source: National Library of Australia

The election of the other candidates was done by a postal ballot, under a Senate-style voting system. Most were elected from the 'tickets' of the two main activist groups, the [Australian Republican Movement](#) (ARM) and [Australians for Constitutional Monarchy](#) (ACM). But also elected were other republicans who strongly supported a model of direct popular election for the President, rather than appointment by Parliament. They bitterly opposed the ARM and ended up joining with the ACM to defeat the republic referendum, even though they supported a republic.

The Prime Minister promised that if the Convention produced a consensus in favour of a republic, with clear support for a particular republican model, then he would put the proposal to the people in a referendum, even though he did not support it. After two weeks of intense [debate](#) in February 1998, the Convention voted in favour of Australia becoming a republic. A majority of the Convention rejected different models of direct popular election of the President and a model under which the President would be appointed by a Constitutional Council on the advice of the Prime Minister (known as the 'McGarvie model').

A majority instead supported what was described as the 'Bipartisan Appointment Model'. The public would participate in the nomination of candidates by making their recommendations to a committee. The committee would then provide a report on the nominations to the Prime Minister.

The Prime Minister, taking into account that report, would nominate a particular person to a joint sitting of the Commonwealth Parliament. If that nomination was also approved by the Leader of the Opposition and by a two-thirds majority of the joint sitting, the person would become President. In practice, the real choice would happen behind the scenes, with the Prime Minister and the Opposition Leader agreeing on a candidate, after considering the possible candidates and their popular support, as revealed by the committee process. The effect would be that the President would have to be someone acceptable to both sides of politics (rather than a party hack from the governing party or the person who can buy the greatest amount of advertising).

Under this model the President could be removed from office by the Prime Minister, but the Prime Minister would then have to seek the approval of the House of Representatives within 30 days, unless an election was held in the meantime. The powers of the President were to remain the same as those of the Governor-General. The only qualification for being President was to be Australian citizenship, but the President would be disqualified on the same grounds as apply to Members of Parliament under section 44 of the Constitution.

As the Convention had reached a conclusion as to the best model, the Prime Minister agreed to put it to a referendum, if his government won office at the 1998 election. It did so, and a task force was established to draft a referendum bill and a second bill to deal with the presidential nomination committee. Both bills were considered by a [joint select committee](#) of the Parliament.

The referendum proposal

Appointment and qualifications: Proposed section 60 of the Constitution said that after considering the report of the nominations committee, the Prime Minister may, in a joint sitting of the two Houses of Parliament, move that a person be chosen as President. If this motion was seconded by the Leader of the Opposition and approved by a two-thirds majority of the Joint Sitting, the person would become President upon taking an oath of office. The person chosen had to meet the qualification and disqualification requirements for Members of Parliament. In addition, he or she could not be a current Member of a Commonwealth, State or Territory Parliament or a member of any political party. The President would hold office for a five year term and could serve for more than one term.

Removal: The President could be removed from office by the Prime Minister with immediate effect. The Prime Minister would have to seek the approval of the House of Representatives within 30 days of any such removal, but the failure of the House to approve the removal would not reinstate the President. Presumably such a failure would be treated as a vote of no confidence in the Prime Minister, but would be unlikely to occur if the Government held majority support in the House of Representatives, as is usually the case.

Powers: The powers of the President would have been the same as those of the Governor-General, and subject to the same conventions regarding their exercise. This would have been made clear in proposed section 59 which said: 'The President shall act on the advice of the Federal Executive Council, the Prime Minister or another Minister of State; but the President may exercise a power that was a reserve power of the Governor-General in accordance with the constitutional conventions relating to the exercise of that power'. The 'reserve powers' are the discretionary powers that the Governor-General can exercise (such as appointing and dismissing a Prime Minister or refusing to grant an election) without being obliged to act in accordance with ministerial advice.



A 'No' campaign poster, 1999
Source: Australian Electoral Commission

The transitional provisions in the proposed Schedule 2 of the Constitution also made it clear that constitutional conventions, including those relating to the reserve powers, could continue to evolve and that reference to them in the Constitution would not make them 'justiciable' (ie capable of being interpreted and determined by the courts).

The States: The Sovereign also plays a role under State Constitutions. He or she appoints State Governors and is formally a part of most State Parliaments (although represented by the Governor in fulfilling that role). In some cases a State would have to have its own referendum to change the State Constitution to remove the role of the Sovereign. This raised the question of whether the Commonwealth republic referendum should also force the States to cut their links with the Sovereign, and how then to fill the gaps in State Constitutions.

The Commonwealth took the view that it was not worth trying to interfere with the State Constitutions. It included in its transitional provisions in proposed Schedule 2 the following: 'A State that has not altered its laws to sever its links with the Crown by the time the office of Governor-General ceases to exist retains its links with the Crown until it has so altered its laws'.

This would have meant that there could be an Australian republic comprised of States which still had the Sovereign as 'head of state'.

Some saw this as a constitutional abomination. However, the Commonwealth Government took the pragmatic view that if Australia became a republic at the national level, it would be likely that most States would then take action to cut off links to the Crown. For those that did not, the then Queen would most likely pressure them to do so, as it would be unlikely that she would wish to remain Queen of Queensland or Queen of Tasmania in an Australian republic. Sooner or later, all States would voluntarily cut their links with the Crown, without the need to be forced.

The [Yes and No Cases](#)

Debate was spread across a number of issues. First, there was the general question about whether Australia should remain a constitutional monarchy or become a republic. Second, there was the issue about the model – whether the President should be chosen by Parliament (labelled by monarchists as a "politicians' republic") or directly elected by the people. Third, there were arguments about particular amendments and their potential effects, such as the removal procedure for the President.

The Yes case argued that the change was about replacing the Sovereign with an Australian head of state and completing Australia's independence from Britain. The Australian President would fulfil the same roles and powers as the Governor-General. He or she would not be a President in the style of the United States, which has a completely different system of government. The change would simply make the method of choosing Australia's head of state more democratic and open than is currently the case. By avoiding a direct election, the President would not need loads of money or the support of a political party to hold office. The two-thirds approval requirement would mean that only someone respected by all sides would be chosen.

The No case argued that this would be a politicians' republic where the political deal-makers would decide who is head of state, and the Australian people would be excluded. It argued that the President would be the Prime Minister's puppet because he or she could be dismissed by the Prime Minister instantly for no reason. 'It will be easier for a Prime Minister to sack the President than his or her driver'. The No case claimed that a republic would give more power to politicians at the expense of the people, and that it would threaten Australia's secure and workable system of government.



Public Information Campaign Source:
Australian Electoral Commission

The No case also argued that 'if it ain't broke, don't fix it'. It said that this proposed model would involve 69 changes to the Constitution, which were all 'untried and untested'. It labelled the republic 'divisive', pointing to the division between republicans on the appropriate model. It denied there would be any benefits from becoming a republic, saying it would not create jobs or improve the economy.

The campaign

One of the unusual aspects of the republic campaign was that there were divisions within both political parties over the issue. The Prime Minister, John Howard, for example, opposed a republic, while the Treasurer, Peter Costello, supported it. Although the Labor Party was largely in favour of a republic, it was divided between those who favoured direct election and those who favoured parliamentary appointment. This lack of a cohesive political narrative resulted in [confusion for those voters](#) who usually decide to vote according to cues given by the political party they supported, or particular leaders. Seeing parties divided led some to conclude that the issue was so complicated and risky that they should oppose the proposed change.

The Howard Government provided funding for education campaigns by committees for the Yes and No cases, but they were largely ineffective. Voter ignorance about the proposal and its likely consequences remained high. This was exploited by the No Case arguing that if you don't know – vote no. But if you don't know, the responsible thing to do is always to find out and give an informed vote.

The referendum question

The question asked of voters in a referendum is whether or not they approve of the referendum bill, which is described by giving its long title. It is therefore critical what words are put in the long title of the bill, as this is likely to affect how people vote.

Those in favour of a republic wanted to emphasise that the Sovereign was to be replaced by an Australian head of state. Those in favour of the monarchy wanted to emphasise that the President would be appointed by a two-thirds majority of members of the Commonwealth Parliament, as this would be likely to alienate all those pro-republic voters who wanted the people to elect the President directly.

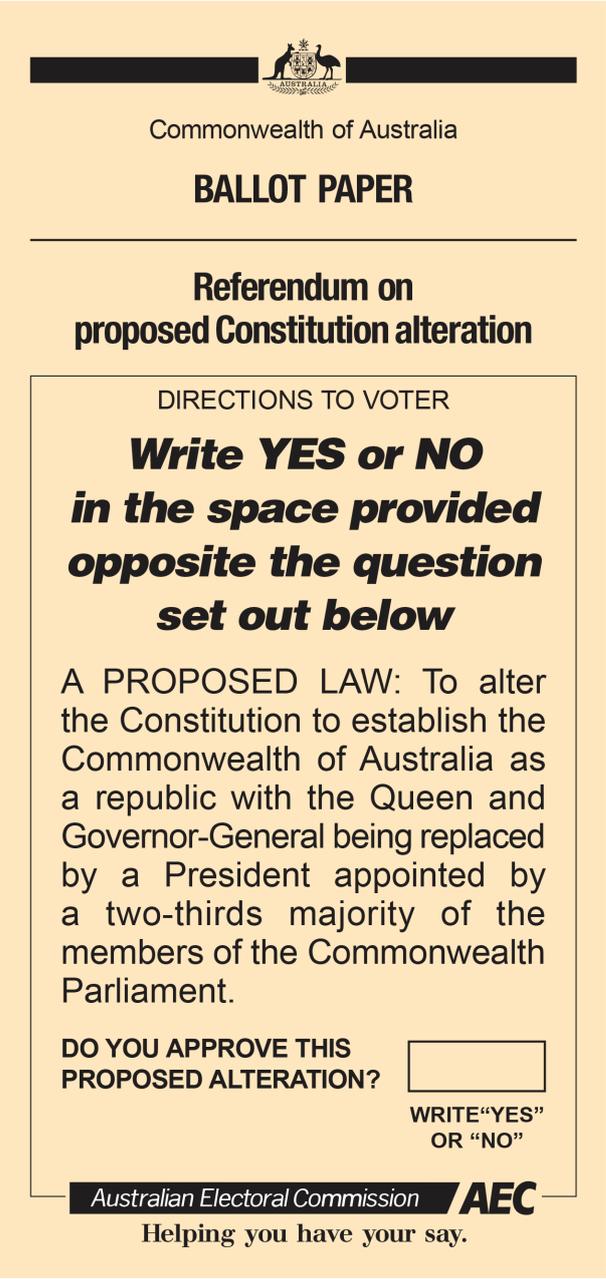
The question eventually asked in the referendum was: 'Do you approve this proposed alteration? A proposed law: To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament'.

The Results

While the campaign started with the republic clearly ahead, its support progressively fell as the campaign went on. The referendum failed overall and failed in all States:

	NSW	Qld	SA	Tas	Vic	WA	Total
For	1,817,380	784,060	425,869	126,271	1,489,536	458,306	5,273,024
Against	2,096,562	1,309,992	551,575	186,513	1,499,138	646,520	6,410,787
Informal*	34,772	14,642	8,950	2,857	28,063	9,500	101,189

#Total includes Territory votes. * Informal votes are not counted in determining majorities.



Commonwealth of Australia

BALLOT PAPER

**Referendum on
proposed Constitution alteration**

DIRECTIONS TO VOTER

**Write YES or NO
in the space provided
opposite the question
set out below**

A PROPOSED LAW: To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament.

DO YOU APPROVE THIS PROPOSED ALTERATION?

WRITE "YES" OR "NO"

Australian Electoral Commission **AEC**

Helping you have your say.

Sample Ballot Paper Republic Question 1999
Source: Australian Electoral Commission



Teacher Reference Document 96



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 11: Changing the Constitution (referenda) – Year 9 - C & C Strand:
Government & Democracy

Topic 9.1: Referendum: the process for Constitutional change

Failed referendum – Republic (students)

Australia is a constitutional monarchy under King Charles III as 'King of Australia'. The King or Queen inherits their office as Sovereign and the Governor-General is appointed by the Sovereign on the advice of the Prime Minister. The people have no involvement in the choice of the Sovereign or the Governor-General. From time to time there is discussion about cutting off this remaining colonial link to the United Kingdom, with Australia becoming a republic by amending the Constitution to replace the Sovereign and the Governor-General with an Australian head of state.

In 1993 the Labor Prime Minister, Paul Keating, set up a committee to examine the options for an Australian republic. The Committee, led by Malcolm Turnbull, [reported](#) on 5 October 1993. It suggested minimal change, with a head of state keeping the same powers as the Governor-General and being chosen by a two-thirds majority at a joint sitting of the Houses of the Commonwealth Parliament. Keating proposed a referendum on a republic by the time of the centenary of federation on 1 January 2001. The Coalition was divided on the issue of a republic, so it decided to sideline the issue by instead promising to hold a constitutional convention on the subject if it won the election in March 1996.

The Constitutional Convention

The Coalition won the election and consistent with its promise, agreed to hold a [Constitutional Convention](#). Half the Convention was directly [elected](#), while the other half was appointed by the Prime Minister. The election took place by a postal ballot, with pro and anti republic groups running groups of candidates in the election.

After two weeks of intense [debate](#) in February 1998, the Convention voted in favour of Australia becoming a republic.

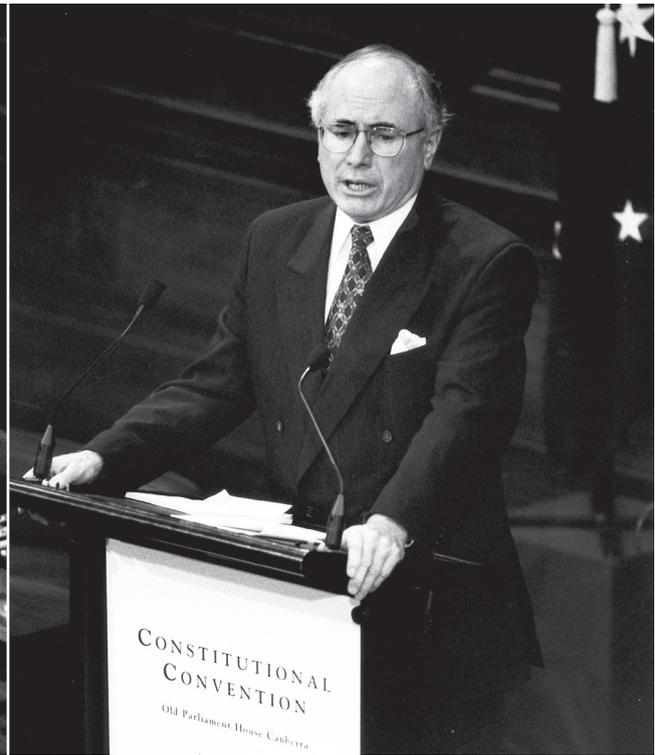
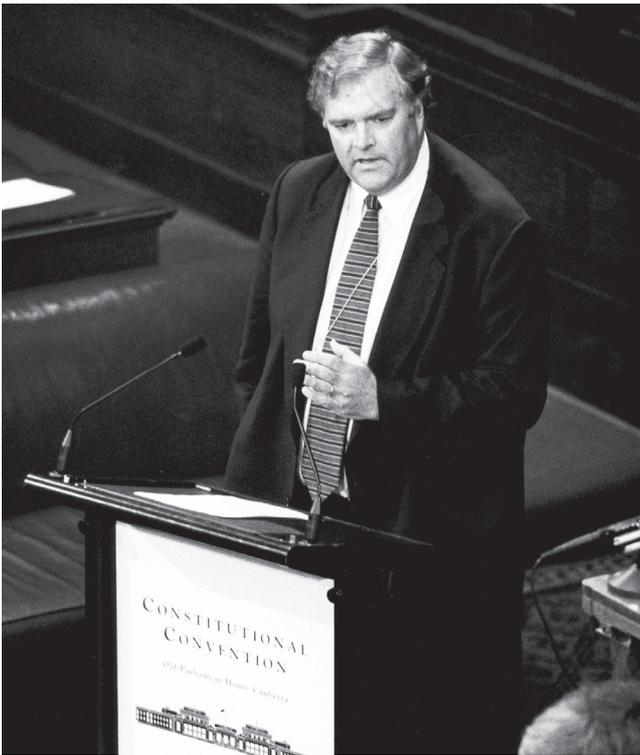


A 'No' campaign poster, 1999
Source: Australian Electoral Commission

A majority of the Convention rejected the direct election of a President and instead adopted the 'Bipartisan Appointment Model'. The Prime Minister agreed to put it to a referendum. The proposal was examined by a [joint select committee](#) of the Parliament and subject to a great deal of scrutiny.

The referendum proposal

Appointment and qualifications: First, a committee would receive nominations from the public of suitable persons to be President. After the Prime Minister had considered the Committee's report, he or she would nominate a proposed President to a joint sitting of the two Houses of the Commonwealth Parliament.



If the Leader of the Opposition supported it, along with a two-thirds majority of the joint sitting, the nominee would become President. The nominee would have to meet the qualification and disqualification requirements for Members of Parliament. In addition, he or she could not be a current member of a Commonwealth, State or Territory Parliament or any political party. The President would hold office for a five year term and could serve for more than one term.

Removal: The President could be removed from office by the Prime Minister with immediate effect. The Prime Minister would have to seek the approval of the House of Representatives within 30 days of any such removal, but the failure of the House to approve the removal would not reinstate the President. Presumably such a failure would be treated as a vote of no confidence in the Prime Minister, but this would be unlikely to happen if the Government held majority support in the House of Representatives, as is usually the case.

Powers: The powers of the President would be the same as those of the Governor-General, and subject to the same conventions regarding their exercise. The Constitution would make clear that most powers have to be exercised on ministerial advice, but the 'reserve powers' would continue to exist and be exercised in accordance with constitutional conventions. The 'reserve powers' are the discretionary powers that the Governor-General can exercise (such as appointing and dismissing a Prime Minister or refusing to grant an election) without being obliged to act in accordance with ministerial advice.

Opposition Leader Kim Beazley (left) and Prime Minister John Howard (right) speaking at the 1998 Constitutional Convention
Source: National Library of Australia

The Yes and No Cases

The debate raised three main questions. First, should Australia remain a constitutional monarchy or become a republic? Second, should the President be chosen by Parliament (labelled by monarchists as a "politicians' republic") or directly elected by the people? Third, were the details of the model right, such as the removal procedure for the President?

The Yes case argued that this was about replacing the Sovereign with an Australian head of state and completing Australia's independence from Britain. The Australian President would fulfil the same roles and powers as the Governor-General. He or she would not be a President in the style of the United States, which has a completely different system of government.

The change would simply make the method of choosing Australia's head of state more democratic and open than is currently the case. By avoiding a direct election, the President would not need loads of money or the support of a political party to hold office.

The two-thirds approval requirement would mean that only someone respected by all sides would be chosen.

How to Vote 'Yes'

Preamble Referendum

Mauve ballot paper

Write Yes in the box on the ballot paper as shown.

Commonwealth of Australia
BALLOT PAPER

Referendum on proposed Constitution alteration

DIRECTIONS TO VOTER

Write YES or NO in the space provided opposite the question set out below

A PROPOSED LAW: To alter the Constitution to insert a preamble

DO YOU APPROVE THIS PROPOSED ALTERATION? Yes

WRITE "YES" OR "NO"

Australian Electoral Commission **AEC**
Helping you have your say

yes

for our Republic and an Australian as our Head of State

You will be given two ballot papers. A buff one for the Republic Referendum and a mauve one for the Preamble Referendum.

Just write **Yes** in the box on each ballot paper.

Do not use ticks or crosses.

If you make a mistake ask for another ballot paper

Republic Referendum

Buff ballot paper

Write Yes in the box on the ballot paper as shown.

Commonwealth of Australia
BALLOT PAPER

Referendum on proposed Constitution alteration

DIRECTIONS TO VOTER

Write YES or NO in the space provided opposite the question set out below

A PROPOSED LAW: To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the Members of the Commonwealth Parliament.

DO YOU APPROVE THIS PROPOSED ALTERATION? Yes

WRITE "YES" OR "NO"

Australian Electoral Commission **AEC**
Helping you have your say

The No case argued that political deal-makers would decide who is head of state, and the Australian people would be excluded. It said the President would be the Prime Minister's puppet because he or she could be dismissed by the Prime Minister instantly for no reason. 'It will be easier for a Prime Minister to sack the President than his or her driver'. The No case claimed that a republic would give more power to politicians at the expense of the people, and that it would threaten Australia's secure and workable system of government.

How to Vote Yes 1999)
Source: State Library of WA

The No case also argued that 'if it ain't broke, don't fix it'. It said that this proposed model would involve 69 changes to the Constitution, which were all 'untried and untested'. It labelled the republic 'divisive', pointing to the division between republicans on the appropriate model. It denied there would be any benefits from becoming a republic, saying it would not create jobs or improve the economy. It said that if you don't know – vote no. (Of course, if you don't know, find out and give an informed vote. That's your responsibility as a voter.)

The results

While the campaign started with the republic clearly ahead, its support progressively fell as the campaign went on. The referendum failed overall and failed in all States:

	NSW	Qld	SA	Tas	Vic	WA	Total
For	1,817,380	784,060	425,869	126,271	1,489,536	458,306	5,273,024
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Informal*	34,772	14,642	8,950	2,857	28,063	9,500	101,189

#Total includes Territory votes. * Informal votes are not counted in determining majorities.





Topic 9.1: Lesson Two

Successful and Unsuccessful Referendums



AUSTRALIAN CONSTITUTION CENTRE

Time/Lesson

- 1-2 hours | 1-2 Lessons (Depth possible if time available)

Learning Goal

- To identify and describe the number of referendums and the number that have been successful.
- To analyse and evaluate the success and failure of referendums.

Rationale

Students should understand and critically analyse why referendums succeed and fail. This will enable them to be informed citizens when faced with referendums in the future. Examining two case studies in depth will show the range of possibilities of success to students.

Success Criteria

Students will be able to articulate what matters for a referendum to succeed. Students will have a sufficient understanding of the 1967 Aboriginal referendum and the 1999 republic referendum to explain why referendums succeed and fail.

Teaching Reference Document

- TRD 92 Referendum – Success and Failure in Australia
- TRD 93 Successful referendum – The 1967 Aboriginal referendum (Teachers)
- TRD 94 Successful referendum – The 1967 Aboriginal referendum (Students)
- TRD 95 Failed Referendum – Republic (Teachers)
- TRD 96 Failed Referendum – Republic (Students)

Resources

VIDEOS:

- AEC's [Changing the Constitution](#) (5:08)
- BTN's [1967 Referendum](#) (3:59)

WEBSITE:

- AEC's [Referendum dates and results](#)

ONLINE GAME:

- AEC's [CASE STUDY: the 1999 referendum](#)

ENRICHMENT:

- National Museum of Australia's [Defining Moments: 1967 referendum](#) (6:10)
- ABC Counted – The 1967 Referendum (29:07)
- [Abbott vs Turnbull: Republic Debate 1993](#) (9:21)
- Play AEC's other [Changing the Constitution](#) games
- Other CEFA Referendum Resources

Tuning In

- Provide AEC's [Referendum dates and results](#).
- Ask students to separate the ones that failed from the ones that passed.
- Students should then categorise the failed ones. What did they have in common? Did they expand Commonwealth power? Would the States oppose them? Were they on subjects that were politically contentious? Were there organised groups that would campaign against them? Did they put too many things into the one question?
- Ask students to try to match the categories they have made against the possible reasons for failure identified in TRD 92. Do they match? Can they identify any other reasons why a referendum might have failed?

Teacher Instruction

- **REVISE:** TRD 90 Referendum – why use it for constitutional change? (First TRD and lesson for this topic).
- **REVISE:** Unit 5: Topic 6.1: 'The failure of the 1898 referendum in NSW to approve the Constitution' and TRD 48 'The success of the 1899 referendum to approve federation and the Constitution' from topic Unit 5.
- **EXPLAIN:** The authors of the Constitution made it intentionally difficult to change the Constitution. They wanted the Constitution to be stable and not to change with every fad or for party-political reasons. They thought that the approval of the people in a referendum would operate as a conservative break upon ill-considered change. But one thing they were not aware of was that in the future voting would be made compulsory. This means that those who are uninterested and uninformed are counted in a referendum too.
- **BRAINSTORM:** Ask students to speculate upon whether the authors of the Constitution would have thought compulsory voting in relation to referendums was a good thing (eg because it gives a more accurate view of the will of the people) or a bad thing (eg it makes it too hard to update the Constitution and achieve change when uninterested people are forced to vote).
- **EXPLAIN:** We are going to examine two referendums in detail to try to work out what makes a referendum succeed. First, we need to remember the referendum process. This video explains the process and introduces the two referendums.
- **WATCH:** AEC's [Changing the Constitution](#) (5:08).
- **DISCUSSION QUESTION:** What reasons does the video provide for why so few referendums succeed?
- **ANSWER:** the double majority is hard. People are reluctant to change.
- **DISCUSSION QUESTION:** Do you think it is a good thing that it's hard to change the Constitution?
- For the next video, students are to write down why the 1967 Referendum was a success while watching the video.
- **WATCH:** BTN's [1967 Referendum](#) (3:59).
- **ENRICHMENT:** also/instead watch National Museum of Australia's [Defining Moments: 1967 referendum](#) (6:10).
- **DISCUSSION QUESTION:** Why do you think the 1967 Referendum was successful? A key consideration was that all political parties supported it and no one campaigned against it.

Group Independent Learning

- **READ:** TRD 94 - Successful Referendum - the 1967 Aboriginal referendum.
- **ANALYSIS:** Ask students to identify what constitutional changes the successful 1967 referendum made. How is this different from what people commonly think the referendum did (eg that it gave Aboriginal people the right to vote, or made them citizens, or ended their status as 'flora and fauna'). Why are there myths about the 1967 referendum? Search the internet for common myths about the referendum. How can they be corrected?
- **MYTH-BUSTING:** Students work in groups to prepare a 3 minute video (or the script for a video if recording equipment is not available) that dispels the common myths about the 1967 referendum and explains the facts about what the referendum did.
- **EXTENSION:** Why did the 1999 referendum fail? Students research, using Trove, for articles about the referendum and also consider the arguments included in the Yes/No case: https://www.aec.gov.au/elections/referendums/1999_referendum_reports_statistics/yes_no_pamphlet.pdf.
- What were the main factors that led to the republican referendum's defeat, and how were they different from the factors that applied in the 1967 referendum?
- Students may consider factors such as: the complexity of the change; limited public understanding of the Constitution and the effect of the change to it; divided views within political parties; division within the republican side (with republicans who wanted a directly elected President joining with constitutional monarchists to defeat the referendum); distrust of politicians; a formal and publicly funded 'No' case and 'Yes' case; fear of unintended consequences; and lack of clarity about the practical benefits of altering the Australian Constitution to replace the Queen with a President.
- **DISCUSS:** In 1999, many people stated they voted against the republic because it wouldn't give them a direct say in choosing their President - it would instead be their elected representatives in Parliament who chose the President, on a bi-partisan basis. Might the people have voted yes for a directly elected (popular) President if that had been the model on offer?
- Referendums happen rarely, so a referendum loss can have ramifications for a long time. Do you think there were examples of misinformation in the arguments put by either side in the 1999 Republican referendum? Is there a place for misinformation in referendum campaigns or do people deserve factual information on which to decide? Consider arguments run by both the yes and no cases in the 1999 Republican referendum. Were all the arguments run fair? Which way do you think you would have voted?
- **DISCUSS:** Do you think people should debate referendum issues with a sense of compromise, civility and respect? Should leaders be guided by society values such as compassion, integrity, dignity, fairness, equality and a sense of a fair go? Do you think that sometimes compromise is needed to move society forward and achieve the best outcomes for the common good? Take an issue that might be considered as potentially divisive for a class debate. Run the debate first on arguments not factually correct and take a class vote followed by a factually correct civil debate with a new vote after it.

Wrapping It Up

- **CLASS DISCUSSION:** Ask students what they have learnt about the factors that result in the success or failure of a referendum. Knowing those factors, can they be manipulated to influence the result? How do the people who write the Yes and No cases in a referendum campaign use those factors to influence the outcome? Might factors that applied in the past have reduced relevance today because of changing factual circumstances (eg the rise of social media, less reliance on mainstream media and reduced party membership)?

Differentiation

- Watch Stan Grant's ABC Documentary: [Counted – The 1967 Referendum](#) (29:07).
- Play AEC's other [Changing the Constitution games](#).
- Watch [Abbott vs Turnbull: Republic Debate 1993](#) (9:21).

Assessment Strategies

Observation of participation in discussion and assessment of written work/videos.