



Dr. Lesley-Clark, Chair,
The Legal, Constitutional and
Administrative Review Committee,
Parliament House,
George Street,
Brisbane, Qld. 4000.

A PREAMBLE FOR THE QUEENSLAND CONSTITUTION.

Enclosed is "The Feedback Form".

I found it more convenient to "Type" the submission, so I have reproduced the Form. I feel sure you and your Committee, will find my Submission far easier to read, than had I written it in longhand.

Trusting that some of my thoughts prove to be of interest,

Yours Sincerely,

Brian Sheehy.

FEEDBACK FORM.

Issue 1.

Should the Queensland Constitution contain a Preamble?

Without a doubt. The Preamble should be uplifting to all Queenslanders, and clearly define the "Intent of the Constitution".

Issue 2.

Should the Queensland Constitutional Review Commission's "Draft Preamble", be adopted in Queensland?

The answer is **NO**, and for my reasons I suggest you refer to my previous submission pages 4 to 6 inclusive.

Issue 3.

What purpose should a Preamble to the Queensland Constitution serve?

A Preamble, in my opinion, should define the "Intent of the Constitution", and should be the "Guiding Light", for Judicial Decisions, which are made to settle disputes, as to the actual meaning of the Words and phrases, contained in the Constitution.

It should also encourage the Queensland People to strive to attain their own goals, and show them that they can "Win", with a minimum of interference from Bureaucrats.

Issue 4.

What type of language should the Preamble use?

If the purpose of the Queensland Constitution is to ensure the future Freedom and Well-Being of the Queensland Resident, then the Preamble should be written in clear concise simple English. It's purpose is to permit the "average person", to understand the "Intent of the Constitution", particularly those who do not have the capacity to absorb the precise "Legal Language" of the Constitution itself, as well as clarify issues which may be up for Judicial Review.

Issue 5.

How extensive should the Preamble be?

I refer to my pro-forma Preamble. One A4 Page which covered practically all aspects necessary. I believe that the Preamble, outlines the Principles involved, The Constitution details those Principles, the "Nuts and Bolts of Management", are the responsibility of the Elected Representatives, **NOT** the Bureaucrats.

Cont on Page 2

Issue 6.

Should the Queensland Constitution specifically state that the Preamble cannot be used to interpret other provisions of the Constitution?

To me this Question, smacks of the "Forked Tongue of the Great White Father in Washington".

The Magician's Conjuring Trick. This is what you see, The Preamble.

Now watch closely while the Courts show you that what you saw, was nothing more than a mirage, designed to make you believe, that that which you thought was true, doesn't really exist.

Is there no "Sense of Morality", in the Political Life of Queensland?

Do Compromise, Expediency, and Deception, have to be the only values in Government?

The Preamble should be carefully thought out, so it provides as much value as possible to those, who it is designed to appease, but not necessarily give them everything they want.

The first question to be settled is, "What do they want". Not the Factional Interests, represented by the "Lobby Groups", but the real desires of these people.

Once that has been decided then it is possible to write the Preamble in such a way, that even though the Preamble does illuminate the Constitution, it provides no more benefits, to any parties, than the Constitution itself.

Issue 7.

Should there be a reference to the Origins or History of the Constitution, in the Preamble?

Once again, what "Sense of Opportunism, Expediency, and Compromise, caused this Question to be asked?

Is the Legal Constitutional and Administrative Review Committee, looking to be the "Mother", of a Queensland Constitution, rather than the "Mid Wife"?

"New" Preambles and Constitutions are built from the previous Preambles and Constitutions, although the Preamble in this case, as I believe there was no previous Preamble for the Queensland Constitution, may well be a case of the Committee being the "Mother".

A Preamble without reference to Origins and/or History in its wording would be a Sterile Document", indeed. One that suits the trained Legal Mind, perhaps, but certainly would provide no Inspiration and "Encouragement to Personal Aspirations", in the minds of ordinary Queenslanders.

Issue 8.

Should the Preamble refer to the Sovereignty of the people, and , if so, how?

THE Sovereignty of the PEOPLE, is clearly stated in the **Australian Constitution**, where the PEOPLE have the "Right of Referendum".

Do PEOPLE have the "Right of Referendum", in the NEW Queensland Constitution, and if not, "can they be Sovereign"?

The "New" Queensland Constitution, is designed, from my understanding, to remove the Sovereignty of the people. For this reason I have not included it in the pro-forma Preamble which is part of my previous submission.

There should be NOTHING included in the Preamble, which is not contained in the Constitution.

Unless the "Right of Citizen's Initiated Referendum, Voter's Veto, and the Right of Recall", are included in the Queensland Constitution, which I realise is highly unlikely, to the point of being almost an impossibility, any mention of the "Sovereignty of the People", is again a conjuring trick.

When Referendums have **NO** power over the Parliament, I believe they are called "Plebiscites". It is my understanding that even Plebiscites are to be removed from the "New" Constitution. I fail to see how the "Sovereignty of the People", could be any more, than a statement of **NO** relevance, in fact, **Deception**.

Issue 9.

Should the Preamble refer to God, and if so how?

As stated in my original pro-forma Constitution, "This Preamble and Constitution has been written under the guiding hand of God, and with the Blessing of God Almighty, for the benefit of all Queenslanders".

Issue 10.

Should the Preamble recognise Aboriginal and Torres Strait Islander People, and if so, how?

Again refer to my original submission. Paragraph 5, in the pro-forma Preamble, and the comments I made regarding the Preamble, proposed by the Legal, Constitutional and Review Committee.

If the purpose is **NOT** to divide Queenslanders, into "Them and Us", but to provide **ALL** Queenslanders with a sense of Unity, then addition of being "PAST" Custodians of the Land, is essential. If this "fails to satisfy", then the reasons behind the demand for inclusion of this Section, must be examined for its "real intent".

Otherwise the Preamble could fall into the same "Minefield", as the Preamble of the American Constitution has become, where the "Right to Lifers", have taken the Statement in the Preamble that, "all people shall have the Right to Life", to support the case for Anti-Abortion.

Issue 11.

Should the Preamble recognise "Cultural Diversity", and, if so, how?

Refer to the pro-forma Preamble same Clause 5, where the acknowledgement is made that **ALL** Queenslanders contribute to our "Cultural Understanding"

To go further, is to again create a "Them and Us" Syndrome.

Governments should **NOT** be permitted to fund "Multi-Culturalism", as this tends to reduce the possibilities of assimilation by Migrants, into the Australian "Way of Life".

The lessons of Great Britain many Countries in Europe, and the USA are in front of our eyes, yet we still refuse to learn at Representative or Bureaucratic level.

Issue 12.

Should the Preamble recognise "The Rule of Law", and if so, how?

Refer to my comments on the L. C. & A. R. C's proposed Preamble.

Is "The Rule of Law" correctly named, or should it read, "The Rule of Legislation"?

People generally have no trouble obeying the "Law of the Land", which is the "Law of Commonsense", but many have great difficulty in understanding and obeying "Legislative Law".

The Preamble should **NOT** refer to "the Rule of Law", but instead refer to our inherited Freedoms, Rights and Responsibilities, as in my pro-forma Preamble. (Refer previous submission Page 8)

Issue 13.

Should the Preamble refer to "Equality", and if so, how?

There is no such thing as "Equality", in human life. Each person is an individual, and when it comes to "Equality before the Law", the Chief Justice of the Queensland Supreme Court, made it very clear, in his Ruling, which released Pauline Hansen and David Eltridge from Prison, that the person with more "Money", is better able to afford "Justice", than the "Economically Disadvantaged".

To place the word, "Equality", in the Preamble would be no more than an untruth, designed to comfort the vast majority of Queenslanders.

Unless there is a complete overhaul of our present, "Justice or Injustice System". (highly unlikely).

There is no "Equality of Opportunity" either. "Reverse Discrimination has ensured that the male gender, is now denied "Equal Rights".

Issue 14.

Should the Preamble refer to "Gender Equality", and if so, how?

The addition of the "word", **ALL** to certain Clauses, in my pro-forma Preamble, would solve the problem without any specific reference to "Gender Equality".

Paragraph 2..... Change the word "the" at the end of the second last line to the word, "**ALL**".

Paragraph 4..... The fourth word becomes "**ALL**", in front of Queenslanders.

Paragraph 6..... Second line in front of the "word", "individual", change "**the**" to "**ALL**".

Paragraph 8..... The opening of this Paragraph, should be changed to read, " The Freedoms Rights and Responsibilities of **ALL** Queenslanders".

To place a Paragraph in the Preamble, referring to "Gender Equality", would simply encourage the reverse discrimination which has been a feature of Australian Life, over the past Decades.

Even Legal Practitioners, can hardly claim that the word "**ALL**", excludes Women.

"Equality", is an untruth when referring to the Individual, (refer above), why compound the untruth?

Issue 15.

Should the Preamble recognise the Status of the Constitution, and if so, how?

Yes. The purpose of the Constitution of any Organisation, is to allow the Members of the Association, to be guaranteed that the "Management Committee", operates within the "Rules of the Constitution".

When an attempt is made to operate outside the "Rules of the Constitution", the Members have the Right to Move a Vote of No Confidence, in the Management Committee.

The "First Line of Defence" is the Governor.

The Second Line of Defence should be the "Right of Recall".

This should be included in the Constitution, to allow a "Vote of No Confidence" in the Government of the Day, from the Members, (the Public), by Referendum, if there is an attempt to operate outside the "Rules of the Constitution.

(I realise it won't be). The last thing the Members of both Sides want, is to accept, "Responsibility for their Actions".

No different to the General Community.

Issue 16.

Should the Preamble recognise the "System of Government", the Constitution establishes, and if so, how, and to what extent?

Is the Constitution designed to "Establish a System of Government", or to continue, and reinforce the "System of Government" already in place?

If the proposed Constitution intends to totally remove the "Westminster System of Government", (the Separation of Powers), then please release the proposed draft Constitution now, so the informed may find another State in which to reside.

A Constitution should be the "Rules under which the Management Committee, (which is what the Elected Government is), is "permitted to Operate", as explained in the answer given to Issue 15.

The "School of Thought", which claims that "Parliamentary Power", is so great, that Parliament could order the putting to death of all Blue Eyed Babies, is apparently unaware of "The Inherited Rights and Freedoms of the People of this State", and that any piece of Legislation which is passed, which fails to conform to those Rights and Freedoms, has "NO Effect", in effect, an "Illegal Law".

The main purpose of the Governor of the State, should be to ensure that Legislation does not seek to "Break the Constitution".

Issue 17.

Should the Preamble refer to the Environment, and if so, how?

There seems to be a failure by this "Legal Committee", which presumably does have a Lawyer or two on board, to accept the High Court Ruling, made unanimously by ALL Judges in 1923, that Land, "Granted under Fee Simple Title", belongs to the Grantee, who may use it as he/she would any other Chattel, even to the point of destruction, except that "Land cannot be Destroyed".

-----Cont on Page 7

For those of you who are "Too Young to Remember", that Case, there was a Case in 1999, in which Justice Kirby upheld this Decision.

How would the Committee define "The Environment"? How far does it extend? Of what does it consist? Does it include the Sun, the Clouds, the Moon, the Air, Water, both Fresh and Salt, the Trees the Animals the Insects? Where does it stop? Is it simply a "**loose word**", to create "fuzzy thinking", as does "Racist", and "Money"?

If the "Environment is to be mentioned at all, it would have to be in the Constitution, and trying to define its meaning in there, may mean the Queensland Constitution, uses more paper than any Government Department would use in a month.

Issue 18.

Should the Preamble contain other Elements, and if so what should they be?

Refer to my pro-forma Preamble which I believe, with the Amendments presented here, would be an adequate Document.

I know I have used the word "Mateship", and I understand that Members of the Legal Fraternity" would have a great problem defining exactly what it means, but as it has NOT been used to clarify or describe, you may find its use acceptable.

To even suggest that Parliamentary Debate should "Draft a Preamble", is to say to the PEOPLE, "we know what is best for you, and this is what we have decided". A Recipe for Disaster.

If we are to live in a DEMOCRACY, then the PEOPLE must be consulted, and if a Competition is to involve school children, then the influence of Teachers over those children must be considered, and restrained.

Issue 19.

How might the Text be developed around the "Identified Elements" of a Preamble?

I believe this Question has already been answered.

Issue 20.

How should the Community be consulted in this process?

Most people will not "Leave their Armchairs", to attend a Public Hearing. The only ones who would, are people like myself, who have a firm grasp of what the "Present Political Situation", is. Therefore you would probably receive a "biased view".

It may be more realistic, if you are genuine in asking for ideas, to promote Radio or Television Ads called, "**Question Time**", to allow people to express their opinions, by Phone, on each of these Issues.

Expensive you ask? Yes it is in terms of "Money". In terms of "Living Conditions of Future Generations", what is "Price"?

After all, the future generations are the ones who have to pay for our present expenditure, so why shouldn't they benefit from a genuine Survey? Mobile Phone only, to reduce the possibility of "Repeat Voting" by one individual.

The more publicity the Stations give to it, the more people will want to be involved.

There could be no greater incentive to be involved, than the feeling, in the Community, "everybody else is doing it, maybe I should too"

Issue 21.

Who should be Consulted?

If you are asking whether "Special Interest Groups, should be consulted, I believe they're called "Lobby Groups", each offering some advantage, (Votes or Money), in return for "Favourable Consideration of their Requests", then I would say NO. Consult with ALL the People, as suggested in Issue 20.

Issue 22.

Should a Referendum be held to Insert the Preamble into the Queensland Constitution?

Should the word used be "Plebiscite"?

This Issue begs the question, "Does the present Constitution permit the wishes of the Electorate to be binding upon the Government"?

If it does **NOT**, then again we have the "Conjuring Trick", being used to lull the Voter into a false "Sense of Security".

A further Question arises, "Will the new Constitution permit a Plebiscite to be held at all.

The present Constitution does **NOT** allow the wishes of the Electorate to be binding on the Government, (refer to the Plebiscite, held in 1924 when the so-called "Referendum", decided that the "Upper House", should be retained, and the Government abolished it anyway).

My next Question is, "is the Committee able to make a Plebiscite become a Referendum? Does the Committee have the Power, "to change the present Constitution"? If not what is the point of this Issue. More Deception maybe?

I understand that the new Constitution is attempting to eliminate Plebiscites, except regarding certain conditions concerning "Rules of Parliamentary Management".

Issue 23.

Should an "Interim Preamble", to the Queensland Constitution be inserted by way of Act of Parliament, prior to a "Final Version", being confirmed by way of a Referendum?

This answer has to be read in conjunction with the answer given in Issue 22,

Positively not, if we are speaking of "ideally", but this is not an "ideal World".

Since when, has any Act of Parliament in Queensland, been able to be rescinded by "The Will of the People"?

Once any version of the Preamble is Legislated for, I believe it will be "Set in Stone".

Can a Preamble be inserted into a Constitution that is at best, a series of Acts of Parliament, which when combined together, make up the "guidelines for the Institution of Government"?

Possibly, a Preamble can be inserted by the Parliament, (read Premier), but certainly **NOT** by the People, when there is **NO** mechanism available for a "Referendum", to be held in either Constitution.

Issue 24.

When Is an appropriate time to consider a Referendum on the issue of a Preamble for the Queensland Constitution?

If the future Political Health of this State, is not considered to be worth \$10 Million, then we cannot be as Wealthy and Progressive as I have been led to believe.

I find it amusing that people who are used to authorising the expenditure of Hundreds of Millions of Dollars, on single projects, should now "ask the people", whether they should spend a paltry sum of \$10 Million.

Possibly the tried and tested formula, "give them too much information, ask them to make complicated decisions, and they will follow the lead given them by a Political Party", is about to be implemented again.

Under the guise of "Saving the Taxpayer's Money", apparently a "Stand alone Plebiscite" shall **NOT** be held.

Far better to confuse the Voter, overload their minds with massive amounts of information, make the considerations to be taken into account so huge that it would require a three year course to absorb all the implications, give the Voter 5 weeks to consider their decision, and hold this Plebiscite in conjunction with other Elections.

The "average Voter", would rather play golf, than Vote. What does "The Party Say"? Good, that's duty done, now onto the next entertainment.

The use of the word "**Referendum**", instead of "**Plebiscite**", can only be rated as a deliberate attempt to deceive.

Mark Latham suggested a "Plebiscite" to permit a Preamble to be inserted in the Australian Constitution, knowing full well it will take a "Referendum", to allow such a course to be followed.

What a shame that a people who are basically good honest and morally upright, though not necessarily terribly well educated, should have Leaders who are willing to exploit, manipulate, compromise, and follow expediency and deception in their "Lust for Power".

I find your continual use of the word, "Referendum", in relation to the "New" Constitution, to be **Deceptive**, in the extreme, **as there is to be NO Referendum, permitted under the "New Constitution"**.

I further point out, that the "present" Constitution, which is a series of Acts of Parliament, has **NO** place for a "Referendum" to occur, except relating to the, "Procedure of the House".

Does Morality have any place in any Section of Government today?

-----End of Submission.