



To the Research Director
Legal, Constitutional and
Administrative Review Committee.
Parliament House George Street
Brisbane QLD. 4000

Queensland Constitutional review Commission

I wish not to be constrained by the limits of the Preamble question and will follow my answers to the 24 issues, with wider concerns of Democracy, Governance and Constitution, as these are more important to me than the questions of Monarchy or Republic, in fact the republic option gains preference largely by the significant changes that would then be required in the Federal and State Constitutions

Preamble for the Queensland Constitution

ISSUE 1

All Constitutions should contain a Preamble to signify a coming together as an act of unity setting out the history and the direction of the principles that we would move towards in this unity.

ISSUE 2

A parliamentary subcommittee, with various experts, might well assist in the drafting of a Preamble, but there are also many interested members of the public who should be consulted, such as the indigenous people on this land.

To recognise the original owners of this land, in our preamble, and our duty to respect the contributions of all others, in our often sad history.

To recognise the basic sovereignty of the Citizen and indicate rights and duties.

Indicate our firm belief in the search for Moral or Ethical integrity within our purpose of unity under the supremacy of parliament and the Rule of Law.

ISSUE 3

A preamble should aid us to look forward towards achieving a united, just and compassionate people, reliant on inner integrity, rather than jingoistic patriotism.

ISSUE 4

The language in which a preamble should be written, must be understood by all, it should not, nor is it relevant to be of legal vocabulary, for its influence on future court rulings in constitutional issues will be as an indirect guidance; the newer Australian Citizenship Pledge is an example of beautiful writing:

“From this Day forward

I pledge my loyalty to Australia and its People,

whose democratic beliefs I share,

whose rights and liberties I respect, and

whose laws I will uphold and obey”.

ISSUE 5

A preamble should be within the range of being learned by heart, yet contain enough depth of ideas that it is worth thinking about.

ISSUE 6

I would hope that a preamble would primarily influence the further evolving of a constitution developed by public input and endorsement, but as an expression of the public will, it will and should have some influence also on the courts.

ISSUE 7

Some indication of the pain caused by our aggressive settlement of this land, with our desire to go forward together with all of those who were of, or came to this land and if and when we frame a treaty with the original owners of this land, that the preamble should recognise that step too, for our constitution should refer to our present honesty.

ISSUE 8

We the people of this land, endorse our sovereignty by unifying under the rule of law, and tendering to Parliament to represent us in the framing of those laws for our protection.

ISSUE 9

If a preamble must refer to God, it should primarily refer to the ethical integrity in all, as well as the religious moral order.

ISSUE 10

I would wish to see some further protection in recognising the Common Law, which still remains after the destructive incentives under the Ten Point Plan.

ISSUE 11

Except for the original owners, we are all descendants of migrants and all have contributed to our history and our social resources, we therefore desire to go forward together, respecting all our cultural origins.

ISSUE 12

The supremacy of the rule of law is the uniting principle that unifies us as sovereign citizens.

ISSUE 13

None of us are equal in the sense of being the same, also we cannot be expected to serve each other equally in intellect, in physical ability or other characteristics, but we should all be equal in justice, as citizens before the law, and the law could, for instance, find that women generally make better administrators than men.

ISSUE 14

Individual differences are so large that it would be difficult to cast any priority in gender differences; Equality of opportunity regardless of gender or other biases seems better and should be sought, but how? I'll leave that up to the women.

ISSUE 15.

A Constitution is the contract under which the Citizen concedes to parliament its supremacy in the framing of legislative laws, we do not vote for the Executive, so we owe them allegiance only as they are elected and should represent Parliament. There is a need for the Executive to hold several emergency powers, such as declaration of war when under attack or imminent attack and there is no time for parliament to decide on that issue, also the portfolios of ministers need to be administered under the general laws set by parliament and/or the constitution, but other wise the Parliament must keep the Executive compliant to the law and the Constitution should also clearly set those reserve areas of power where the executive may act in an emergency.

It seems clear that a preamble should indicate that parliament and therefore the Executive should be obedient to those Basic laws that are written specifically for them.

ISSUE 16

The Preamble should recognise the Representative Democracy, which can be spelled out elsewhere, but it is based on the separation of powers at each level of the use of powers and is therefore open to a more objective position of discussion, rather than a fait de complete use of such power, it should also recognises the sovereignty of the citizen.

ISSUE 17

It is our obligation to recognise and ameliorate the use of destructive powers for gain or convenience; we must aim for something better for those who follow us and whose interests should be represented, as well as the integrity of nature; the Separation of powers is a principle that must make us think before we act.

ISSUE 18

There are many issues that might be contained in a Preamble, but would be most effective in the constitution itself:

The freedom of religion will ensure that we will be ruled only under Civil law, yet the various religions may usefully influence the focus of ethical principles.

Equality in education demands something like "Early Start" at preschool level, but Governments would fight it as too expensive for just the poor.

ISSUE 19

We would surely agree that all should be equal to seek justice before the law, though we never are completely so, we might seek to claim equality of opportunity to fulfil our potential, which will tend to distribute resources according to needs

ISSUE 20

One should not do as the federal Republican debate did; set up a group to represent republican supporters, then when it came to the nitty gritty, confound any success, by twisting in the PM preference.

I think this issue is well started and there will be many who can consider the value of all submissions, then write one or more proposals for public debate. I would hope that an ethical aim for developing the Preamble would give a mindset towards a responsible decision.

ISSUE 21

There are many within the universities who could contribute to expressing the thoughts, ideas and beauty of a Preamble, it will also be good that the thoughts are clearly and well expressed; possibly one should encourage poets and other literary persons to be involved and there are others who volunteer service for those less privileged, including many church organization; those who understand the needs of others will be useful.

ISSUE 22 & 23

Eventually it will be eventual to insert a preamble via a referendum, one could implant one via an act of parliament and see how the public like it, but only if it is to be temporary and then why do it?

ISSUE 24

It would be nice if a situation arose to focus public attention on our duty to each other and on our international duty to all other nations of the world, so that we might approach this problem with an ethical generosity.

Peter C. Friis,



Principles of a Democratic Constitution By Peter C. Friis

Andrew Ingles Clark suggested that a Constitution should be a living developing set of principles.

A constitution should be a coming together in an act of unity and therefore should be supported by a preamble setting out the history and the direction of the principles that we would move towards for this unity.

Without unity there is no sovereignty, but whether democratic unity, based on the popular concession to forgo ones own desire to act under ones own law and to unite in Representative Democratic law of Parliament, (*A separation from ones own Powers*) or unity under the persuading power of the potentates laws, unity under law is the basis for claimed sovereignty of a nation, from the God Kings to the Sovereign Citizen; the basis of all advanced forms of democracy is the principle of the separation of powers, which should progress through all function of the powers of governance.

There have been many side issues like Cast, or Class forms of rule where direct influence over parliament makes delegates of those who should represent the interests of citizens; The English Rotten Boroughs are one example, but most "Democratic" Governments will be far more obedient to the Media Magnates, the Big End of Town or international interests and all that serves their ideal of re-election.

It is for the Supremacy of their Parliament that Citizens must unite under the rule of law, but those who must act under it, without some question of Conflict of Interests, cannot design the Basic Law.

There is potential for too much to be written into a Constitution, but some of the UN Treaties of rights have been tried as legislation and could be set for plebiscite.

A Bill of Rights should be developed by our experience and by recognised ethical principles, developed and generated internationally, that we, as a nation may enter into international unity.

Some form of public entrenchment, specifically for Basic Law alone, could prevent Executive-Party powers in Governments, with only a claimed mandate, from renegeing of international agreement.

- 1 Freedom of information rules require clarity of Privacy Interest: eg If an interest affects others, it cannot be fully private but if an argument of public interest out ways the affect on others, then one may decide to temporarily withhold such information as devaluation of the currency or where danger to others might be increased without holding some degree of confidentiality.

2 I would suggest that most "Commercial In Confidence" secrecy is overwhelmingly not in the public interest; there is limited valid use of privacy in commercial contracts that severely affect others outside that contract; it is particularly obscene when government contract commercial enterprises in order to legitimise the use of such secrecy provisions.

3 Usually such arrangements are very much in the public interest to know and to conceal, but "private information", should require proof that it is not truly private in its effect, or if for sub judicial purposes information requires a subordinate private interests be held in confidence for a limited period, for justice may need to override the public's right to know.

The private persons interests must be shown not to be private, while the Organisational Interest must be show to be private for protected by confidentiality; it is the onus of proof that separates them and we need an Ombudsman with Norwegian powers to determine the legitimacy of the executive governments opinion.

The onus of proof should be different, and the concept of a Company being "A Person In Law" should be looked at critically, for while the Citizen may be sovereign under law, it would be horrendous for a Company without Separation of powers to be sovereign while not under law.

4 There may be a need for exemption provisions under a Bill of Rights for some time to adjust to change for it may be extremely difficult for some where laws are changed.

It would be better that all reports should be to parliament, rather than to the Executive, there may be instances where this would be ill advised, but provision of special reasons should be examined by the Ombudsman, Governor General or President.

5 One needs a Statutory Truth commission to reported on the media, protecting us from the inaccuracy of political statements that would otherwise require each of to read hundreds of pages to find out that Native Title cannot possibly take our back yard, that it cannot diminish Pastoral lease or that ADSIC is probably the most audited body in all of Australia and performs quite well and that money spent on Aborigines only seems great when cost of provision at distance is not counted, etc, etc.

Peter C, Friis,

