



The Research Director
Legal, Constitutional & Administrative Review Committee
Parliament House
George St
Brisbane QLD 4000

12/7/2004

Re. A PREAMBLE FOR THE QUEENSLAND CONSTITUTION?

Dear Sir

In reply to the issues raised on the above mentioned please accept our following submissions.

Issue 1: Should the Queensland Constitution contain a preamble?

Reply: Yes.

Issue 2: Should the Queensland Constitutional Review Commission's draft preamble be adopted in Queensland?

Reply: ?

Issue 3: What purpose should a preamble to the Queensland constitution serve?

Reply: The preamble should present the facts & not serve up a diatribe of political correctness.

Issue 4: What type of language should the preamble use?

Reply: Plain English, & original dictionary definitions.

Issue 5: How extensive should the preamble be?

Reply: Preamble should include the history of the Queensland Parliament. That it is based on the English system of government brought to Queensland by the first free settlers more than a century ago. This form of Government is called the 'Westminster' system in recognition of its place of origin & growth over many centuries. The Palace of Westminster is the seat of the British Parliament in London.

This form of government allows the people to exercise their right to freely elect members to represent them in Parliament. Under the Westminster tradition, Cabinet Ministers who form the executive branch of Government are Members of that Parliament & are answerable to it.

Government in Queensland began with the military rule of the penal settlement at Moreton Bay from 1824 to 1842 within the then colony of NSW.

Free settlers soon arrived & demanded for political representation grew. In 1843 Moreton Bay was included in a huge electoral division north of Port Macquarie (NSW). This division sent a member to the partly elected Legislative Council of NSW.

Moreton Bay elected its own member in 1851, two in 1853, four in 1855 (when NSW received responsible Government) & nine in 1858.

Letters Patent signed in London on 6th June 1859, granted the new colony of Queensland separation from NSW. An Order in Council of the same date granted Queensland a constitution similar to that of the mother colony. June 6th is now celebrated as Queensland Day. Queensland's first governor, Sir George Bowen, arrived in Brisbane on 10th December 1859, proclaimed the new colony, & appointed an interim Executive Council to administer the colony until elections were held.

The Order in Council provided for a Legislative Council nominated by the Governor & a Legislative Assembly of 26 members elected on a franchise which favoured property owners who had to hold sufficient property in an electoral district to vote. A property owner could vote in more than one district if his property was so dispersed. This was known as plural voting.

Government continued under the Order in Council until its provisions, & those of Imperial & Colonial Acts relating to Queensland, were consolidated in the Constitution Act of 1867.

In 1872, the franchise was extended to all adult British subjects who had been resident in an electoral district for six months. Plural voting continued until 1915. Universal adult suffrage was granted in 1905. A decade later, Queensland became the first State to introduce compulsory voting.

Relations between the elected Assembly & the nominated Council were seldom warm. This resulted in the abolition of the Legislative Council on 22nd March 1922, when the acting Governor, on advice of the Premier, appointed enough politically sympathetic Legislative Councillors for the body to vote itself out of existence. Queensland then became Australia's only unicameral (single house) legislature. (Leaving a question mark over political democracy) Queensland joined the five other States in the federation of the Commonwealth of Australia in 1901.

Issue 6: Should the Queensland Constitution specifically state that the preamble be used to interpret other provisions of the Constitution?

Reply: Elements that should be included.

- Sovereignty of the people as the source of constitutional laws;
- The rule of law
- Equality
- The source of authority for the constitution
- Set out its history.
- Describe its main features.
- Principles & values etc.

Issue 7: Should there be a reference to the origins or history of the Constitution in the preamble?

Reply: Yes.

Issue 8: Should the preamble refer to the sovereignty of the people and, if so, how?

Reply: Yes. The Constitutional code accepts that Sovereignty is ultimately resident in THE PEOPLE, which means that the SUPREME AUTHORITY or POWER is VESTED in THE PEOPLE. The machinery of GOVERNMENT is an INSTRUMENT whose duty it is to carry out the WILL OF THE PEOPLE.

Issue 9: Should the preamble refer to God and, and if so, how?

Reply: Yes. As per the Constitution of the Commonwealth of Australia. E.g. 'Whereas the people of Australia, humbly relying on the blessing of Almighty God.'

Issue 10: Should the preamble recognise Aboriginal & Torres Strait Islander people & if so, how?

Reply: No. Reason remember in 1966 the Australian people voted in a referendum for Aborigines to have full rights as citizens of Australia. That's equality to treat them otherwise is illegal & apartheid.

Issue 11: Should the preamble recognise cultural diversity and, if so, how?

Reply: No. Because Australia has developed our own unique culture, which is known & respected world Wide.

Issue 12: Should the preamble recognise the rule of law and, if so, how?

Reply: Yes. Queenslanders are bound by the laws made by the State & the Commonwealth parliaments. Since federation in 1901. This includes inherent law 'Magna Carta', Statutes in Force 'Bill of Rights' & 'Common Law'

Issue 13: Should the preamble refer to 'equality' and, if so, how?

Reply: Yes, EG. We declare we respect the equality of all Queenslanders under the law, & recognise the contribution they have made & are making to the State of Queensland. (One Nation Policy)

Issue 14: Should the preamble refer to gender equality and, if so, how?

Reply: No, this is already stated in issue 13, equality means all, not gender specific.

Issue 15: Should the preamble recognise the status of the Constitution and, if so, how?

Reply: Yes. The Queensland Constitution should make it clear that the Constitution is the paramount law of Queensland, subject to the Australian Constitution & inherent British Law.

Issue 16: Should the preamble recognise the system of government the Constitution establishes and, if so, how and to what extent?

Reply: Yes. Queenslanders are bound by laws made by the State & the Commonwealth parliaments. Since federation in 1901, legislative powers have been divided between the two governing bodies. The terms of federation provide that State Parliaments retain all legislative powers not conferred exclusively on the Federal Parliament, & that the courts would supervise this arrangement. Under the constitution, some of these powers such as those governing defence, postal & telephone services, currency, customs, trade & immigration are exclusive to the Federal Parliaments. Others are shared. State parliaments can legislate under the shared powers, but where there is conflict, Federal law prevails. The principal function of the Queensland parliament is to make laws concerning such matters as police, roads, railways, education, maritime services health, social & child welfare, water resources, lands, national parks & the administration of local councils. The people of Australia & Queensland at referendum in 1988 voted no to a third tier of government when they rejected local government. This means that Councils have no head of power; they can only provide services for the people & administer the laws of government.

Issue 17: Should the preamble refer to the environment and, if so, how?

Reply: No. There is no need for this, as the Australian Constitution provides complete protection, & any

laws to change it can only legally accepted by the people at a referendum.
Reference to the land in connection only with indigenous Australians discriminates against new Australians who were not born in here.

Issue 18: Should the preamble contain other elements and, if so, what should they be?

Reply: Maybe reference could be made to our unique culture & mateship etc which stems from the Christian moral values of our founding fathers, & the fact that English is our spoken language. Also mention could be made of those who fought & even gave their lives to protect our flag, freedom & values

Issue 19: How might text be developed around the identified elements of a preamble?

Reply: The final texts following wide debate & input must be put to the people at a referendum

Issue 20: How should the community be consulted in this process?

Reply: Modern communications provide many options for informing the people.

Issue 21: Who should be consulted?

Reply: Consultation should include all political parties & interested groups, in other words as many people as possible.

Issue 22: Should a referendum be held to insert a preamble into the Queensland Constitution?

Reply: Yes. A referendum would not be expensive if conducted in conjunction with an election.

Issue 23: Should an 'interim' preamble to the Queensland Constitution be inserted by way of an Act of Parliament prior to the final version being confirmed by way of a referendum?

Reply: No

Issue 24: When is an appropriate time to consider a referendum on the issue of a preamble for the Queensland Constitution?

Reply: An appropriate time is in conjunction with elections.

Yours sincerely



Colin Law
VP QLD Div. & Policy coordinator.