

No 4.2

**Tania Jackman**

**From:** Leonce Kealy  
**Sent:** Friday, 20 August 2004 7:58 PM  
**To:** LCARC  
**Subject:** Submission on a Preamble for Queensland

RECEIVED  
20 AUG 2004  
LEGAL, CONSTITUTIONAL AND  
ADMINISTRATIVE REVIEW  
COMMITTEE

Dear sirs,

Please find attached a copy of my input to A PREMABLE FOR THE QUEENSLAND CONSTITUTION?

Please advise acknowledgement of this email.

Regards,

Leonce Kealy  
Honourable Member of the Electors' Parllaments of Australia

**This is my answer to the question of whether Queensland should have a Preamble for the Constitution.**

**Please send a reply that this email has been received.**

**I SUBMIT:**

That the PREAMBLE includes the words:

"To be enforced by Law at no cost to the People"

**QUALIFYING STATEMENT**

In case any Government, current or in the future, think about undermining the Constitution by sedition, it would be important that there be a penal clause built into the Preamble, so that those who disobey our laws feel the full weight of the Law.

Section 53 of the Queensland Constitution states that "Our forefathers did not trust politicians who would grab power and that they would put a proviso in the Queensland Constitution which says that any Bill which changes or purports to change the Powers of the Governor must be passed by referendum. They also put in a safeguard. If a Bill is passed changing the powers of the Governor, even if it is given Royal Assent, it shall be of no effect as an Act."

The Queensland people should insist themselves of the ploy to bring in Laws which remove the Protection Clause related to "doings and proceedings in Parliament" not being "called to account" outside the Parliament.

Sedition is sedition, and voting along Party lines under Orders is no excuse as the Nazi War Criminals found out during the Nuremberg trials.

**RECOMMENDATION**

**That the Preamble should be a summation of the intent of the Constitution. A Constitution is of no use if it is not there to be obeyed.**

**ISSUE 1 (REFER TO PAGE 6)**

Should the Queensland Constitution contain a Preamble?

**YES.**

**ISSUE 2 (REFER TO PAGE 7)**

Should the Queensland Constitutional Review Commission Draft Preamble be adopted in Queensland?

**ABSOLUTELY NOT. It is up to the People of Queensland to decide what they want in a Preamble and for any amendments to the Queensland Constitution for which a Referendum MUST be held.**

**ISSUE 3 (REFER TO PAGE 9)**

What purpose should a Preamble to the Queensland Constitution serve?

**Although 136 years late, a Preamble to the Queensland Constitution provides a hitherto unavailable opportunity for the People of Queensland to express how they feel about and the way in which they want the Constitution for THEIR State to be interpreted and applied in a meaningful way that reflects their pride and love for their State with fair and just treatment and opportunities for all Queenslanders who are Natural born, or naturalized Australian Citizens.**

**ISSUE 4** (REFER TO PAGE 9)

What type of language should the Preamble use?

**In plain unambiguous non-legal Australian English in a context which reflects our origins and our unique Australian way of life.**

**ISSUE 5** (REFER TO PAGE 9)

How extensive should the Preamble be?

**As extensive, as may be required to reinforce the intent of the Constitution and to reflect the wishes and aspirations of the People of Queensland who are by birth or have lawfully become Naturalized Australian Citizens.**

**ISSUE 6** (REFER TO PAGE 9)

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

**ABSOLUTELY NOT. A specific denial or exclusion of interpretations of the Preamble in the Constitution from use in a Court of Law, which may influence any decisions arising there from, could place excessive power in the hands of a Queensland Government.**

**ISSUE 7** (REFER TO PAGE 10)

Should there be a reference to the origins or history of the Constitution in the Preamble?

**YES.** Such as suggested by LCARC, but slightly modified to reflect Historical and Constitutional Instruments and Acts, Significant Constitutional events, Referendums, Becoming an Independent Sovereign State, including Queensland's links with the UK. It should also include the Authors of the Queensland Constitution, and the form of Westminster Government the Queensland Constitution provides for. A reference to an Australian Republic **MUST NOT** be included in the Preamble to the Queensland Constitution. This is an issue for the Australian people.

**ISSUE 8** (REFER TO PAGE 10)

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

**YES.** We, the People of Queensland hereby acknowledge and affirm that Queensland is a Sovereign Independent Democratic State within the Independent Nation of the Commonwealth of Australia, and we reaffirm and claim our Rights as the Sovereign People of Queensland from whom all powers to the elected Government of Queensland ensue.

**ISSUE 9** (REFER TO PAGE 11)

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

**YES. This is inherent in our Australian Constitution, and the fact that we are of Christian stock originally. We should endeavor to keep out those belief systems, which are contrary to our own beliefs, such as Islam because Islam does not allow for the integration of their beliefs with any other belief system.**

**ISSUE 10** (REFER TO PAGE 12)

Should the Preamble recognize Aboriginal and Torres Strait Islander people, and if so, how?

**YES. We the People of Queensland recognize and acknowledge the Aboriginal and Torres Strait Islander people and their various Tribal diversities, languages and cultures, and their indivisible Right to be treated equally in Law, and as under the Provisions of this Constitution of Queensland as all other Queenslanders.**

**ISSUE 11** (REFER TO PAGE 12)

Should the Preamble recognize cultural diversity and, if so, how?

**YES, but the cultural diversity should not discriminate against Australians as is the case now with the new Multiculturalism Laws which have been a dismal failure. There should be no official policy on multiculturalism and that any newcomers to Australia are welcome, so long as they adopt our culture.**

**ISSUE 12** (REFER TO PAGE 13)

Should the Preamble recognize the Rule of Law, and if so, how?

**NOT SPECIFICALLY, as this aspect is well represented within the Constitution itself by the powers given to it by the Legislature, and entrenched Statutory Laws from the Magna Carta and the Bill of Rights of William and Mary of Orange of 1688/89 which is extant in Queensland. This ought to be acknowledged and recognized in the Preamble. In addition, it is very important that the People of Queensland's Common Law Rights be recognized and affirmed in the Preamble. We the People of Queensland, hereby acknowledge and affirm our Right to claim our Divine Common Law Rights and further express it as "our Will" that our Powers and Rights we confer by this Constitution to a Parliament of Queensland and is enforced by Law at no cost to the People.**

**ISSUE 13** (REFER TO PAGE 14)

Should the Preamble refer to 'equality' and, if so, how?

**YES. It is doubtful if more appropriate words to express a Queenslanders view of equality than those of Articles 14 and Article 26 of the International Covenant on Civil and Political Rights. We, the People of Queensland, state that all persons shall be equal before the Courts and Tribunals. All persons are equal before the Law, and are entitled without any discrimination to equal protection**

**of the Law. In this respect, the Law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds such as, race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, age or other status.**

**ISSUE 15 (REFER TO PAGE 14)**

Should the Preamble recognize the status of the Constitution, and if so, how?

**NOT UNTIL THE PEOPLE HAVE THEIR SAY BY WAY OF REFERENDUM, because although this document purports to be the 'Constitution of Queensland, 2001' it is an Act which came into force on the 6<sup>th</sup> of June, 2002, WITHOUT consultation with the People of Queensland or a Referendum and because it omits a number of prior Constitutional Acts and Amendments pertaining thereto, dating back to 1867. It cannot therefore, be given a de facto status or approval by the People of Queensland until they have had the opportunity to examine it, and to vote on it. Whilst this alleged Constitution may well accurately reflect the intent and the powers of the original Queensland Constitution, the People of Queensland do not know this, and the fact that this Act was enacted by the current Beattie Government with a majority in the Queensland Parliament without recourse to the people of Queensland, is of great concern. A Referendum is now required to consider the Amended Constitution and its Preamble no later than the next State Election.**

**ISSUE 16 (REFER TO PAGE 15)**

Should the Preamble recognize the system of Government the Constitution establishes, and if so, how and to what extent?

**YES, as follows: We the People of Queensland hereby affirm and acknowledge that the Queensland Government is a Constitutional Monarchy as provided for under the Queensland Constitution and that it is to remain so until, and if, the People of Queensland decide by a Queensland Referendum that the State of Queensland is to become a Republic in its own Right or not as the case may be, notwithstanding that a future Commonwealth Government may seek to do otherwise. It would be quite inappropriate and unconstitutional for the Commonwealth Government to force Queensland to become a Republic if the people of Queensland were opposed to it. The above expression may provide Queenslanders to decide in Law their own wish about becoming a Republic in Queensland. There should be no reference in the Preamble to the Australia Act UK or Australia Act 1986 or the Australia Act Requests Act of 1985, as these were enacted without Referendums and would therefore be questionable or illegal.**

**ISSUE 17 (REFER TO PAGE 15)**

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

**YES, albeit briefly. The People of Queensland acknowledge and respect the uniqueness of the Queensland environment and its historical connections to the various Aboriginal Tribes of Queensland and express their expectations in this Preamble that their elected Parliaments will take reasonable and responsible decisions to manage the environment for future generations of sustainable and renewable primary production, including natural bush medicines and the**

preservation and continued use of the land and the forests and sea for the use of Queenslanders to continue their great love of their outdoor activities such as recreational fishing and hunting, bushwalking, sailing and responsible use of Queensland's rivers and waterways, bays and harbors, beaches and coastline.

**ISSUE 18** (REFER TO PAGE 15)

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

**YES.** It is the Will and expectation of the People of Queensland that their unique inherited Queensland and Aboriginal Cultures are to be protected and preserved by their elected Political Representatives, and Parliaments, together equally with our Australian values of freedom, liberty, mateship and English-Australian language, and all of these are to take precedence before all others.

**ISSUE 19** (REFER TO PAGE 17)

How might text be developed around the identified elements of a Preamble?

**It should be in plain simple English, and only English. Public consultative meetings in conjunction with the various service clubs and associations should be encouraged so that the people of Queensland obtain the chance to give input into the Preamble.**

**ISSUE 20** (REFER TO PAGE 17)

How should the community be consulted in this process?

**By all means of communication such as radio, television and newspapers. The People of Queensland must be given every opportunity to have their say, ultimately, by Referendum.**

**ISSUE 21** (REFER TO PAGE 17)

Who should be consulted?

This question ought to be: "Who should not be consulted". Obviously, Political Parties, Politicians, or Government Agencies should be EXCLUDED. The only people to be consulted are legitimate residents of Queensland who are either born or naturalized Australian Citizens who have lived in Queensland for two years or more. The two-year specification is suggested to avoid any type of manipulation or a Branch Stacking type situation. Lawyers should be excluded in the drafting of the Preamble, but Independent Interstate Constitutional Lawyer/s could be used to settle the final draft of a popular Preamble.

**ISSUE 22** (REFER TO PAGE 18)

**ABSOLUTELY YES.** A Parliamentary Preamble to the Queensland Constitution or indeed a Parliamentary Bill of Rights only reinforces the Powers of a Government, and has the smoke and mirrors effect of appearing to Grant Rights to its Citizens on the one hand, but has the ability to remove them at the whim of a majority Government on the other, without recourse to the People. Therefore, it is appropriate that a Queensland Referendum ought to be held in this regard to this issue and any other issues of Constitutional Reform as required by the People of Queensland.

**ISSUE 23** (REFER TO PAGE 18)

Should an 'interim' Preamble to the Queensland Constitution be inserted by way of an Act of Parliament prior to a final version being confirmed by way of a Referendum?

**ABSOLUTELY NOT.** Interim measures, regulations, etc., have a peculiar way of being very difficult to remove. A perfect example of this was petrol rationing well after there was no need for it post WWII. Such mechanisms have the potential to be used by Legislators as a back door way to achieve undeclared agenda's which may not be in the best interests of the People of Queensland.

**ISSUE 24** (REFER TO PAGE 18)

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

At the next State Election, for the reasons of economies of scale, having due regard to wastage of Public Monies, Common Sense, Logistics and Organization. Any potential conflict of voting on a Referendum on the same day as a State Election is quite easily avoided, provided that the People of Queensland have sufficient lead in time to consider the content of the proposed 'Preamble' and the benefits thereto, AND provided it is made clear to the People of Queensland that the Referendum for a Preamble to the Queensland Constitution IS NOT an election or political issue. As LCARC suggests, this would be an appropriate time for such Referendum to consider other amendments or additions to the Queensland Constitution such as acknowledging our existing Statutory Bill of Rights and the Reaffirmation of Queensland as an Independent Sovereign State.

Regards,

Leonce Kealy  
Honourable Member of the Electors' Parliaments of Australia

