



LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE
REVIEW COMMITTEE

**A PREAMBLE FOR THE QUEENSLAND
CONSTITUTION?**

Feedback form

This feedback form can be used to make a submission. Submissions may also be made in another form such as a letter. If additional space is required for responding to issues, please insert supplementary pages with reference to the issue being addressed.

The release of the issues paper, with the committee's call for submissions, is the first stage in the committee's review of the recommendations of the Queensland Constitutional Review Commission regarding a preamble for the Queensland Constitution.

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ISSUE 1 (refer page 6)

Should the Queensland Constitution contain a preamble?

YES.

ISSUE 2 (refer page 7)

Should the Queensland Constitutional Review Commission draft preamble be adopted in Queensland?

ABSOLUTELY NOT. It's 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 after an orderly and prompt consultation with eligible Queenslanders.

ISSUE 3 (refer 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 they want the Constitution of **THEIR STATE** to be interpreted and applied in such way that states and affirms their expectations and reinforces their **RIGHTS** to a *Government for the People* rather than a dictatorial Government of the People and should reflect their pride and love for Queensland and state that it is the Peoples Will that fair and just treatment and opportunities exist for all Queenslanders who are Natural born Australians or naturalized Australian Citizens, regardless of race, colour or creed.

ISSUE 4 (refer page 9)

What type of language should the preamble use?

In plain unambiguous non legal Australian English in a context which as much as is possible reflects our origins and our unique 'Australianness'.

ISSUE 5 (refer 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 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 be detrimental to an individual and or to the People of Queensland. In addition such exclusion could place excessive power in the hands of a Queensland Government.

There was much legal argument and case Law discussed at various peoples conventions during the lead up to the framing of the Australian Constitution commencing in 1897 regarding these issues. These can be read in the; 'Commentaries on the Constitution of the Commonwealth of Australia by Quick and Garran' beginning at page 5 and may be accessed and copied at webpage:
<http://sefis.library.usyd.edu.au/ozlit/pdf/fed0014.pdf>

ISSUE 7 (refer 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 as follows with reference to:

- a. Historical and Constitutional Instruments and Acts.
- b. Significant constitutional events, referendums, becoming an Independent Sovereign State and to include Queensland's links with the UK.
- c. The Authors of the Queensland Constitution.
- d. The form of Westminster Government the Queensland Constitution provides for;

NOTE: Reference to an Australian republic must not be included in the Preamble to the Queensland Constitution as that issue is a matter for the People of Australia. However let it be said that recent Legal argument and evidence suggests that Australia has been a De-Facto Republic since 1919 and is internationally recognized as so. (See Hansard of the Commonwealth of Australia dated September 10th 1919 to Oct 1st 1919)

ISSUE 8 (refer 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 page 11)

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

NO: But as someone once said, if there is no 'God' mankind would have had to invent one anyway. God, like beauty is in the eyes of the beholder. One mans God could be another mans Satan. For example the 'Al'lah' of the Islamic belief system was in actual fact the name the people of Mecca (now Saudi Arabia) gave to one of their Gods, the God of the Moon and when Mahomet invaded Mecca around 628 AD he called himself the 'Prophet' and declared there is no other God but Al'lah and those who reject Al'lah as their God are 'Infidels' and may be regarded as representatives of Satan. (Mahomet by the way was illiterate and the meaning of the Arabic word 'Islam' is **submission**.) Instead of referring to some man made religion's notion of a God, which may offend many people, it may be more appropriate for the preamble to state; *"We the People of Queensland affirm and acknowledge the divinity of the 'Infinite Spirit of the Universe' from which flows our spiritual beliefs and divine rights as human beings."* The alternate could read; *'The Great Architect of the Universe.'*

ISSUE 10 (refer page 12)

Should the preamble recognise 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 Tribes and Clans. tribal laws and cultural and language diversities and their indivisible right to be treated equally in law and in all other matters as is provided for by this Constitution."*

ISSUE 11 (refer page 12)

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

YES; *"We the People of Queensland recognize and welcome the cultural diversity of any new Australians who have become Lawful. Law abiding Australian Citizens and made Queensland their home."*

NOTE: The Commonwealth Governments Policy of Multiculturalism which has clearly failed Australia as it has in every Country who adopted such policies which has proved to be such a horrendously expensive financial and social experiment ought to be excluded. Indeed learned and well read People of Queensland may want their preamble to state specifically that it excludes any official policy of multiculturalism.

ISSUE 12 (refer page 13)

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

NO: This aspect is well represented within the Constitution itself and by the powers given by it to the Legislature and reinforced by entrenched Statutory Laws from the Magna Carta and the Bill of Rights of William and Mary of Orange of 1688/89 still extant in Queensland which should also be acknowledged in the preamble. However its long overdue that the People's Common Law Rights be recognized as follows: *"We the People of Queensland hereby acknowledge and affirm our right to claim our Divine Common Law Rights and state it is "Our Will" that the powers and rights we confer by this Constitution to a Parliament of Queensland is enforced by Law at no cost to the People."*

ISSUE 13 (refer page 14)

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

YES: It is doubtful if better words could be found to express a declaration 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 Courts and Tribunals and 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, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or age. "

ISSUE 14 (refer page 14)

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

YES *"We the People of Queensland declare that Queenslanders born either male or female shall be treated equally."*

ISSUE 15 (refer page 14)

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

NOT YET: Because although this document purports to be the, 'CONSTITUTION OF QUEENSLAND 2001' it is an Act which came into force on the 6th 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 cant therefore be given a de facto status or approval by the People of Queensland until they have had the opportunity to examine it and vote on any changes or amendments. While this document may well accurately reflect the intent and the powers of the original Queensland Constitution, the People of Queensland don't know this. The fact that this Act was enacted by the current Government holding a majority in the Queensland Parliament without recourse to the People of Queensland is of great concern. **A referendum is now urgently required to consider the amended Constitution and its preamble to be held no later than the next State election.**

ISSUE 16 (refer page 15)

Should the preamble recognise 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 democratically elected Constitutional Monarchy as provided for by this Constitution and will remain so until the People of Queensland decide otherwise by a QUEENSLAND STATE REFERENDUM."*

It would be inappropriate and unconstitutional for a Commonwealth Government to pressurize Queensland to become a republic if the people of Queensland were opposed to it. The above declaration may provide Queenslanders the means in Law to make their own decisions in regard to becoming a republic in Queensland. There should be no reference in the preamble to the Australia Act UK or the Australia Act 1986 or the Australia Act Requests Act 1985 as these were enacted without referendums and may therefore be questionable. See footnote ISSUE 7, P 3 of this submission.

ISSUE 17 (refer page 15)

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

YES albeit brief: *"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 it is their " Will" in this Preamble that their elected Parliaments take reasonable and responsible decisions to manage the environment for future generations of Queenslanders, practical sustainable and renewable primary production including natural bush medicines and provide Queenslanders unrestricted access to the various Crown lands, forests, seas and waterways for their use to participate in their great love of outdoor activities, sports and pastimes such as sailing, recreational fishing and hunting, bushwalking."*

ISSUE 18 (refer 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 equally with our Australian values of freedom, liberty, mateship and our English- Australian language all of which are to take precedence before all others."*

ISSUE 19 (refer page 17)

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

As reported on P 16 of the LCARC's Issues Paper it would seem that McKenna's comments in regard to the 1999 discussions for a preamble to the Australian Constitution are valid in regard to developing the text for a Queensland preamble although this author is not convinced that McKenna's remarks regarding the so called reconciliation process with Australian Aboriginals would or should be included in a Queensland preamble. Likewise seeking valid input from younger students from the classroom is not desirable because generally they will not be of a mature enough age nor have the life experiences or realism required to make appropriate input, further as young people are very idealistic they will in the main reflect the opinions and ideas of their teachers, many of whom are themselves immature and may not live in the real world. *A fresh approach may be to hold public consultative meetings in conjunction with the various Service Clubs and Associations such as the 'Lions' Clubs, the 'Jaycees' the R.S L Clubs and similar, whose members are a mix of mature and younger ages, small businessmen and other life experienced people of various ages, knowledge and common sense.*

ISSUE 20 (refer page 17)

How should the community be consulted in this process?

In the author's opinion a fair and open strategy to consult with the People of Queensland would be a mix of the State competition idea open to Australian Citizens living in Queensland for two or more years and of legal age who would be *supplied upon request* with the appropriate documents and a consultative process with the Service Club members as abovementioned in italics.

After the closing date, all of the preambles would be examined by one or more panels drawn from those same service Clubs until a short list was compiled on the basis of a majority of preambles with similar sentiments and ideals after which they could be graded upon their economical use of word power and word craft until a winner was decided. At this point an Independent Constitutional Lawyer could be brought in from another State to settle the final draft. The winners Prize would need to be significant to attract entries and could be tailored to suit the winner's needs like a home, a car a scholarship or even a well paid job. 2nd and 3rd place runner up prizes would also be appropriate.

ISSUE 21 (refer page 17)

Who should be consulted?

This question ought to be: "**Who should not be consulted**". Obviously Political parties, Politicians, Government Agencies and any organization that is *deemed* to have a self interest should be excluded. The only people to be consulted must be legitimate individual 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 initial drafting of the preamble but independent Interstate Constitutional Lawyers could be used to settle the semi final draft of a popular preamble.

ISSUE 22 (refer page 18)

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

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 Government on the other without recourse to the People. Therefore a referendum **MUST** be held in regard to this and any other matters of Constitutional reform as required by or put to the People of Queensland

ISSUE 23 (refer 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 becoming permanent or at least very difficult to remove. A perfect example of this was petrol rationing well after there was no need for it post WW 2..Such mechanisms have the potential to be used by legislators as a back door means to achieve undeclared agenda's which could be self serving and not in the best interests of the People of Queensland.

ISSUE 24 (refer page 18)

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

Before or at the next State Election, for the reasons of economies of scale and HAVING DUE REGARD to common sense logistics, organization and avoiding the wastage of Public Monies. *It would be entirely inappropriate to delay this issue* until another National referendum is held to reconsider an Australian Republic as it seems the present Government desires.

Any potential conflict of voting on a referendum on the same day as a State Election will be avoided, provided sufficient time is allowed to consider the content of the proposed 'Preamble' and any other amendments proposed or purportedly enacted by the Queensland Government to the Constitution of Queensland and that Politicians and Political Parties are expressly forbidden by the Queensland Electoral Commission to make such referendum an election or political issue. As LCARC suggest, this would 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 of 1888/89, our Common Law rights and the reaffirmation of Queensland as an independent Sovereign State.