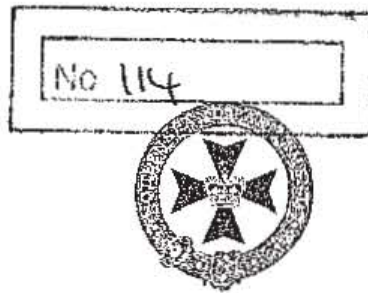


24 JUN 2004



MRS J OVERELL

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?

NO

The Old Constitution is just right as it is now
so there is no need for a preamble. Leave well alone,
or put it to a referendum

ISSUE 2 (refer page 7)

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

N/A

ISSUE 3 (refer page 9)

What purpose should a preamble to the Queensland Constitution serve?

N/A

ISSUE 4 (refer page 9)

What type of language should the preamble use?

N/A

ISSUE 5 (refer page 9)

How extensive should the preamble be?

N/A

ISSUE 6 (refer page 9)

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

N/A

ISSUE 7 (refer page 10)

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

N/A

ISSUE 8 (refer page 10)

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

N/A

ISSUE 9 (refer page 11)

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

N/A

ISSUE 10 (refer page 12)

Should the preamble recognise Aboriginal and Torres Strait Islander people and, if so, how?

N/A

ISSUE 11 (refer page 12)

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

N/A

ISSUE 12 (refer page 13)

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

N/A

ISSUE 13 (refer page 14)

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

N/A

ISSUE 14 (refer page 14)

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

N/A

ISSUE 15 (refer page 14)

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

N/A

ISSUE 16 (refer page 15)

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

N/A

ISSUE 17 (refer page 15)

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

N/A

ISSUE 18 (refer page 15)

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

N/A

ISSUE 19 (refer page 17)

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

N/A

ISSUE 20 (refer page 17)

How should the community be consulted in this process?

N/A

ISSUE 21 (refer page 17)

Who should be consulted?

N/A

ISSUE 22 (refer page 18)

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

N/A

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?

N/A

ISSUE 24 (refer page 18)

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

N/A

Can there be a preamble to the Queensland Constitution?

ISSUE 1: Should the Queensland Constitution I do not believe there is any need to include a preamble to the Queensland Constitution.

The existing Constitution has served Queensland well. It is a proven document. Its interpretations and nuances are well understood.

A Preamble would, if it remained true to the intent of the existing constitution, make little or no difference to its interpretation and application.

Therefore, there is no valid reason to so alter it. —

If, in the alternative, the Preamble was intended to alter the interpretation or application of the constitution, it is a vastly significant matter that should be subject of a referendum.

It is important to recognise that as recently as November 1999, almost 70 per cent of Queenslanders voted AGAINST a preamble on the Australian constitution.

There is no reason to suppose they feel any differently about a preamble on the Queensland Constitution.

Further, in the QCRC consideration of why that national preamble was defeated, one significant matter was not addressed. That is, the people simply do not want to change something with which they are familiar and comfortable.

This is a process that is NOT being driven by the people of Queensland, and that is a point the needs to be acknowledged.

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

I do not believe this draft preamble should be adopted in Queensland. I do not believe it reflects the core values and beliefs associated with the society which has formed, and which now makes up, Queensland.

ISSUE 3: What purpose should a preamble to the Queensland Constitution serve?

Should there be a preamble to the Queensland Constitution, I believe it should serve the purpose of acknowledging the core values and beliefs of our society, including its Christian basis, its tolerance, its belief in fairness and natural justice and its welcoming of all who are willing to contribute.

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

I believe it is vital the preamble be in the everyday language of Queenslanders. By this I do not meant slang, but normal, readily understood, English. ✓

ISSUE 5: How extensive should the preamble be?

The preamble should be as short and succinct as is possible, consistent with making its message clear and unambiguous. ✓

ISSUE 6: Should the Queensland Constitution specifically state that the preamble cannot be used to interpret other provisions of the Constitution.

This is a difficult issue. If the preamble is NOT to be used to interpret other provisions of the Constitution, that is if it is to have absolutely no legal effect at all, then there is frankly no real point to it other than some temporary feel-good symbolism.

On the other hand if it IS to be used to interpret other provisions of the Constitution, it frankly opens a can of worms in regard to how it would be applied, what unexpected consequences it may bring and its potential to radically change the way the existing document works.

On balance, I do NOT believe a preamble should be used to interpret other provisions of the Constitution.

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

No, the history of the preamble, and of the State of Queensland and the Australian nation are properly the place of history books and history studies. However, I do believe that this history should be a compulsory part of Queensland's educational curriculum. ✓

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

Yes, because it is a core value of our society that the sovereignty of those who govern is drawn only from the people, who bestow it through the democratic process of elections. However, it should be referred to in a brief, succinct manner such as a simple, direct statement which also contains a reference to the fact this democratic process is based on the Westminster System, thus recognising the authorities behind, and maturity of, our legal, judicial, and governance processes. ✓

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

The preamble should refer to God. It should do so in an inclusive manner, bearing in mind that the Christian basis of our society is already, in my submission, to be recognised in its own right as a basic part of Queensland's structure. I believe this would demonstrate a recognition of the various ways in which God is recognised and accepted under a wide range of belief systems, while still recognising the essential role of Christianity in our social structures. ✓

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

No I believe in the Queensland spirit of inclusiveness and that the contribution of all the people of Queensland, Aboriginal, Torres Strait Island, European, Asian, African and North and South American be recognised.

The suggestion that recognition of Aboriginal and Torres Strait Islander peoples in a preamble "As a step" towards constitutional recognition indicates clearly that the preamble in this case is serving another purpose altogether than that of establishing principles or values or background. *or inclusiveness.*

I believe our Australian society is the most open, welcoming and accepting it is possible to find, regardless of a person's origins. That includes whether a European settler, a post-war immigrant, a refugee from the Vietnam War, or an indigenous Australian. I would applaud recognition of openness.

I object to the singling-out of ANY group as being counter to that Australian openness.

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

Only so far as it recognises that all cultures are welcome, provided their practitioners act in a manner that contributes to the diversity of Queensland, rather than stifle or limit any existing freedoms.

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

Only so far as it recognises the law is the will of the people, expressed through the legislative process.

ISSUE 13: Should the preamble refer to "equality" and, if so, how?

If there is to be a preamble, I believe it should refer to equality, of all Queenslanders in all circumstances. This is a core part of our society and its inclusion is consistent with my belief that if there is to be a preamble, that it recognises these basic values of our society.

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

No, only because a sweeping reference to equality as in Issue 13 already covers this issue.

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

This hinges on whether the preamble is to be used to interpret the Constitution or not. If it is to be so used, then I believe it is important that it recognises the status of the Constitution as this provides a base from which the Preambles influence can be gauged. However, if the preamble is purely symbolic, I do not believe it needs to recognise the basis of the Constitution because (a) the preamble is legally irrelevant and (b) its inclusion would be inconsistent with my belief any preamble should be as short and succinct as possible.

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

I have already addressed this in Issue 8.

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

Yes, in as much as concern for the environment and its role as a sustainable resource important to our existing society, our heritage and our future is recognised, and NOT as a statement emplacing "the environment" as something untouchable.

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

(As I have said, I do not believe there should be a preamble.) However if there is it should be as short and clear as possible, stating the essential beliefs which make up Queensland today. I do not believe, therefore, that the inclusion of additional elements is justified. If any were to be included, I would suggest it be a recognition that each generation has a responsibility to provide the next with a sound basis on which to continue to build the future of Queensland.

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

It should be developed through an extensive, lengthy public consultation process, with Parliamentary debate at least annually on the matter, subject to a conscience vote. The final form proposed should also be debated, subject to a conscience vote, in Parliament and then put, via referendum, at the next State election.

ISSUE 20: How should the community be consulted?

The community should be consulted by a wide information campaign, with provision for public information campaigns, and public consultation down to the smallest communities.

If there is to be a preamble I believe it is vital it be inclusive in form, and this can only be so if it is inclusive in its formation.

ISSUE 21: Who should be consulted?

There is only one answer, so far as possible, every Queensland^{er} should be able to contribute to the formation of a preamble. It is anathema to the inclusiveness^{er} I believe is vital to give the views of any organisation or group any greater weight than that of individual Queenslanders.

If this results^{er} on a process measured in years rather than months, then that is a small price to pay for such an important event.

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

No, because I do not believe it is reasonable to ask people to vote Yes for the "idea" of a preamble, if they do not also know just what form that preamble will take. Better to leave it until a preamble is drafted, so they know what they are voting for or against.

ISSUE 23: 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?

Totally not. It would introduce the worst sort of politicisation into the debate.

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

I do not believe, as I made clear in Issue 23, that there should be a referendum on the issue per se. As for the timing of a referendum on a specific proposed preamble, at the same time as the State election immediately following the finalisation of that proposed preamble.

I want to reiterate, however, that I am not in favour of a preamble at all as I believe the existing document is proven, has served Queensland and Queenslanders well, and should not be subject to "fads" such as purely symbolic preamble. Nor should its legal status be interfered with by a preamble which would provide a mechanism through which the Constitution was interpreted.

The preamble should have been put to a referendum

Yours faithfully

Mr J O'NEILL

Rosa Lee Long MP
Member for Tablelands.

Rosa Lee Long