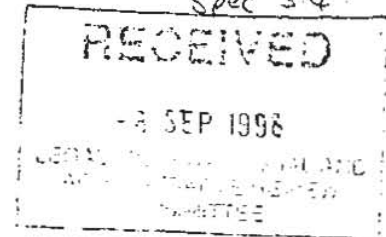


Submission No 9
Spec 34



The Research Director,
Legal Constitutional and
Administrative Review Committee,
Parliament House,
George Street,
Brisbane, Qld., 4000.

Dear Sir,

It seems to me that the major problem facing the committee is to define a Constitution and the function of a Constitution.

Is a Constitution a document which clearly defines the limitations under which the management committee must work ?

Is a Constitution a document which protects the members of an organisation, be it a tennis club, a company or the citizens of Queensland? For a company the name is changed to Memorandum and Articles of Association, but the function is identical.

If a Constitution is to function correctly should not the whole of the Constitution be entrenched?

Is not Parliamentary procedure the method which is used to implement the Constitution, so its provisions are not broken?

Does the Constitution of Queensland rest upon the foundation which was originally granted to this State, when the rights, privileges and responsibilities of the citizens of this State were defined by the Great Charters of England and Great Britain?

Does the claim that the Queensland Constitution is spread over innumerable acts of the legislature hold water?

In a democracy, how much power does a legislature hold? Do they have the right to repeal the Constitution, to add or subtract clauses to the document?

Is the legislature and the members who comprise it, servants of the people or are they masters of the people?

The Divine Right to Rule received a rather rude awakening with the loss of King Charles I head to the headsman's axe, the loss of Louis head to the guillotine, the murder of the Tzar of Russia.

I have no doubt that the legislature over a period of time, have, due to expediency, passed laws which satisfied both the legislature and the judicature that such actions were legal and necessary for the people of the State. But were they necessary and were they legal, did such acts require the people to confirm them in referendum? Were referendums held? Has the management committee, the legislature, taken powers unto itself which it does not possess?

What is more important in a democracy, principles or expediency?

A public company could be cited as a miniature democracy. The shareholders form an association to benefit themselves, why else is any association formed, and the directors are elected from the floor in general meeting. Why are they elected? Firstly because they offer themselves for election, secondly because the shareholders trust them.

This trust is not absolute. The directors are required to publish profit and loss statements and balance sheets with explanations of any unusual occurrences. The shareholders have the right to question performance in general meeting and have the right to call special general meetings if their distrust becomes sufficiently great. The shareholders may remove or reinstate directors as they see fit.

What protects the shareholders? The Memorandum and Articles of Association, in other words the Constitution of the Company. Who has the right to change the Articles of Association? The directors? Not likely! The directors may suggest changes, the shareholders accept or reject such changes.

So democracy is served, protected by various acts passed in legislatures, both State and Federal.

I notice you have not asked for submissions outside the immediate document. Changes to wordings appear to be very important to the Committee, that the intent of the legislation is not altered.

However, is it not time to call a constitutional forum, which may, acting on behalf of the citizens of this State, make recommendations, in fact formulate a draft Constitution for consideration in the legislature and subsequent acceptance by Queensland citizens?

Not a forum on the basis of the so called constitutional convention where the Federal legislature had a defined agenda and were not interested in people's input, but an open forum where the members are able to exchange ideas and genuinely formulate a Queensland Constitution of which all citizens of Queensland may be proud.

It has saddened me for many years that politicians betray the trust of so many citizens. Broken promises, misuse of power, waste of public money, all these charges can be sheeted home to various politicians. Where are our honourable members - they may have the title, but what is a title if behaviour is not honourable?

The distrust, evidenced by the general public of politicians, is growing. Is not now the time to rebuild the bridges to show genuine concern for the citizens of this State, not a propaganda exercise worthy of the infamous Herr Goebels of World War II?

Let the statesmen among you arise. Leave behind the petty politicians, more interested in personal short term gain, instant gratification and all the corruption entailed thereto. History deals kindly with statesmen, but is not forgiving to persons lacking in principle and integrity.

For the sake of your children, your children's children, yes, even unto the seventh generation, do what is right now, the opportunity may not come again.

Yours faithfully,



Ralph McFadyen

5TH SEPTEMBER 1998