



QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

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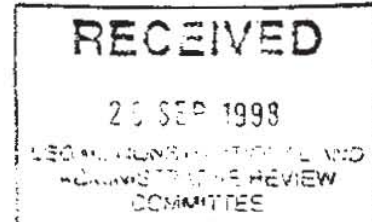
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23 September 1998

The Research Director
Legal, Constitutional and Administrative
Review Committee
Parliament House
George Street
BRISBANE QLD 4000



Spec 3-4

Dear Madam

RE: CONSOLIDATION OF THE QUEENSLAND CONSTITUTION: INTERIM REPORT

The Queensland Council for Civil Liberties encloses its submission with respect to this report.

As you will note, our submission is quite brief, restricted as it is by the expressed view of the committee that the exercise is the consolidation of existing constitutional provisions rather than any extensive reform of the constitutional arrangements of Queensland (the exercise which QCCL believes should be commenced immediately upon the successful introduction of the current consolidation exercise).

If you have any queries, please contact Ian Dearden on telephone number 3211 3811.

Yours faithfully

QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

IAN DEARDEN
(President)

CONSOLIDATION OF THE QUEENSLAND CONSTITUTION: INTERIM REPORT

Report No 10

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

INTRODUCTION

The Queensland Council for Civil Liberties ('QCCL') commends the Committee for the thoroughness and attention to detail of the consolidation of the Queensland Constitution: Interim Report resulting in the *Constitution of Queensland Act 1998* and the *Parliament of Queensland Bill 1998*. It is clear that the Committee has undertaken an enormous task with significant attention to detail and as this submission will indicate, there is little of substance with which QCCL wishes to quibble.

We do wish to make it clear, however, that we regard the consolidation exercise carried out by the Committee as merely the first step in a far more important process, which is the proposal (as put forward by EARC) that there should be convened a constitutional convention in Queensland to draft a new constitution for the State. We see this as an important consequent step upon the current Committee's exercise of consolidating existing constitutional provisions.

In addition, QCCL considers that (in addition to the relevant legislative provisions that have been included in the proposed *Constitution of Queensland Act* and *Parliament of Queensland Bill*) the existing provisions of the *Legislative Standards Act 1992* should be entrenched in the Queensland Constitution and all bills and subordinate legislation should be subject to mandatory compliance with the fundamental legislative principles currently contained in that Act (which currently has persuasive but not mandatory application).

1. ACCURACY OF THE CONSOLIDATION OF EXISTING PROVISIONS

QCCL considers that the consolidation and modernisation process undertaken by LCARC appears to have (subject to the commendable aim of updating archaic language) incorporated existing legislative provisions in a clear and accurate manner.

2. THE APPROPRIATENESS AND/OR DESIRABILITY OF ANY CHANGES MADE TO EXISTING LAW OR PRACTICE

QCCL considers that necessary and consequent redrafts, repeals or relocation of existing provisions appears to have been carefully considered and appropriately dealt with.

3. THE COMPREHENSIVENESS OF THE CONSOLIDATION EXERCISE

QCCL considers (as referred to in the introduction above) that the existing provisions of the *Legislative Standards Act* (amended as necessary) should have been entrenched in the *Constitution of Queensland Act 1998* to ensure mandatory compliance with the provisions of the *Legislative Standards Act* by all subsequent legislation in Queensland. It may be, however, that this is an exercise that will have to await a more comprehensive review of Queensland constitutional arrangements.

4. EXPRESSION

QCCL considers that LCARC has made commendable efforts to ensure that (by and large) the principles of plain English have been applied to the consolidation of the constitutional provisions.

5. INTER-RELATIONSHIP OF RELEVANT LEGISLATIVE PROVISIONS

QCCL considers that the proposed legislative provisions contained in the *Constitution of Queensland Act* and the *Parliament of Queensland Bill* appear to have been carefully thought through with respect to possible conflict and their inter-relationship, and has no specific submissions to make with respect to the inter-relationship of any particular provisions.

6. EXPLANATORY NOTES

QCCL considers that the explanatory notes, although thorough and adequate, could well have benefited from a closer adherence to principles of plain English drafting.

7. STRUCTURE OF THE BILLS AND THEIR PARTS

QCCL considers that the structure of the relevant pieces of legislation was appropriate to their task.

8. (a) THE APPROPRIATENESS AND/OR DESIRABILITY OF THE PROVISIONS RELATING TO THE JUDICIARY

QCCL considers it appropriate to recognise both the Supreme Court and the District Court as courts of record and as acknowledged parts of the judicial system in Queensland (see COQA s.52).

QCCL commends the continued inclusion of the power of the Governor in Council to appoint either barristers or solicitors to be judges of the Supreme or District Courts (see COQA s.54).

QCCL considers that the process set out in COQA s.56 for the removal of a judge for misbehaviour or incapacity is an appropriate amendment of the existing rather unclear provisions.

(b) THE APPROPRIATENESS AND/OR DESIRABILITY OF THE PROVISIONS RELATING TO THE QUALIFICATION AND DISQUALIFICATION OF PARLIAMENTARY CANDIDATES AND MEMBERS OF THE QUEENSLAND PARLIAMENT

QCCL considers that these relevant provisions in Chapter 5 of the POQB were reasonable and appropriate re-castings of existing provisions relating to candidates and members of the Legislative Assembly.

9. CONCLUSION

QCCL commends the proposals for wider state constitutional law reform set out in appendix A of the LCARC report and looks forward to being in a position to take part in and make submissions to a broader review of constitutional arrangements in Queensland.

DATED at Brisbane this 23rd day of September 1998.

PREPARED ON BEHALF OF THE QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

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