



AUSTRALIAN SENATE

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4 May 2000

Mr Gary Fenlon MLA  
Chair  
Legal, Constitutional and Administrative  
Review Committee  
Legislative Assembly of Queensland  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Chair



Submission NO 14  
Spec 28.1



#### FOUR YEAR PARLIAMENTARY TERMS

Thank you for your letter of 13 April 2000 containing the committee's invitation to make a submission on the proposal for a four year term for the Legislative Assembly of Queensland. I hope that the following observations may be of some use to the committee.

#### **Preliminary observations**

It appears to be generally agreed that the extension of the parliamentary term from three to four years would incur a cost in the form of lessening the accountability of government to the electorate. The argument for a four year term is basically that that cost is worth incurring because it would purchase the advantage of governments being better able to take a long-term view in policy formulation.

There are two preliminary observations to be made about this thesis. First, the alleged advantage is often put in terms of allowing governments more scope to make unpopular or difficult decisions, or decisions which may involve short-term disadvantages for the electorate in return for long-term advantages. It should be noted that implicit in this argument is an assumption that the electorate is generally incapable of taking a longer term view and of appreciating the advantages to be gained by policies which have short-term disadvantages. Also implicit in the argument is an assumption that governments are incapable of persuading the electorate to take a longer term view and that the kinds of policies in question are worth pursuing for the longer term advantages. I do not believe that the electorate or governments actually suffer from these serious deficiencies; if they did, we would have a very strong argument against democracy as such. Do the proponents of longer parliamentary terms really believe that the electorate and governments suffer from these fatal deficiencies? Is that why they believe that governments should be freer of electoral sanction, that is, that the quantum of accountability should be reduced? They should be invited to be explicit on this point.

Secondly, the argument cannot be that the longer the parliamentary term the better the quality of government decision-making. It is a matter of finding an optimum. As the parliamentary term is expanded a point must be reached at which the supposed advantage of government being able to implement policies more freely is lost, or is completely cancelled out by the loss of accountability. As the salutary check of accountability to the electorate is weakened the government is more able to disregard the public interest and turn its attention to its own interests, at least for a time. A consideration of parliamentary terms should include a consideration of where that point lies. It may well lie short of four years.

### **Testing the advantage**

The major point to be made, however, is that if the extension of the parliamentary term from three years to four years has enabled better long-term policy-making by governments, there ought to be some empirical evidence of this in the states which have already adopted the longer term, and this evidence should be clarified by comparison with those states which have not. One of the advantages of federalism is that individual states can act as social and political laboratories and test institutions and policies so that people in other states and the people as a whole can see if they work before adopting them. Someone ought to have done a detailed study to ascertain whether the states with four year terms have gained the suggested advantage. A search of relevant literature here has not disclosed any such study. I suggest that the committee seek to ascertain whether there has been such a study. Perhaps the committee could commission one. It would defeat the advantage of federalism if states were to adopt the extended term simply on the basis that other states have done so, without any attempt to ascertain whether the contended advantage has been gained. It may be argued that this is difficult or impossible to determine, but the attempt should at least be made. If it *is* impossible to determine, then the adoption of a four year term would simply be a shot in the dark.

An analogy may be drawn between the movement for four year terms in Australia and that for legislative term limits in the United States. Now that term limits have been in operation in some states for a time, the question of whether their alleged advantages have actually been gained is under intense examination. The barrier which the federal constitution, in accordance with the interpretation of the Supreme Court, and the difficulty of amending it, interposed to any hasty adoption of the change at the federal level is now widely seen as salutary. It is said that it was as well that the change could be tried in some states. The proposal for four year terms in Australia should be approached in the same light.

### **Why the year's grace?**

The proposal before the committee is for the government not to have the power to go to an early dissolution except in certain circumstances during the first three years of the proposed four year term. This would reduce the power of the government to hold an election at a time politically convenient to itself, and would be a desirable limitation on the otherwise excessive power of governments under the so-called "Westminster system", particularly in Queensland.

It appears, however, that the case for giving the government "flexibility" in the last year of its term has not been adequately argued. Why should the term not be fixed for the whole four years? This is quite distinct from the question of a fixed election date. The term of the Legislative Assembly could be fixed, without the government having the ability to shorten it, except in the specified circumstances, for the whole four years of the term, while still



allowing the government some flexibility as to the actual election date and length of campaign period. It has not been established why the government should be allowed to go to an election at a time of its choosing over the last year of the legislative term. I suggest that the committee explore this question more fully than it has been explored so far.

**Conditions for early dissolution: appropriation bills**

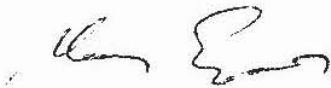
The proposal before the committee would involve the term of the legislature being shortened in the event of the passage by the Assembly of a motion of no confidence in the government. This is obviously a necessary provision so long as the current system of cabinet/party government is maintained.

More consideration is required, however, of the proposition that an early dissolution should be allowed in the event of the Assembly failing to carry any appropriation bill. It may be argued that failure to pass an appropriation bill *for the ordinary annual services of the government* should allow an early dissolution. Even that condition may be disputed, in that the Assembly may be willing to grant the government adequate supplies but may have some legitimate objection to a particular provision of such a bill. It would seem to unduly favour a government to allow it to go to a dissolution on the rejection of *any* appropriation bill. The Assembly may have a legitimate objection to a particular appropriation bill to fund some particular government activity, while not being willing to submit the state to the cost and inconvenience of an election over the issue. A government which thinks that the political tide is running in its favour could use such an appropriation bill to give itself the opportunity for an early dissolution.

As is suggested in the background paper issued by the committee, the proposal that an exercise of the governor's reserve powers should be another condition for an early dissolution is adequately covered by the proviso relating to no-confidence motions. Any exercise of the reserve powers would ultimately involve the dismissal of a government and the appointment of another, and if the new government lacked the confidence of the Assembly that would trigger a dissolution.

I wish the committee well with its inquiry. I would be glad to be of any future assistance to the committee.

Yours sincerely



(Harry Evans)