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

Dear Madam

I write in relation to the recommendation by the Queensland Constitutional Review Commission that parliamentary terms be extended from three to four years with a statutory minimum of three years. I have read the background paper developed by the Legal, Constitutional and Administrative Review Committee and have considered the arguments for and against this proposal. I note the committee's task is to consider the competing arguments to assess whether implementation of the QCRC's recommendation would be in the best interests of society as a whole. I offer the following critique of the arguments for and against the proposal in order to assist the committee in its deliberations.

**Analysis of arguments in favour of the four-year term proposal**

On the basis of the material in the committee's background paper, two main arguments in support of the QCRC's proposal may be discerned. Firstly, the longer time frame is said to enable governments to undertake long term economic and social planning without "giving in to particular electoral pressures" (p. 4). Secondly, the longer time frame is said to provide the business sector and the economy generally with improved stability and greater certainty (p. 4).

1. **Four-year terms would enable governments to undertake better long term planning:**

Several points may be made in relation to this argument. Firstly, extension of the parliamentary term from three to four years with a statutory minimum of three years is not in reality that much of an increase so as to enable a government to undertake the long term planning that the background paper suggested would eventuate. In all probability a government would still be looking towards securing its next term in office and act accordingly. This observation is particularly relevant given that under the QCRC's proposal a government could call an election as soon as the minimum statutory period had expired.

Secondly, irrespective of whether the parliamentary term is three or four years, government policy making and planning will be subject to the reality of rapidly changing circumstances which will require flexibility and adaptability on the part of the policy

makers and planners. As has been observed, "... the contingent nature of policy delivery and the changing characteristics of the policy environment can often unhinge the most 'rational' of objectives" (cited in Davis, Wanna, Warhurst & Weller, *Public Policy in Australia*, 2<sup>nd</sup> edn., 1992, p. 186). The need for continual revision in this respect is demonstrated by the fact that government agencies are required to develop their three-year strategic plans on an annual basis (s. 17, Financial Management Standard 1997).

Thirdly, whether the parliamentary term is three or four years is relatively immaterial when it comes to the ramifications of our participation in the global economy. While it has become an economic fact of life, globalisation has a recognised downside in terms of its impact on the ability of governments to implement their social and economic policy intentions (Argy, *Australia at the Crossroads*, 1998, Allen & Unwin, pp. 11, 134, 216, 220). The following extract articulates the impact of globalisation on a government's ability to adequately predict economic outcomes:

*The trend to increasing globalisation has four related implications: it has increased the potential influence of world financial markets on a nation's economy; it has forced governments to reconsider their economic policy goals and priorities; it has affected the ability of governments to use certain policy instruments such as exchange rates or fiscal demand management; and it has made macro-economic policy more complicated and unpredictable. (Ibid., p. 130)*

Fourthly, the impact of the Australian federal system on the State will remain unchanged regardless of the length of the parliamentary term. Queensland will still be affected by the budgetary and planning decisions of the Commonwealth (which operates on the basis of three-year parliamentary cycles) as well as by any exercise of its significant constitutional and financial powers and influence in relation to the State.

2. Four-year terms would provide the business sector and the economy generally with improved stability and greater certainty:

While this appears to be a business-friendly argument, the most likely scenario is that by the time three years of a four-year term had elapsed, the Government, the Opposition and the business community would all be anticipating and planning for the next general election. Furthermore, as previously noted, under the QCRC's proposal a government would not be prevented from calling an election as soon as the fixed three-year part of the term had concluded. In this case any benefit resulting from the extension of the additional year may only be illusory with no real advantage flowing to business or the economy. As to the possibility of improved political stability flowing from an extension to the current parliamentary term, it is not unknown for majority governments part way through their term to become minority governments simply as a result of a by-election. Irrespective of the length of the parliamentary term or changing political fortunes the electorate would still expect their representatives to deal maturely with each other for the greater good of the wider community.

The background paper stated that the recent extension to four-year terms of local governments in Queensland was supported by the stability and certainty arguments (p. 4). Quite apart from the fact that local governments are elected to fixed four-year terms

(unlike under the QCRC's proposal) which would possibly give the business community greater confidence for planning and certainty, there are other details which should be considered in relation to the recent extension to the term of local governments. In response to Question on Notice 1093 the Minister for Local Government reported that as of 15 September 1999:

- (a) 52 local governments had responded in favour of four-year terms for Local Government.
- (b) 18 local governments had responded that they are not in favour of four-year terms for Local Government.
- (c) 46 local governments have not advised their position on this matter

The Minister proceeded to indicate that nine local governments had advised they did not have an opinion either for or against the proposal. Several of these stated this was because their communities were equally divided on the question and as such, no clear position could be determined on the matter. (Reported in Hansard, 26 October 1999)

It would not be appropriate to justify the adoption of the QCRC's proposal on the basis of the recent extension to Local Government terms on the grounds that local governments are elected now for a fixed four years and because there was not unanimity among local governments in favour of the extension. Furthermore, as the matter was not first put to a popular vote it is not now possible to know whether the arguments used to justify longer Local Government terms would have been accepted by the electorate.

### 3. Other stated advantages of the proposal

In relation to the other stated advantages of the QCRC's proposal (p. 4) the following information is provided for consideration.

- (a) While a government may only be able to call an election during the last year of its term, this would not prevent that government from cultivating the electorate in its third year in preparation for when the election was held during the fourth year. Accordingly, one should not be too confident that adoption of the proposal would necessarily mean that a government would be prevented from calling an election at a time most favourable to its interests.
- (b) When would a government "threaten the Legislative Assembly" with an early election? Generally, governments have the support of a majority of the Parliament (due to the mechanism of party discipline). The only time a government might "threaten" an early election is when it did not have the support of a majority of members and would therefore be a minority government. However, it is highly unlikely that the electorate would respond too kindly to any government acting in this fashion. Furthermore, under the proposal all the Legislative Assembly would need to do is to pass a motion of no confidence in the (minority) Government, or undertake any of the other proposed prescribed measures, and trigger the election process. Therefore, it is difficult to see how this would be an "advantage" of the proposal.

- (c) The argument that with four-year terms there would “likely” be fewer elections with consequent savings for the public purse has some popular appeal but it is difficult to substantiate. Again, as previously noted, there would be nothing preventing a government from calling an election as soon as the mandatory time frame had expired. Furthermore, a government could even orchestrate the prescribed conditions for an election earlier than the three-year limit if this was considered expedient. Such an event has previously occurred overseas (as the QCRC has noted [p. 2]). Therefore, any savings flowing from adoption of the proposal would, in all likelihood, be minimal.

#### **Analysis of arguments opposed to the four-year term proposal**

A number of points may be made in relation to the arguments presented in the background paper against the QCRC’s proposal.

The primary argument presented against the proposal is that extending the length of the parliamentary term may lead to an increasingly politically disengaged electorate and to a governmental culture that is unresponsive and complacent (p. 4). Some commentators have seen merit in such concerns and I have attached a copy of a news article in this regard for the committee’s consideration. It is entitled “Longer terms denigrate voters” and was featured in the Courier Mail on 26 February 2000.

The background paper states that such concerns “assume greater importance in Queensland where there is no upper House to act as a house of review” (p. 5). It is interesting to note that in foreshadowing the abolition of the Legislative Council in October 1921 the then Premier, E G Theodore, advised the Governor in the following terms:

*The Labor Party have been pledged for many years to secure the abolition of the Council, believing in a Parliament based on a system of one chamber only; and, so long as we have a free and unfettered franchise and parliaments that do not extend beyond a three-year period, there can be in that system no danger to the interests of the people. (cited in One Chamber Only, Queensland’s Upper House 75 Years On, Griffith University, 1997, p. 3)*

In introducing the Bill to abolish the Legislative Council Theodore stated: “What we want in a democratic community is a system which will give a ready, free and direct expression of the will of the people. That can only be got by having frequent appeals to the people, the appeals not less frequent than once in three years at the most.” (cited in Murphy, Joyce & Cribb, *The Premiers of Queensland*, University of Queensland Press, 1990, p. 322)

It must have occurred to Theodore that the combination of a unicameral parliament with disciplined political parties could lead to political absolutism. Hence, Theodore likely perceived the “danger to the interests of the people” arising from the fact of a government being able to dominate the Legislative Assembly and thus control the sole house of Parliament. That this did eventually become a problem was recognised in 1989: “The operation of the party system in an unicameral assembly, the continuing growth in the

scale and extent of Government activity, and the increasing complexities of policy making affect the ability of Parliament to review the Government's legislative activity or public administration" (Fitzgerald Report 1989, p. 124).

However, in moving to introduce a unicameral Parliament Theodore attempted to minimise any risks inherent in the proposition by insisting that parliamentary terms remain no more than three years. For the QCRC's proposal to be approved at a referendum voters would likely first need to be convinced that there would be "no danger" to their interests if the parliamentary term was extended to four years. Of course, this begs the question that if there is "no danger" now in the term of our unicameral Parliament being longer than three years, why did Theodore not see it that way?

The background paper observed that while parliamentary committees act as an important review mechanism they do not replace the role of an upper House (p. 5). There is no doubt that committees are able to fulfill an important role in assisting the Parliament to scrutinise the actions of the political executive. Clearly, it was for this reason that Fitzgerald recommended their establishment (Fitzgerald Report 1989, pp. 124 – 25). Nevertheless, under a unicameral system committees ultimately owe their existence to the goodwill of the government of the day. It is possible that a government in control of the sole House of Parliament could conceivably seek, for whatever reason, to curtail the role of the committees early in its term knowing that by the time a general election is called public outrage at its action would most likely have subsided. A government with an extended term (such as four years) may feel even more confident to take such an action given the (theoretically) longer time between elections. In view of the plausibility of this scenario it is not likely that voters would draw much comfort from the introduction of four-year terms simply on the basis that Queensland *currently* has an effective parliamentary committee system.

As another argument against the proposal the background paper suggested that the QCRC's proposal may fuel community cynicism about politicians acting in their own interests (p. 5). In relation to this argument, it should be pointed out that the great majority of voters in Queensland evidently value the opportunity of being able to exercise their democratic right to vote at State elections once every three or so years. While some may be disappointed with the quality and performance of a number of the candidates, the majority of voters do not necessarily find the actual experience of voting to be a major discomfort. If they did there would likely be many more either not attending polling booths to vote or more would be voting informally. I suspect many people would find it disturbing if they were made to wait longer before they could have their periodic opportunity to have a direct say in the State's future. Extending the parliamentary term could have the unwanted consequence of simply increasing the distance between the people and their representatives. This would not be an acceptable outcome.

Finally, the background paper referred to the issue of what reserve powers should be left to the Governor to replace a minority Government that is "left in limbo by those members who are prepared to support it on any no confidence motion and vote it supply but oppose all other legislation" (p. 5). The silence of the QCRC's proposal in relation to how such a situation could be managed is cited as another argument against it. The paper suggested that the Governor could retain certain reserve powers in order to deal with such situations

if they arose during the fixed part of the parliamentary term (p. 5). The paper had earlier noted that in New South Wales the Governor "expressly retains the power to dissolve the lower House in accordance with established constitutional conventions" (p. 3). If it was decided to put the matter to a referendum perhaps the QCRC's proposal could be first amended to include a similar provision. However, in the event a referendum was held I consider it would in fact be more helpful to propose specific constitutional provisions in relation to the circumstances in which the Governor may exercise a power of dissolution during the first three years of a parliamentary term. Clear provision in this regard may act to minimise any tension that could arise in the event of such a power being exercised.

### Conclusion

In weighing up the arguments for and against the QCRC's proposal it will be important for the committee to give careful consideration to the fact of Queensland's unicameral status. Clearly, the introduction of a unicameral Parliament was never intended to diminish the rights of Queenslanders or to harm their interests. At the time of its introduction three-year parliamentary terms were considered to guarantee this.

Accordingly, in examining the issues associated with the QCRC's proposal the committee is encouraged to consider the following questions. Firstly, what is the guarantee that the quality and accountability of government would not diminish if the proposal were implemented? Secondly, what is the likelihood that adoption of the proposal would actually improve the quality and accountability of government in Queensland? Finally, what is the probability that implementation of the proposal would enhance the community's connection with, and ownership of, the governance processes? It is probable that if the proposal were put to a referendum these would be the type of questions most likely to exercise the minds of voters.

I trust the foregoing comments and observations will assist the committee in its consideration of this matter.

Yours sincerely



Don Willis

Encl.

# Longer terms denigrate voters

**S**HOULD Queensland join all the other states and allow parliamentarians to serve four-year terms before facing re-election, rather than the present three years? In a 1991 referendum Queenslanders said "no", and that should have been the end of it for at least a generation. After all, we are out of step with the rest of Australia in not having an upper house of parliament, but we don't seem to suffer any worse government as a result.

Nevertheless, today's politicians won't take "no" for an answer, and it looks as though we may have to vote on the issue again. The Beattie Government will soon table a report by constitutional expert Professor Colin Hughes, which recommends that the state parliamentary term should be extended to four years.

No doubt many sensible reasons will be offered to justify such a proposal. Elections are expensive to run, and we all know how unhappy governments are about spending taxpayers' money.

Governments frequently have to make tough and unpopular decisions, and politicians are more likely to have stronger backbones when they feel that the electorate will have a few years to forget its anger and pain.

Short parliamentary terms, so the argument goes, only promote short-term thinking and encourage governments to pander unnecessarily to populism and prejudice.

These are not trifling arguments, although I suspect our elected representatives seek longer parliamentary terms for less exalted reasons. And the support of business and other interest groups for four-year parliaments probably depends less on concerns about efficiency than on the desire for a longer period of return on all the time and resources they spend in cultivating the party in power.

But whatever the reasons that may be offered in their favour, moves towards longer parliamentary terms still represent a retreat from important democratic principles.



Ron Brunton

Certainly, they would have dismayed the reformers who championed the features of our parliamentary system that we now take for granted.

In 1838, William Lovett and Francis Place, two radical, self-educated English tradesmen, drew up a "People's Charter", a six-point programme of democratic reform, on behalf of the London Workingmen's Association.

The charter called for universal suffrage (but only for men — even progressives have their blind spots), electoral districts containing equal numbers of voters, a secret ballot, abolition of the requirement that members of parliament had to be property owners, and payment for MPs to make it feasible for ordinary men to stand as candidates.

**L**OVETT and Place also advocated annual general elections, so that citizens would have much greater control over their parliamentary representatives.

The Chartists, as their supporters were called, presented a number of petitions containing millions of signatures to the House of Commons, first in 1839, and then again in 1842 and in 1848. Each was rejected.

Nevertheless, although Chartism had effectively disappeared as a political movement by the end of the 1840s, the influence of its ideas was far-reaching, particularly in the Australian colonies, where dozens of Chartists were transported after riots in 1839 and 1842.

The colonial legislative assemblies which were established from the 1850s onwards soon incorporated four of the six Chartist demands, and a fifth, the payment of parlia-

mentarians, came later. But the idea of electing parliaments every year — or even every two years as is the case with the House of Representatives in the United States — has always been seen as too radical.

True, short-term parliaments can have their dangers. But from another perspective they can also help to foster more responsible and accountable governments.

I think that the position you take on the issue ultimately hinges on your view of the electorate.

If, like Malcolm Turnbull's Australian Republicans or the conservatives who initially resisted the Chartists' demands, you feel that most people are short-sighted, selfish and readily swayed by glitzy campaigns, you will be convinced that nothing but harm would ever come from more frequent elections.

On the other hand, if you believe that most of our leaders and commentators usually misjudge the good sense and decency of the electorate, and underestimate its willingness to accept difficult but necessary decisions provided their rationale is honestly spelt out, the situation looks rather different.

To a considerable extent expectations can become self-fulfilling. Good government and far-sighted policies are more likely when everyone assumes that the electorate is intelligent and responsible. But if the electorate is treated as though it is foolish and easily manipulated, it is more likely to throw up leaders and governments to match.

This is not because people are really stupid, but because such treatment encourages them to become cynical and apathetic, and to feel that scrutinising political parties and candidates is a waste of time.

Four-year terms are really a vote of no confidence in the electorate and will do nothing to reverse what appears to be a growing sense of public disillusion and mistrust in our political processes. We need more, rather than fewer elections.

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