



Parliament House  
Brisbane

*Submission NO 50*

16 May 2000

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

Dear Sir/Madam

Attached is my submission to the Legal, Constitutional and Administrative Review Committee on the Queensland Constitutional Review Commissions recommendation for four year Parliamentary terms.

Any further information you require, particularly with respect to costs savings, can be supplied if required by your committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R.K. Hollis', written in a cursive style.

Hon R.K. Hollis MP  
Speaker

## **REVIEW OF THE QUEENSLAND CONSTITUTIONAL REVIEW**

### **COMMISSION'S RECOMMENDATION FOR FOUR YEAR PARLIAMENTARY TERMS**

Submission from Hon Ray Hollis MP, Speaker, to the Legal, Constitutional and Administrative Review Committee

Mr Chairman and members, let me from the outset make my position perfectly clear, I support four year terms for the Queensland Parliament. I will however address the issue objectively, setting out my reasons for extending the life of Queensland Parliaments from three to four years.

#### **Historical**

The State of Queensland was originally part of the British Colony of New South Wales.

Government in Queensland commenced originally with the rule of the Moreton Bay penal settlement which was founded in 1824. However, soon after penal settlement, free settlers arrived in the area and subsequently began to demand representative government.

By 1843 the Moreton Bay area had been included in a huge electorate north of Port Macquarie in New South Wales and by 1858 was sending nine Members to the NSW Parliament.

Throughout Moreton Bay there was agitation for many years for Separation from NSW. Finally on 6 June 1859, Queen Victoria signed Letters Patent creating a new colony, suggesting herself the name "Queensland".

The First Parliament of Queensland met on 22 May 1860. British tradition was followed in the establishment of two Houses of Parliament, a Legislative Assembly of 26 Members and a Legislative Council of 14 nominees.

#### **The Duration of Queensland Parliament**

The maximum term of Parliament was five years until 1890 when it was limited to three years by the Constitution Act Amendment Act of 1890, a period which cannot be extended by Parliament without the approval of a majority of electors voting at a referendum (Constitution Act Amendment Act of 1934).

It is significant to note that six Parliaments were dissolved before advantage was taken of the quinquennial period.

Of the quinquennial Parliaments, the shortest was the fifth, which lasted only seven months. Of the triennial Parliaments, the shortest was the sixteenth which lasted only five months. The Legislative Council was of course abolished in Queensland in 1922.

Present day Queensland Parliaments exist for a maximum of three years. Section 2 of the Constitution Act Amendment Act of 1890 provides that "Every Legislative Assembly hereafter to be summoned and chosen shall continue for three years from the day appointed for the return of the writs for choosing the same and no longer; subject nevertheless to be sooner dissolved by the Governor.

In addition to this provision, the duration of the Legislative Assembly cannot be extended except by a referendum of the people (Constitution Act Amendment Act of 1934).

## **Responsible Government**

The whole point of responsible Government is that the Government of the day is responsible to and must have the support of the House of Parliament. If it does not then Government becomes extremely difficult if not impossible.

## **The position in the other States and Territories of Australia**

All other Australian States have a four year term for their Parliaments as well as the Northern Territory Legislative Assembly. The two exceptions along with Queensland are the Commonwealth House of Representatives and the ACT Legislative Assembly, all of which have three year terms.

Referendums were held for both Queensland and the Commonwealth House of Representatives in recent years to extend their terms.

In 1988 a referendum to extend the term of the House of Representatives from three to four years, including reducing the term of the Senate from six to four years was defeated.

In 1991 a referendum held in Queensland to extend the term of the Legislative Assembly to four years was defeated narrowly.

Historically, the Tasmanian experience is interesting. Prior to the 1969 election of a Liberal/Centre Party Coalition Government, Tasmania had five year terms for its House of Assembly. During that Government's term of office the five year period was reduced to three years. After the 1972 election the new Labor Government attempted to restore the five year term but this was rejected by the Legislative Council and finally a four year compromise was reached. The Legislative Council however did not see fit to reduce its own term of six years.

It is also interesting to note that the United Kingdom Parliament is elected for five years.

## **Arguments in favour of four year terms**

1. Governments have more time to develop and implement long term policies.
2. With a four year term at least two budgets are able to address important long term issues.
3. Four year terms mean less frequent elections, saving taxpayers money.
4. With the shorter three year period Governments may be reluctant to make unpopular but necessary decisions in the final year of office.
5. Four year terms bring greater stability and certainty for both business and the public in general.
6. Savings in costs associated with the running of the Parliament. After each election with the influx of new Members, electorate officers are brought to Parliament House for training over a 3 to 5 day period. Some electorate officers are replaced incurring quite significant financial costs.

## **Electorate Office leasing costs**

Leasing costs for the electorate offices have increased by 74% (\$1.03m) since 1992-93.

Costly relocations occur because of election results, changes to electoral boundaries and shifts in electorate population base. Relocation generally results in improved or larger offices and hence additional rental costs.

## **Former Members entitlements**

More elections mean more former Members, Following the 1998 State Election and subsequent resignations, the number of former members entitled to make claim under the provisions of the Members Handbook has increased considerably. Expenditure has increased from \$0.137m in 1995-96 to an estimated \$0.335m in 1999-2000.

## **Arguments against are**

1. Extending three to four years is likely to be unpopular with the electorate at large because (a) it gives the Government another year in office before facing the electorate again and (b) it gives the Government more opportunity to pick the "right time" to go for an election.
2. Because Queensland has only one House of Parliament it is essential that elections are held more frequently than with bi-cameral Parliaments. Upper Houses are viewed by some as checks and balances on the Executive dominated Lower House.
3. During the longer parliamentary term Governments may become complacent.
4. Although the Queensland Parliament now has a good parliamentary committee system, this does not replace an Upper House.
5. An increase from three to four years will fuel some community cynicism about politicians acting on their own interest.
6. A four year term can leave a minority Government in limbo for another year relying on the support of independents or minority parties.

In my view the arguments in favour far outweigh the arguments against. Governments must be able to govern effectively and successfully. A four year term goes a long way towards enabling this to happen.

## **The situation in other States**

In three States there is a fixed term component within the four year term. In NSW the fixed term component is the full four years and in Victoria and South Australia the fixed term component is three years. In those three States there are specific grounds for early dissolution.

In Tasmania and Western Australia there is no fixed term component and the Government can actually call an election at any time as long as the Governor agrees.

In the three States where there is a fixed term component there are differences in the prescribed circumstances by which the lower house may be dissolved early.

Where the Government loses the confidence of the Lower House is common to all three. In NSW, where the Lower House rejects or fails to pass supply.

In South Australia and Victoria, various conflicts with the Upper House provide grounds for early dissolution of the Lower House.

This latter example is not relevant to Queensland which has only one House.

In NSW, irrespective of the prescribed grounds for an early dissolution, the Governor expressly retains the power to dissolve the Lower House "in accordance with established constitutional conventions (ie in exercise of the reserve power) throughout the four year parliamentary term. In South Australia and Victoria this is the position only during the fourth year of the parliamentary term.

## **What is meant by the Reserve Powers of the Crown**

The three main recognised Reserve Powers of the Crown are

- (a) Power to refuse assent to a Bill,
- (b) Power to dismiss a Ministry; and
- (c) Power to dissolve Parliament or refuse a dissolution of Parliament.

In the context of this paper only (c) is relevant.

Australian precedents point to several matters worth noting

Upon requests for a dissolution, State Premiers have submitted that it is only in extreme circumstances that the Governor is entitled to reject the Premier's advice to dissolve. However, little indication has in the past ever been given to what those circumstances might be.

In these circumstances where a Governor has granted a dissolution, the Governor has expressly stated that the decision does not imply acceptance of the above submission.

It also has been recognised that the Governor is entitled to seek advice from the Chief Justice and the Solicitor General, both of whom are now political officers, on any legal issues which may be involved.

## **A four year term for Queensland**

As I stated at the very beginning of my submission I am in favour of four year terms for the Parliament of Queensland.

What then is the best way of achieving this goal. There appears to be three options, a four year term with a fixed minimum period of three years, or a fixed four year term, or a four year term with no fixed period.

If there is to be a "fixed term component", then it has to be "qualified" to resolve a situation in which the Government can no longer govern in accepted Westminster practice.

Consequently, I support the Queensland Constitutional Review Commission's report recommendation 5.2, that the maximum term of the Queensland Legislative Assembly be extended to four years subject to a provision that a dissolution may not be granted during the first three years unless: (a) a vote of no confidence is carried or a vote of confidence fails to be carried; or (b) an appropriation bill is defeated or fails to pass.

## **Entrenchment**

A referendum is necessary to extend the current three year term to four years. I support the proposition that the four year term with a fixed minimum period of three years should itself be similarly entrenched. If this is not done then the new reform could be changed by a simple Act of Parliament at anytime.