

## Legal, Constitutional and Administrative Review Committee

### The Queensland Constitution: Entrenchment

#### SUBMISSION

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#### **SUBMITTED BY:**

Shadow Attorney-General Lawrence Springborg MP, on behalf of the Queensland National Party.

#### **REFERENDUM ENTRENCHMENT:**

It is not believed that there is reason to oppose the entrenchment by referendum provisions however, there are a number of reservations regarding the recommendations.

There is real doubt about the legal effectiveness of referendum entrenchment provisions which relate to matters outside the "constitution, powers or procedures" of the Parliament. The Committee suggests that the Attorney-General seek a decision on the matter from the Supreme Court (or better the High Court). However, the Courts do not provide "advisory opinions". The question could only be settled by the Court if there were a real dispute about the effectiveness of the provisions and the disputants took the matter to the Court. The better view seems to be that such provisions are only "morally" or "politically" binding.

The logical consequence of the recommendations is that Committee's own proposals for entrenchment should be the subject of a referendum, before they are enacted. It is not completely clear whether the Committee is suggesting this. Certainly the Committee is proposing that any future "referendum entrenchment" proposal must be the subject of a referendum before it is so entrenched. Further clarification is required as to whether adopting the recommendations would thus result in a referendum on the entrenchments.