



Queensland  
Government

Integrity Commissioner

7 May 2002

Ms Karen Struthers MP  
Chair  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Struthers

**Issues of Constitutional Reform**

Thank you for your letter of 18 April 2002 enclosing the Legal Constitutional and Administrative Review Committee's Issue Paper about the Queensland Constitution. I shall limit my submission to chapter 13.

The term "statutory office holder" implies that the person to whom it applies has been appointed to an office created by a statute. Generally the statute creating the office defines the circumstances in which the office holder can be dismissed from office. Appendix B sets out the details concerning the Statutory Office Holders listed in s.67 of the *Parliament of Queensland Act 2001*.

The factors which protect independence include;

- an open process of appointment
- a salary which is not subject to arbitrary change
- clearly defined responsibilities
- clearly defined circumstances which can lead to dismissal
- openness in the context of the office

If these matters are in place, any additional statement that the holder of the office is not subject to directions from a Minister does no more than state the obvious.

Generally Appendix B shows that the statutory office holders identified in s.67 enjoy independence to a degree appropriate to the office.

Rather than make any provision in the Constitution to provide for the independence of statutory office holders, it may be better to include in the *Legislative Standards Act 1992* a provision to the effect that an Act which creates an office must contain provisions which secure the independence of the holder of the office to a degree appropriate to the office.

Statutory offices are created quite frequently and most of them do not have the standing within the total framework of government to warrant specific mention in the Constitution.

With respect to the removal of certain statutory office holders, it should be noted that Judges hold office until age 70 years and are entitled to a non-contributory pension. Statutory office holders are appointed by contract, for terms often of five years or less. That means that from the point of view of the office holder, the question of termination of the contract does not have the same significance as dismissal has for a judge. The ordinary principles of contract should be sufficient. If the dismissal is not justified this can be demonstrated in court.

Yours sincerely

A handwritten signature in black ink, appearing to read "Alan Demack". The signature is fluid and cursive, with a large initial "A" and "D".

**Hon Alan Demack AO**  
**Queensland Integrity Commissioner**