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Submission No 7
Spec 29-1

19th May, 2000.

The Research Director,
Legal Constitutional & Administrative
Review Committee,
Parliament House,
George Street,
Brisbane, Qld. 4000.

Dear Madam,

Submission Re Consolidation and possible changes to the Queensland Constitution.

Why do we need a Constitution? Constitutions are simply a set of rules or protocols governing the conduct of a group of people. Constitutions are often used to negate the very principles they are supposed to protect. We are told by J.Pyke, (p12 of the Report) "....one of the reasons so few Queenslanders have any knowledge that we have a constitution is that, in fact, in one sense we indeed do not. We have a series of constitution Acts....."

If this is so and if they are so complex, it might be well worth retaining the status quo if only to discourage politicians from tampering with it.

In our Submission re Four-Year Term, the opinion was expressed that Governments continually seek more powers for themselves. Any changes to our Constitution are likely to be perceived by them as an ideal opportunity to further reinforce **their** power whilst further restricting **our** freedoms. Therefore, whatever justification for alteration there may be, the Review Committee must place any proposals under the microscope to ensure there is no further watering down of our inherited freedoms and, in fact, measures must be introduced to return our already lost rights of which there are many. **The continual passing of new Laws means there is less and less freedom for the Law Abiding Citizen** and it is time for this imbalance to be redressed. This would be a good opportunity to effect this.

It is noted that the Committee request responses to matters they consider to be "Consolidatory and Non-controversial". Insofar as this writer is concerned, some of the matters which should be discussed, but which the committee does not address, should NOT be considered controversial because they are already entrenched in our Laws but do require re-consolidating because of the way they have been and are being subverted.

It is also noted that $47,500.00 was spent on the services of a consultancy firm to publicise the proposed changes and there were originally 34 submissions and one of them (S28) "regretted the Commissions decision not to include the possibility of a Bill of Rights in its inquiry".

It should be pointed out that whatever the Commissions reasons for not including it, **WE ALREADY HAVE A BILL OF RIGHTS ENACTED IN THIS AND ALL THE OTHER STATES.**

It is further noted that The Commission was disappointed at the small number of persons attending the public meetings. It might be better to address the real reasons for this rather than assume lack of interest on the part of the public. The writer, who missed the first part of the inquiry, suspects the budget for publicity was too small, or not wisely spent. If it had not been for a concerned friend drawing his attention to the matter, this additional invitation for submissions would have passed unnoticed as well.

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When you consider the huge spending and publicity over the recent referendum on the Republic, $47,500 is very small beer. Excessive funding is not to be encouraged, but it needs to be realistic.

This writer has some experience in running and publicising public meetings and is of the opinion that if there is a letterbox drop in the area concerned plus a couple of local newspaper advertisements of modest size, a strike rate of 1% of the number of leaflets distributed is a very good result. i.e. If 5000 leaflets are letterboxed once and 50 people turn up at the meeting, that would be a good result. Especially for a subject like this one.

As it is, the massive report containing 126 pages of A4 shows the Committees dedication to their task but will be beyond the scope of most people to analyse in the limited time allowed. Certainly this writer lacks the time and legal expertise to do a detailed analysis and will need to resort to confining his comments to the matters raised in the position paper plus **some specific items that must be mandatory in a new and consolidated Constitution for Queensland.**

Any alteration to our Constitution requires the re-affirmation or 'consolidation' of the Bill of Rights 1688/9, of William and Mary. **Another entrenched Law** that also should be re-affirmed in the Constitution is the **Magna Carta 1297**. The **Habeas Corpus Acts** of 1640 and 1679 also 1816, plus our rights under Common Law although not entrenched, should also be 're-consolidated'. None of these are controversial even if not specifically mentioned by the Committee and are far more important than tinkering with odd points of order and voting procedures.

Regarding the Australia Act of 1986. Certain parts of it do not apply to Queensland and in any case they are illegal Acts foisted on us by the Hawk Government and not approved by National referendum as required in the Australian Constitution. They should be disregarded. The Committee referred to Alternative Three and "the gentleman from the Loyal Constitutional Army" and their views, but expressed no opinion on them other than the Committee relies on the High Court judgement which should have been published.

A lot of political heartburn could be avoided by the simple procedure of the introduction into our Constitution, by referendum, of **CITIZENS INITIATED REFERENDUM AND RIGHT OF RECALL. This is a vital piece of long overdue legislation.**

Politicians, when called upon to introduce CIR, mostly seem to lapse into a state of frenzy, (so this might be considered 'Controversial') roundly condemning the suggestion that THE PEOPLE might know better than they what the Country or State needs. The evidence that it has worked well for Switzerland for over 100 years and is also very successful in many of the States of America, is ignored or denied. Of course they might not like the Right of Recall, but if employers can fire ordinary employees for various reasons, the same should apply to politicians who are employed by us.

Other possible reasons for this rejection by them need examining very closely because if one of the main objectives of a politician is to get re-elected into parliament, what better way to ensure re-election would there be than to see the people get what they want and not what is decided for them by the said politicians. If the people made a mistake, it would not be the pollies fault would it? They would soon learn.

CIR would mean the Parliament of the day could be there forever. Of course that points up one possible reason for rejection of it. **The current opposition might never get the top jobs and perks.** Given there is virtually no difference between the major Party's, this would not matter too much to us, but it might be a good idea at the time of the referendum for CIR to also put another one to the people that:

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'confrontational politics be made illegal and the two sides of the Chamber be abolished, a round table be substituted, all politicians pay be standardised (like they would do to us) and all will work as a committee for the betterment of the State or Country as the case may be. Any decisions will be Committee decisions.' This will not stop factions forming but at least if they are all made universally accountable and all get equal pay, they might start pulling in one direction, the right one.

The fact that they do not seem to want government to be guided by the electorate suggests a more sinister scenario. They want us, their employers, to be their pawns, victims or whatever and do what they want, not what we want them to do. This is what concerns most people. The real agenda is open to speculation, but one thing is for sure, we seemingly are not intended to have any say in it.

Finally:

The Category A Recommendations, R11.3, R16.3, R16.7 seem to be non-threatening and acceptable.

The Category B Recommendations, R4.1, R5.3, R5.4, R5.8 R6.1, R6.5, R6.7, all seem reasonable and non-threatening. It should be noted that R5.3 must make it clear that MLA's can only be directly elected. On no account should there be any possibility of them being appointed.

All wording should strive to make 'Interpretation' at some future date completely unnecessary. Little changes in wording must be scrutinised to ensure they do not completely alter the meaning of the Law to which they appertain.

This writer would appreciate being kept informed of any future discussions on this subject especially the more 'controversial' subjects.

C.E.Clark.
Managing Director.