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# Fixed Term Parliaments under the Constitution (Fixed-term Parliament) Amendment Bill 2009 (Qld)

<b>Bill:</b>	Constitution (Fixed-term Parliament) Amendment Bill 2009
<b>Date of introduction:</b>	17 June 2009
<b>Portfolio:</b>	Private Member's Bill (Mr P Wellington MP)
<b>Hansard Reference Second Reading Speech:</b>	Queensland Parliamentary Debates, 17 June 2009, p 965

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## INTRODUCTION

On 17 June 2009, Independent Member, Mr Peter Wellington MP, introduced a Private Member's Bill, the [Constitution \(Fixed-term Parliament\) Amendment Bill 2009 \(Qld\)](#) (the [Bill](#)), into the Queensland Parliament. The [Bill](#) seeks to amend the [Constitution of Queensland Act 2001 \(Qld\)](#) to provide for fixed 3 year parliamentary terms. The [Bill](#) proposes that, in normal circumstances, a Parliament will be dissolved 26 days before the second Saturday in March in the third year after the previous election, with the election to occur on the second Saturday in March. Provision is also made for the holding of an early election in specified circumstances.

The introduction of this [Bill](#) follows a long history of debate in the Queensland Legislative Assembly and among academics and commentators about parliamentary terms and, specifically, whether they should be extended to a maximum of 4 years instead of the current 3 years. In addition, the issue has been the subject of a referendum in 1991, and an extensive review by a Parliamentary Committee. In the context of the discussion of the duration of parliamentary terms, the issue of whether fixed 4 year terms should be introduced has also been raised. The [Bill](#) currently before the House proposes to introduce 3 year fixed parliamentary terms, thus circumventing the constitutional hurdle of holding a referendum which is required if the term is to be extended beyond 3 years.

This e-Research Brief will begin with a short background discussion of parliamentary terms in the context of responsible and representative government in the Australian setting, followed by an outline of the arguments for and against fixed term parliaments. A chronology of significant events relating to parliamentary terms in Queensland will then be provided. Consideration of the [Bill](#) will then follow. Lastly, a comparison of parliamentary terms in each Australian state and territory will be presented in tabular form.

## BACKGROUND

Responsible and representative government is integral to democracy in Australia. In essence, this means that parliament is comprised of members chosen by the people participating in fair and frequent elections and that government ministers are those members of parliament who retain power only so long as they have the 'confidence' of the parliament.<sup>1</sup> Further, it has been observed that the political and moral justification (or 'legitimacy') of the legal rule of parliamentary supremacy is the accountability of Parliament to the electorate.<sup>2</sup> Thus, the government of the day is ultimately accountable to the voting public.<sup>3</sup>

Numerous constitutional conventions (or 'unwritten rules') underpinning our written constitutions and our system of responsible and representative government have been adopted from the British Westminster system. Among these is the convention that the government is formed from the party attaining the majority of seats in the lower house of parliament and that it holds power only while it commands the confidence of the majority of members in the lower house. Another important convention is that, while the Queen's representative in each Australian jurisdiction (the Governor or Governor-General, as the case may be) has the constitutional power to dissolve and prorogue the Parliament at his or her discretion, he or she will do so only on the advice of the head of the Government of the day (e.g. the Premier or the Prime Minister).<sup>4</sup> In practice, this means that the Governor or Governor-General will call an election only at the request of the Premier or the Prime Minister, as the case may be.<sup>5</sup> Given that the government of the day has the 'real' power to call for an early election, the issue of parliamentary terms has often been debated within the community, in the media and in the parliaments themselves, particularly when an election is called well before a parliament reaches its maximum term.

In Australia, the early colonies had 5 year parliamentary terms inherited from the British system. By the 1890s, all, apart from Western Australia, had moved to 3 year terms.<sup>6</sup> It has been noted that the move towards shorter term parliaments was influenced by the Chartist movement, a mass political movement which believed that frequent elections were integral to representative democracy and parliamentary accountability.<sup>7</sup> A 3 year maximum term for the Commonwealth House of Representatives was provided for in the [Commonwealth Constitution](#) in 1900 by s 28 and 'entrenched' by s 128. This was consistent with the then 3 year terms of the state parliaments.

Changing attitudes about inherited Westminster practices and conventions have prompted moves by several legislatures, including even the House of Commons at Westminster itself,<sup>8</sup> to curb the power of Premiers and the Prime Minister to seek early elections by proposing fixed parliamentary terms.<sup>9</sup> Most parliaments in Australia have recently broken with the tradition of maximum parliamentary terms to implement fixed term parliaments of 4 years duration. Now, only the Queensland Parliament and the House of Representatives have 3 year maximum terms, meaning that an election can potentially be called at any time before the expiry of the term.

Each Australian state and territory has differing constitutional provisions about its parliamentary term.<sup>10</sup> The lower houses of parliament in South Australia, Victoria, New South Wales, the Northern Territory and the Australian Capital Territory have fixed 4 year terms, subject to varying 'exceptional circumstances' where an election can be called earlier than the set date. The lower houses of parliament in Queensland, Western Australia and Tasmania and the Commonwealth House of Representatives do not have fixed terms. The position in each jurisdiction is set out in a table later in this e-Research Brief.

Over recent years, there has been ongoing discussion in the Queensland Parliament, in academic circles and within the general community about the best model for parliamentary terms. The particular options – with varying degrees of support for each – appear to be:<sup>11</sup>

- a 4 year maximum term with no part of the term fixed;
- a 4 year maximum term with a fixed minimum period of 3 years during which the Governor cannot dissolve the Legislative Assembly unless certain circumstances occur (e.g. motion of no confidence in the Government is passed);
- a fixed 4 year term, unless certain circumstances occur;
- a fixed 3 year term, unless certain circumstances occur (which is what Mr Wellington MP's Private Member's Bill proposes).

## ADVANTAGES AND DISADVANTAGES OF FIXED TERM PARLIAMENTS

Debate has been ongoing regarding the issue of fixed term parliaments, with each side able to point to a number of arguments that support its respective position.

### PERCEIVED ADVANTAGES OF FIXED TERMS

The following have been among the touted benefits of having fixed parliamentary terms:

- it would stop the head of the Government of the day (i.e. the Prime Minister, Premier or Chief Minister) from being able to call an election at the time of his or her choosing for personal and/or political party advantage;<sup>12</sup>
- it would create more stability for the Government and the Opposition, enable sound preparation for an election and allow for fairer political competition;<sup>13</sup>
- it would bring about more predictability and certainty for the business sector in making commercial decisions, as well as for the economy in general, because there would not be speculation about a possible early election;<sup>14</sup>
- the Opposition would have the ability to formulate its policies and assess the Government's policies without being preoccupied with the possibility of needing to prepare for an election to be held at an unknown date of the Government's choosing;<sup>15</sup>
- if it was a relatively short fixed term – 3 instead of 4 years – it may ensure greater government accountability in that it would be mindful of its need to have voter support throughout the whole term not just towards the end of it;<sup>16</sup>
- It would obviate the '*uncertainty generated by this [often long period of speculation and rumour] [which] can have harmful consequences for public administration, business and the community generally. Further, it distracts the Government and the Parliament from giving proper attention to carrying out their ... functions*';<sup>17</sup>
- it would enable better organisation of government business in the run up to the fixed election date. For instance, major contracts and key appointments can be made without the possibility of them being rendered nugatory by an unexpected early election. In terms of parliamentary business, bills can be passed without the danger of them lapsing when Parliament dissolves for an earlier than expected election;<sup>18</sup>
- it would enable people to update their electoral role details, if they have moved house or have attained voting age, in a timely manner before the fixed election date, resulting in fewer people being disenfranchised by the calling of an early election.<sup>19</sup> There has also been a suggestion that the 'rush' to enrol or change enrolment details in time for an election makes it difficult to ensure there are no fraudulent enrolments;<sup>20</sup>
- it would assist in reducing campaign costs because of the clearly defined period for campaigning;<sup>21</sup>

In conclusion, in the context of possible reform at the Commonwealth level during the early 1980s, the following comment was made about fixed terms:<sup>22</sup>

[T]he... proposal deprives a Prime Minister of the power to manipulate election dates for reasons that are purely arbitrary, partisan or capricious. When misused, that power can be unfair to other contestants, and can tend to disparage the democratic electoral process itself. Equally, it is said, governmental and political processes can be distorted if conducted in a continuous atmosphere of election fever. Governments may be discouraged from taking unpopular but necessary decisions; attention may be distracted from issues of vital national importance; governments are prone to engage in attractive vote-catching behaviour, regardless of long-term consequences; and oppositions are equally likely to adopt an unrelenting, combative and disruptive stance as if snap elections are always around the corner. The alternative, if election dates are fixed, is argued to be a more stable political environment, in which policies are more coherently devised and implemented; in which all politicians, government and opposition alike, have greater political freedom to debate issues in a bipartisan spirit, and to carry out their electorate duties; and in which other participants in government and politics – parliamentary committees, public servants, parliamentary staff and the like – can concentrate on their normal duties.

## PERCEIVED DISADVANTAGES OF FIXED TERMS

The possible cited shortcomings of fixed terms include:

- that fixed terms – particularly a 4 year term – might be inappropriate because, in Queensland, there is no upper house acting as a chamber of review.<sup>23</sup> It could be argued that even a committee system does not take the place of having an upper house;<sup>24</sup>
- that in the various Constitution Acts and similar legislation providing for fixed terms, the ‘exceptional circumstances’ prescribed in which the Governor can dissolve the parliament earlier than the fixed time may not adequately cover all of the possible situations in which it would be necessary to give electors an opportunity to vote in a new Parliament. An example of a circumstance not prescribed in the legislation is where a minority government does not have the support of the House for the passage of any of its legislation but the House will not support a motion of no confidence in the minority government (a vote of no confidence being one of the ‘exceptional circumstances’ triggering an early election in most pieces of ‘fixed term’ legislation);<sup>25</sup>
- that a fixed term may curtail the Governor’s reserve power to, in a situation of absolute necessity (such as a constitutional ‘malfunction’), act independently of ministerial advice and dismiss a government or dissolve a parliament, thereby bringing the constitutional malfunction before the Parliament or the electorate.<sup>26</sup> In this regard, the restriction on the Governor’s reserve power would remove a democratic safeguard of enabling an ‘*exceptional and intractable constitutional malfunction*’ to, as a last resort, be referred to the electorate for resolution to ensure effective operation of the constitutional system;<sup>27</sup>
- that the ‘fixed term’ requirement could be circumvented by a government ‘arranging’ an early election by setting up the ‘exceptional circumstances’ triggering dissolution (e.g. supporting the passage of a motion of no confidence in itself). However, such an action could amount to a fraud on the parliamentary system and/or could lead to a possible challenge in the courts over whether the ‘exceptional circumstances’ trigger has been properly used, this is an unlikely situation;<sup>28</sup>
- that a fixed term is ‘undemocratic’ because it removes the ability of the government to be able to appeal to the electorate at any time – for instance in the event of obstruction or if it wants to seek a ‘mandate’ for a new policy, or where a by-election causes it to lose its majority in Parliament;<sup>29</sup>
- that because a government has security of office for a fixed term, significant damage could be caused to a state during that time if the government mismanages its affairs and ‘*thrash[es] about aimlessly but secure in the knowledge that nothing could force it to the polls*’.<sup>30</sup> In this respect, fixed terms might make a government less accountable during that term;
- that, in a rare circumstance of a government acting illegally (with various issues arising about what constitutes ‘illegality’),<sup>31</sup> the Governor would not be able to dissolve the Parliament (unless the Governor’s reserve powers were retained and this seems the case in NSW (see [s 24B\(5\)](#) of the *Constitution Act 1902* (NSW)) and submit the government to the will of the people.<sup>32</sup> A government could retain its power and avoid an election if it could ensure that every vote of no confidence failed – which is possible if it has a significant majority in the parliament;<sup>33</sup>
- that, even if the Queensland Parliament adopted a fixed 3 year term, the duration of Parliament may not, in fact, be much longer than under the current 3 year maximum term (it appears that

most Queensland Legislative Assembly elections have been called during the second year of the parliamentary term).<sup>34</sup>

## CURRENT POSITION IN QUEENSLAND

The Queensland Legislative Assembly has a maximum 3 year term, as provided for by s 2 of the [Constitution Act Amendment Act 1890 \(Qld\)](#) which also enables the Governor to dissolve the Assembly before the end of that term. This provision is 'entrenched' by s 4 of the [Constitution Act Amendment Act 1934 \(Qld\)](#).

A section of an Act (usually a Constitution Act) is 'entrenched' where it is stated in the same or another Act that the said section cannot be amended unless a specified procedure is followed (the 'entrenching' provision). In this case, s 4 of the [Constitution Act Amendment Act 1934](#) is the entrenching provision, stating that s 2 of the [Constitution Act Amendment Act 1890](#) (providing for a maximum 3 year term) cannot be amended by a law to extend the maximum 3 year term unless the law is first approved by a majority of electors voting at a referendum before being presented to the Governor for assent. Section 4 of the [Constitution Act Amendment Act 1934 \(Qld\)](#) also states that the same procedure (i.e. approval via referendum before presentation to the Governor) must be followed in order to repeal or amend s 4 itself. Section 16 of the [Constitution of Queensland Act 2001 \(Qld\)](#) recognises the entrenchment of the 3 year maximum term of the Queensland Legislative Assembly.

Since March 2000, Queensland local governments have moved to 4 year fixed terms.<sup>35</sup>

## CHRONOLOGY OF KEY EVENTS IN QUEENSLAND REGARDING PARLIAMENTARY TERMS

Date	Details	Links
July 1890	Introduction of 3 year maximum terms of Parliament. Prior to this, Parliament had maximum 5 year terms but from about 1864 a number of proposals for shorter terms were made. It appears that an impetus for the change to shorter terms was a desire for greater responsiveness and accountability by members of Parliament to the electorate. Such feeling appears to have been common among Australians at the time. <sup>36</sup>	<a href="#">Constitution Act Amendment Act 1890 (Qld)</a> , s 2.
1922	Abolition of the Legislative Council in Queensland. There was no suggestion that the term of the Legislative Assembly would change. This was reflected during debate on the Constitution Act Amendment (Abolition of the Legislative Council) Bill 1921 (Qld) by the then Labor Premier, the Hon EG Theodore MLA. The Premier said that Labor had long pledged to abolish the Legislative Council and a unicameral system would not pose a danger to the interests of the people provided ' <i>we have free and unfettered franchise and Parliaments that do not extend beyond a three year period</i> '. <sup>37</sup>	
1934	3 year parliamentary terms and non-reintroduction of an upper house in Queensland were constitutionally entrenched by the <a href="#">Constitution Act Amendment Act 1934 (Qld)</a> . This meant that the only means of extending 3 year terms or introducing an upper house was to follow the procedure established by the <a href="#">Constitution Act Amendment Act 1934 (Qld)</a> (i.e. approval by a majority of electors at a referendum).	<a href="#">Constitution Act Amendment Act 1934 (Qld)</a> , ss 3, 4.
1987-1989	In the <a href="#">Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct</a> (the Fitzgerald Report), it was noted that a unicameral parliament presented issues about accountability and responsiveness. The Fitzgerald Report said: <sup>38</sup>  The operation of the party system in an unicameral assembly, the continuing growth in the scale and extent	<a href="#">Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct</a>

	<p>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.</p> <p>Since the Fitzgerald Report, a number of mechanisms have been established seeking to enhance the accountability of the Parliament and the Executive in Queensland's unicameral system. In addition to the fact that the Queensland Legislative Assembly has 3 year terms (whereas most lower houses having 4 year terms in Australian jurisdictions are part of a bicameral system), other accountability measures include Right to Information legislation; the establishment of the Auditor-General, the Ombudsman and the Information Commissioner (all being officers of Parliament); a parliamentary committee system; 'watchdogs' such as the Crime and Misconduct Commission; and the parliamentary estimates process.<sup>39</sup></p>	
<b>March 1991</b>	<p>A referendum was held regarding a proposal to extend the parliamentary term to a maximum of 4 years without a fixed term component. This referendum failed (Yes: 48.9%; No: 51.1%).<sup>40</sup></p> <p>The relevant Bill upon which the referendum was held was the Constitution (Duration of the Legislative Assembly) Amendment Bill 1990 (Qld), introduced by the then Premier, the Hon W Goss MLA. The Bill did not provide for any fixed period during which an early election could not occur. It sought only to extend the maximum term from 3 to 4 years.</p>	<p>Queensland Parliamentary Library Duration of Parliaments: The Proposal for Four Year Terms', <i>Information Kit No 17</i>, February 1991</p> <p>See also: Electoral Commission Queensland's <a href="#">Queensland State Referendum 1991</a></p>
<b>May 1999</b>	<p>The Queensland Constitutional Review Commission (QCRC) was established in May 1999 to undertake public consultation on the review of the Queensland Constitution and then report to Government on any reforms and changes needed to the Acts and laws that relate to the Queensland Constitution, and to draft the necessary legislation.</p>	<p>Hon PD Beattie MP, Queensland Premier, Ministerial Statement, tabled <a href="#">25 May 1999</a></p>
<b>February 2000</b>	<p>The QCRC's February 2000 <a href="#">Report on the possible reform of and changes to the Acts and laws that relate to the Queensland Constitution</a> (QCRC Report) recommended that the Legislative Assembly's term be extended to a 4 year maximum term but with a fixed 3 year term, unless a vote of no confidence was passed or a vote of confidence failed to be carried; or an appropriation bill was defeated or failed to pass.</p>	<p>Queensland Constitutional Review Commission, <a href="#">Report on the possible reform of and changes to the Acts and laws that relate to the Queensland Constitution</a>, February 2000, recommendation 5.2.</p>
<b>29 February 2000</b>	<p>The Premier, the Hon P Beattie MLA, indicated his commitment to 4 year terms and referred the QCRC Report to the Legal, Constitutional and Administrative Review Committee.</p>	<p>Hon P Beattie MLA, Premier, '<a href="#">Ministerial Statement – Queensland Constitutional Review Commission Report</a>', <i>Queensland Parliamentary Debates</i>, 29 February 2000, pp 45-46.</p>
<b>July 2000</b>	<p>The Legal, Constitutional and Administrative Review Committee (LCARC) of the 49<sup>th</sup> Parliament published its Report on the Review of the Queensland Constitutional Review Commission's recommendation for four year parliamentary terms (Report No 27). This was preceded by the release of a <a href="#">Background Paper</a> inviting submissions. 65 <a href="#">submissions</a> were received.<sup>41</sup> In essence, LCARC endorsed the QCRC's recommendation with</p>	<p>Legal, Constitutional and Administrative Review Committee, Review of the Queensland Constitutional Review Commission's recommendation for four</p>

	<p>some proposed minor changes (pp 42-48).</p> <p>In its Report No 27 LCARC recommended (pp 48-49) that legislation be introduced to extend the term of the Legislative Assembly to 4 years and that it not be dissolved by the Governor unless:</p> <ul style="list-style-type: none"> <li>(a) 3 years has elapsed since the day of its first meeting since the general election; or</li> <li>(b) a motion of no confidence in the Government has been passed (or a motion of confidence has been defeated) and within 3 clear days of that the Legislative Assembly has not passed a motion of confidence in the then government; or</li> <li>(c) an appropriation Bill has been rejected or has failed to pass.</li> </ul> <p>LCARC also recommended that the legislation should also state that, subject to the above, the Governor may dissolve the Legislative Assembly whenever the Governor considers it expedient.</p> <p>It was further recommended that the above provisions be 'doubly entrenched' (explained earlier) via referendum, ensuring that a future Government could not amend the Constitution by ordinary legislation to extend or reduce the term.</p> <p>Thus, LCARC's recommendation was for a 4 year maximum term with a fixed 3 year term component, subject to specified exceptions. LCARC considered that a longer (4 year) term would give the Government more time to effectively address long term social and economic issues through longer term planning, more consultation with stakeholders, the opportunity to assess the success of certain policies and the ability to modify them where necessary.<sup>42</sup></p>	<p>year parliamentary terms, <i>Report No 27</i>, July 2000.</p>
<b>3 October 2000</b>	<p>The <a href="#">Government Response</a> to LCARC's Report No 27 said that the Government undertook to introduce a Bill in the next term of the Parliament to extend the term of the Legislative Assembly to 4 years and would submit that Bill to a referendum. The Response went on to say that the Government's preferred model was for a 4 year fixed term but the model ultimately put to the referendum would be '<i>determined following negotiation with the leaders of the other political parties [with a view to] ... finding common ground with other parties</i>'.</p>	<p><a href="#">Government Response</a> to the LCARC, 'Review of the Queensland Constitutional Review Commission recommendation for four year parliamentary terms', 3 October 2000.</p>
<b>31 May 2001</b>	<p>The then Premier, the Hon P Beattie MP, <a href="#">told</a> Parliament that he was interested in pursuing a fixed 4 year term but while he had the support of the Liberal Party, the National Party did not express support for the change. The Premier said that he was '<i>not prepared to waste taxpayers' money</i>' by holding a referendum on the matter until all political parties supported a 4 year term.</p>	<p>Hon PD Beattie MP, Premier, Question Without Notice: Four Year Parliamentary Terms', <i>Queensland Parliamentary Debates</i>, <a href="#">31 May 2001</a>, p 1373.</p>
<b>November 2001</b>	<p>A consolidation of Queensland's Constitution occurred with the enactment of the <a href="#">Constitution of Queensland 2001 (Qld)</a> and the <a href="#">Parliament of Queensland Act 2001 (Qld)</a>. Both commenced on 9 June 2002.</p>	<p><a href="#">Constitution of Queensland 2001 (Qld)</a>; <a href="#">Parliament of Queensland Act 2001 (Qld)</a>.</p>
<b>5 December 2001</b>	<p>The then Leader of the Liberal Party, Mr R Quinn MP, <a href="#">called</a> on the Government to hold a referendum on fixed 4 year terms.</p>	<p>Mr RJ Quinn MP, Leader of the Liberal Party, 'Notice of Motion: Four Year Parliamentary Terms', <i>Queensland</i></p>

		<a href="#">Parliamentary Debates, 5 December 2001</a> , p 4214.
<b>2003 - 2004</b>	An impasse on parliamentary terms between the Government and other political parties in the Legislative Assembly ensued. The Hon P Beattie MP continued to state his support for fixed 4 year terms but said that he would not hold a referendum on the matter unless the Leader of the Opposition (then National Party Leader, Mr L Springborg MP) also supported it. Mr Springborg MP indicated that if the then Opposition (National Party) was to negotiate on 4 year terms, the Premier would have to agree to more accountability measures in the absence of an upper house in Queensland. Mr Springborg MP particularly sought improvements to the ability to access information held by the Government under freedom of information legislation and to the funding of the Opposition Office.	Mr LJ Springborg MP, Leader of the Opposition, Questions Without Notice, <i>Queensland Parliamentary Debates, 25 February 2003</i> ; pp 26-27 Mr LJ Springborg MP, Leader of the Opposition, Matters of Public Interest, <i>Queensland Parliamentary Debates, 25 February 2003</i> , pp 37-38 Hon PD Beattie MP, Questions Without Notice (Mr PW Wellington MP), <i>Queensland Parliamentary Debates, 18 March 2004</i> , pp 61-62
<b>18 March 2004</b>	On 18 March 2004, the Premier wrote to the LCARC of the 51 <sup>st</sup> Parliament asking it to undertake a new examination of the issues surrounding 4 year parliamentary terms for Queensland.	LCARC, <a href="#">Annual Report 2003-2004</a> , Report No 45. August 2004, p 7.
<b>September 2005</b>	In its <a href="#">Annual Report 2004-2005</a> , LCARC said that its examination of the issue of 4 year parliamentary terms was limited because of the Report No 27 by the LCARC of the 49 <sup>th</sup> Parliament. LCARC noted that it had sought the views of each political party and Independent member in the Queensland Parliament. LCARC commented that it had advised the Premier that there were <i>'varying degrees of support for four year fixed parliamentary terms from independent members and all political parties except for the One Nation Party'</i> . LCARC commented that it had further advised the Premier that while Labor and Liberal Party members of the Committee <i>'were prepared to endorse fixed four year terms as the most appropriate model if the length of Parliamentary terms was to be changed, those members were of the view that [LCARC] was not the appropriate forum for the resolution of the differences between political parties on the question of preconditions for a referendum on four year ... terms'</i> . <sup>43</sup>  LCARC said that National Party and Liberal Party members of the Committee also believed that any extension of the parliamentary term should be tied to additional accountability mechanisms and that the Liberal Party indicated support for 4 year parliamentary terms with a fixed election date. <sup>44</sup>	LCARC, <a href="#">Annual Report 2004-2005</a> , Report No 51, September 2005, pp 8-9.
<b>27-28 February 2008</b>	On 27 February 2008, the Legislative Assembly passed a motion:  That this Parliament supports full terms and recommends that the Government drafts a Bill to put a referendum to the people of Queensland on the question of introducing four-year fixed terms for the Parliament of Queensland.  On 28 February 2008, the Queensland Premier, the Hon A Bligh <a href="#">stated</a> :  I am happy this morning to express my appreciation for the support I received ... for my proposal for a referendum on four-year fixed parliamentary terms in	<a href="#">Queensland Parliamentary Debates, 27 February 2008</a> , p 481  Hon AM Bligh MP, Premier, Ministerial Statement, <i>Queensland Parliamentary Debates, 28 February 2008</i> , p 512

	<p>Queensland. ... The introduction of four-year terms will bring Queensland into line with all other state and territory governments and with local governments in Queensland. ... it allows for long-term planning, enhances business confidence and saves money.</p> <p>Given the unanimous support for the motion, I advise the House ... that I will now move to get on with the job of determining how a referendum should proceed. I ... will involve representatives from all other political parties and Independents in that process. ... I will convene a cross-party working group to start looking at the issues associated with the conduct of a referendum .... I will invite two representatives of the National Party, two representatives of the Liberal Party and two representatives of the Independents to participate in that cross-party working group. ...</p>	
<p><b>30 April 2008</b></p>	<p>On 1 May 2008, a letter dated 30 April 2008 from the Opposition Leader, Mr L Springborg MP to the Queensland Premier, the Hon A Bligh MP, was tabled in Parliament. The letter expressed concern that the Government would not be '<i>addressing the Opposition's concerns about government accountability and secrecy as a condition of seeking support to possibly progress a referendum on four year terms.</i></p> <p>Mr Springborg MP noted that accountability between elections was '<i>particularly relevant in Queensland where ... we do not have an Upper House to act as a review mechanism ...</i>' The Opposition Leader also referred to improvements he perceived to be necessary to enhanced government accountability, such as restricting the broad Cabinet exemption provision under the then <i>Freedom of Information Act 1992 (Qld)</i>,<sup>45</sup> amending the Parliamentary Standards to require that Ministers' answers be relevant to the question asked during Question Time; and considering a '<i>more robust Parliamentary Committee system which allows for closer scrutiny and greater accountability of the Ministerial and Parliamentary processes</i>'.<sup>46</sup></p>	<p><a href="#">Letter from Leader of the Opposition to the Queensland Premier, tabled 1 May 2008</a></p>

As the above chronology indicates, the debate has, in the main, focused on **4 year** terms which can only be introduced if the matter is put to a referendum of Queensland electors because it would extend the constitutionally entrenched 3 year maximum term of Parliament (as was discussed earlier). The referendum would have to approve the repeal of s 2 of the [Constitution Act Amendment Act 1890 \(Qld\)](#), which implements a 3 year maximum term, to enable the Legislative Assembly to have a 4 year duration.

As the references to the Queensland Parliamentary Debates indicate, there has been reluctance on the part of the current Premier, the Hon Anna Bligh MP and her predecessor, the Hon Peter Beattie MP, to go to a referendum on the issue of fixed 4 year terms without it having the support of all major political parties. So far, it appears that a stalemate has been reached on the issue, the stumbling block seeming to be whether or not a longer 4 year term for a government to be in power will be accompanied by enhanced accountability mechanisms. Until the introduction of the Mr Peter Wellington MP's Private Member's Bill on 17 June 2009, the focus seems to have been on fixed 4 year terms rather than fixed 3 year terms. A proposal for fixed 3 year terms would not encounter the difficulty of requiring a referendum because the 3 year maximum term provided for under s 2 of the [Constitution Act Amendment Act 1890 \(Qld\)](#) would just be fixed, not extended.

## THE CONSTITUTION (FIXED-TERM PARLIAMENT) AMENDMENT BILL 2009

The [Constitution \(Fixed-term Parliament\) Amendment Bill 2009 \(Qld\)](#) (the [Bill](#)) was introduced into the Queensland Parliament on 17 June 2009 by Independent Member, Mr P Wellington MP. The [Bill](#) seeks, primarily, to amend the [Constitution of Queensland Act 2001 \(Qld\)](#) to provide for fixed 3 year terms for the Legislative Assembly. The [Bill](#) proposes that, in normal circumstances, a Parliament will be dissolved 26 days before the second Saturday in March in the third year after the previous election, with the election to occur on the second Saturday in March.

**Clause 4** of the [Bill](#) seeks to insert **proposed sections 16A and 16B** into the [Constitution of Queensland Act 2001 \(Qld\)](#). The [Explanatory Notes](#) (p 2) observe that s 2 of the [Constitution Act Amendment Act 1890 \(Qld\)](#),

which essentially provides a 3 year maximum term for the Legislative Assembly, is entrenched by s 4 of the [Constitution Act Amendment Act 1934 \(Qld\)](#) so the proposed new sections of the [Bill](#) have been drafted to avoid any inconsistency with the 'maximum duration' provision. The 3 year term will not, under the proposed legislation, be exceeded under any circumstances.

**Clause 3** seeks to amend s 15 of the [Constitution of Queensland Act 2001 \(Qld\)](#) to state that the Governor may dissolve the Assembly but only in accordance with the proposed ss 16A and 16B.

The [Explanatory Notes](#) (p 2) state that the proposed s 16A will not have 'constitutional' force in the sense of overriding '*later inconsistent Acts of Parliament*'. However, unless and until it is repealed, it will bind the Governor, Premier and the Government.

The **proposed s 16A(1)** provides that a general election of members of the Legislative Assembly must, apart from in the exceptional circumstances discussed below, be held on the second Saturday in March in the third calendar year after the calendar year in which the last general election was held (i.e. the second Saturday in March of every third year – which is called the 'normal polling day'). The Governor must, in normal circumstances, dissolve the Legislative Assembly and issue the writ for a general election on the day that is 26 days before the normal polling day (**proposed s 16A(3)**). The [Explanatory Notes](#) (p 3) point out that this reflects the minimum period (i.e. 26 days between issue of the writ and the election date) currently provided for by s 80 of the [Electoral Act 1992 \(Qld\)](#).

The **proposed s 16A(2)** states that, in exceptional circumstances, the Governor may at any time, on the recommendation of the Premier and (following the Victorian *Constitution Act 1975*, [s 38A](#))<sup>47</sup> with the agreement of the Leader of the Opposition, by proclamation, order the polling day to be postponed to a Saturday not more than 35 days after the normal polling day. The examples of 'exceptional circumstances' given in the notes to proposed s 16A(2) and in the [Explanatory Notes](#) (p 3) are:

- where there will be a clash with a Commonwealth election date (as [s 394](#) of the *Commonwealth Electoral Act 1918* (Cth) provides that State elections cannot be held on a Commonwealth polling day without the authority of the Governor-General); or
- where a natural disaster has affected such a wide area of the State that it would be impracticable to hold an election on the normal polling day.<sup>48</sup>

The [Explanatory Notes](#) (p 3) state that the 35 day maximum postponement was chosen to avoid any potential conflict with the Easter holidays (although it noted that the South Australian *Constitution Act 1934*, [28\(3\)](#), allows a 21 day period).<sup>49</sup>

If, on or before the normal dissolution day (i.e. when the Governor would, under the proposed provisions, normally dissolve the Legislative Assembly and issue a writ for a general election), the Governor has ordered the postponement of the polling day due to exceptional circumstances and the Legislative Assembly has not reached its maximum 3 year duration, the Governor may, by proclamation, postpone the dissolution and the issue of the writ for a general election. This can occur only on the recommendation of the Premier and with the agreement of the Opposition Leader (**proposed s 16A(5)**). However, the dissolution and issue of the writ cannot be postponed to beyond the day when the Legislative Assembly would expire because the 3 year maximum duration of the Parliament under s 2 of the [Constitution Act Amendment Act 1890 \(Qld\)](#) is reached, or the day that is 26 days before the postponed polling day – whichever day occurs first (**proposed s 16A(6)**).

If the Legislative Assembly expires because the 3 year maximum duration of the Parliament under s 2 of the [Constitution Act Amendment Act 1890 \(Qld\)](#) is reached before the normal dissolution day, the Governor must immediately issue a writ for a general election (**proposed s 16A(4)**). The note to proposed s 16(4) says that this effluxion of time issue could arise where the previous Legislative Assembly had been dissolved under the proposed s 16B (discussed below) late in a year with the general election held early the following January with the return of writ in early February.

**Proposed s 16B** enables the Governor to dissolve the Legislative Assembly and issue the writ for a general election earlier than the normal dissolution day under s 16A, if and only if, a motion of no confidence in the government has been passed (or a motion of confidence in the government is defeated); and at least 8 days have since passed; and the Governor considers that no government can be formed that has the confidence of the majority of the Legislative Assembly.<sup>50</sup>

The [Explanatory Notes](#) (p 4) comment that similar provisions (to that in **proposed s 16B**) are found in the *Constitution Act 1902* (NSW) ([s 24B\(2\)](#)) and the *Constitution Act 1975* (Vic) ([s 8A\(1\)](#)) but both of those require proof, in the form of motions in the Legislative Assembly, that a new government cannot be formed. Under the Queensland [Bill](#), it is proposed that the Governor will not be so restricted. The Governor will be able to consider whether a new government can be formed that will command the confidence of the majority of the Legislative Assembly on the basis of – for example – resolutions or speeches in the Assembly or statements outside the Assembly ([Explanatory Notes](#) (p 4)). This will avoid the need for keeping the Parliament sitting.

## DURATION OF PARLIAMENTS IN EACH AUSTRALIAN JURISDICTION

The table following sets out the duration of the parliaments in each Australian jurisdiction together with an indication of whether the term is fixed and, if so, the circumstances in which an earlier election can be held.<sup>51</sup>

Jurisdiction	Term and Whether Fixed	Legislative Provisions
Commonwealth	<p>House of Representatives – 3 year maximum term which is not fixed: <a href="#">s 28</a> of the <a href="#">Commonwealth Constitution</a>. In 1988, a proposal to move to 4 year terms was defeated at a referendum.<sup>52</sup></p> <p>Senate – continuing body with fixed 6 year terms; half of Senate usually retiring on 30 June every 3 years. Territory Senators have 3 year terms: <a href="#">s 13</a> of the <a href="#">Commonwealth Constitution</a>.</p> <p>Elections for both Houses are usually held together but there is no constitutional requirement for simultaneous elections.</p>	<p><a href="#">Commonwealth Constitution</a>, ss <a href="#">13</a>, <a href="#">28</a></p> <p><a href="#">Commonwealth Electoral Act 1918</a></p>
New South Wales	<p>Legislative Assembly – 4 year fixed term with an election on fourth Saturday in March: ss <a href="#">24</a> and <a href="#">24A</a> of the <a href="#">Constitution Act 1902</a>. NSW was the first jurisdiction to move to fixed term parliaments in 1991 (<a href="#">Constitution (Fixed Term Parliaments) Special Provisions Act 1991</a>) naming 25 March 1995 as the next election date. The fixed term provisions require a referendum for their alteration or repeal: <a href="#">s 7B</a> of the <a href="#">Constitution Act 1902</a>.</p> <p>In the following circumstances authorised by <a href="#">s 24B</a> of the <a href="#">Constitution Act 1902</a>, the Legislative Assembly can be dissolved earlier (s 24B(2)-(5)):</p> <ul style="list-style-type: none"> <li>• if a motion of no confidence in the Government is passed being a motion of which not less than 3 clear days notice has been given in the Assembly, and a further 8 clear days has elapsed since the passage of the motion and the Assembly has not passed a motion of confidence in the then Government;</li> <li>• if the Assembly rejects an appropriation Bill for the 'ordinary services of the Government', or fails to pass such a bill;</li> <li>• to avoid a clash with a Commonwealth election or with a holiday period or another inconvenient time (but only within the 2 months before the Assembly is due to expire);</li> <li>• where the Governor seeks to do so, despite any advice of the Premier or the Executive Council, in 'accordance with established constitutional conventions'.</li> </ul> <p>When deciding whether the Assembly should be dissolved in accordance with s 24B, the Governor is to consider whether a viable alternative Government can be formed without a dissolution and, in so doing, is to have regard to any motion passed by the Assembly expressing confidence in an alternative Government in which a named person would be Premier <a href="#">s 24B(6)</a>.</p> <p>Legislative Council members have 8 year terms. The election for half the members is held at the same time as the Legislative Assembly elections: see ss <a href="#">22A</a>, <a href="#">22B</a> of the <a href="#">Constitution Act 1902</a>.</p> <p>The debate about the place of 4 year fixed terms has very recently arisen again with a motion of 'no confidence' in the</p>	<p><a href="#">Constitution Act 1902</a>, ss <a href="#">22A</a>, <a href="#">22B</a>, <a href="#">24</a>, <a href="#">24A</a>, <a href="#">24B</a></p> <p><a href="#">Parliamentary Electorates and Elections Act 1912</a></p>

	Rees Government being narrowly defeated on 2 September 2009: see 'Voters stuck with lame duck Labor' ( <i>Australian Financial Review</i> , 3 September 2009); 'How to get rid of them: NSW Labor Government', ( <i>Sydney Morning Herald</i> , 3 September 2009).	
South Australia	<p>House of Assembly – 4 year fixed term with an election on the third Saturday in March (with a deferral to a Saturday not more than 21 days after that fixed date in certain situations). These are to avoid a clash with the Easter holiday period or with a Commonwealth election period, or where it is reasonably necessary to overcome a difficulty arising from a State disaster (e.g. flood, fire, disease, enemy hostilities): <a href="#">s 28</a> of the <a href="#">Constitution Act 1934</a>.</p> <p>In the following circumstances, authorised by <a href="#">s 28A</a> of the <a href="#">Constitution Act 1934</a>, the Assembly can be dissolved earlier:</p> <ul style="list-style-type: none"> <li>• if a motion of no confidence is passed or a motion of confidence is defeated; or</li> <li>• if a Bill declared by resolution of the Assembly to be of special importance is rejected by the Legislative Council and more than 1 month has not since elapsed; or</li> <li>• the Governor is acting to resolve a deadlock between the Assembly and the Council under <a href="#">s 41</a>.</li> </ul> <p>Legislative Council members have 8 year terms. Whenever the Assembly is dissolved or expires by effluxion of time, 11 members of the Legislative Council retire and an election for the resulting vacancies is held at the same time as the election for the Assembly (<a href="#">s 14</a> of the <a href="#">Constitution Act 1934</a>).</p>	<p><a href="#">Constitution Act 1934</a>, ss <a href="#">28</a>, <a href="#">28A</a>; <a href="#">14</a></p> <p><a href="#">Electoral Act 1985</a></p>
Tasmania	<p>House of Assembly – 4 year maximum term from the date of return of writs: <a href="#">s 23</a> of the <a href="#">Constitution Act 1934</a>.</p> <p>On 22 May 2009, the Tasmanian Premier <a href="#">confirmed</a> the Government's <a href="#">commitment</a> to 4 year fixed terms and said that the relevant legislation was being drafted.<sup>53</sup></p> <p>In March 2008, the Greens introduced a Private Member's Bill, the Fixed Term Parliament Bill 2008, into the Parliament. Mr N McKim MP, Leader of the Greens, in his Second Reading Speech, commented that the former Premier had announced some 12 months earlier that he supported fixed terms in the House but no bill had been introduced to provide for this.<sup>54</sup> The Private Member's Bill seeks only to fix the date of the next election at 20 March 2010 but not the term of any further Parliaments. The Bill was defeated the same day.<sup>55</sup> During debate, the Tasmanian Premier, the Hon D Bartlett MP, said that legislation on fixed parliamentary terms had been drafted and was undergoing consultation.<sup>56</sup> According to the <i>Mercury</i> newspaper on 23 May 2009, the Premier was understood to now be considering 'flexible fixed terms' where there would be a 'three month window' within which to call an election rather than a fixed date. The Premier had <a href="#">reportedly</a> reconsidered his original position after consultation with stakeholders.<sup>57</sup></p> <p>Legislative Council members have 6 year terms and periodical elections are held annually in May on a 6 year cycle in accordance with <a href="#">s 19</a> of the <a href="#">Constitution Act 1934</a>.</p>	<p><a href="#">Constitution Act 1934</a>, ss <a href="#">19</a>, <a href="#">23</a>, <a href="#">Electoral Act 2004</a></p>
Victoria	Legislative Assembly – 4 year fixed term with an election on the last Saturday in November: <a href="#">s 38</a> of the <a href="#">Constitution Act 1975</a> . In 'exceptional circumstances', on the recommendation of the	<p><a href="#">Constitution Act 1975</a>, ss <a href="#">8A</a>, <a href="#">38</a>, <a href="#">38A</a>, <a href="#">28</a></p>

	<p>Premier with the agreement of the Leader of the Opposition, the Governor may postpone the election day to another Saturday as provided for in <a href="#">s 38A(2)</a>. 'Exceptional circumstances' are not defined.</p> <p>Under <a href="#">s 8A</a>, the Assembly can be dissolved earlier if a motion of no confidence (of which 3 days prior notice has been given) in the Premier and the other Ministers is passed and, after 8 clear days, the Assembly has not passed a motion of confidence in the Premier and the other Ministers.</p> <p>The Legislative Council exists and continues until the dissolution or other lawful determination of the Assembly and the election is held on the same day as that for the Assembly: <a href="#">s 38A</a> of the <a href="#">Constitution Act 1975</a>.</p>	<a href="#">Electoral Act 2002</a>
Western Australia	<p>Legislative Assembly – 4 year maximum term with no date of election specified (the date is determined under s 71 of the <a href="#">Electoral Act 1907</a>): <a href="#">s 21</a> of the <a href="#">Constitution Acts Amendment Act 1899</a>.</p> <p>The Legislative Council has a 4 year fixed term with elections usually held at the same time as that for the Assembly (<a href="#">s 8</a> of the <a href="#">Constitution Acts Amendment Act 1899</a>, sets out the process for determining date of election).</p> <p>On 11 March 2009, in the Speech in Reply to the Electoral Amendment (Miscellaneous) Bill 2008, the Minister for Electoral Affairs mentioned to the Legislative Council that the Government had gone to the recent election on the basis that it would introduce 4 year fixed term parliaments but there would not be a specified election date. The Minister said that the necessary legislation had been drafted and all political parties would be consulted on the Bill to ensure that a consensus on the appropriate way to introduce fixed terms was reached.<sup>58</sup></p> <p>The Legislative Council has a 4 year fixed term: <a href="#">s 8</a> of the <a href="#">Constitution Acts Amendment Act 1899</a> (which also sets out the process for fixing the election date although it is usually the same date as that for the Assembly).</p>	<a href="#">Constitution Acts Amendment Act 1899</a> , ss <a href="#">8</a> , <a href="#">21</a> <a href="#">Electoral Act 1907</a>
Australian Capital Territory	<p>Legislative Assembly – 4 year fixed term with an election on the third Saturday in October unless there is a clash with a Commonwealth election (in which case it will be held on the first Saturday in December the same year). The foregoing would also not apply if there is an 'extraordinary election' held in the 6 months before the day when an ordinary election would have been held. An 'extraordinary election' occurs in situations such as loss of confidence in the Chief Minister (see <a href="#">s 48</a> of the <a href="#">Australian Capital Territory (Self-Government) Act 1988 (Cth)</a>): ss <a href="#">100</a>; <a href="#">101</a> of the <a href="#">Electoral Act 1992</a>.</p>	<a href="#">Electoral Act 1992</a> , ss <a href="#">100</a> ; <a href="#">101</a> <a href="#">Australian Capital Territory (Self-Government) Act 1988 (Cth)</a>
Northern Territory	<p>Legislative Assembly – 4 year fixed term with an election on the fourth Saturday in August except in the case of an extraordinary general election. Where an extraordinary general election has been held, the next general election is held on the fourth Saturday in August in the third year after the year of that extraordinary general election: <a href="#">s 23</a> of the <a href="#">Electoral Act</a>.</p> <p>An 'extraordinary general election' occurs in situations under ss <a href="#">24</a> and <a href="#">25</a> of the <a href="#">Electoral Act</a> (where a motion of no confidence in the Government is passed (of which there has been at least 3 days prior notice) and 8 clear days have elapsed without a motion of confidence in the Government being passed; or where the Assembly rejects or fails to pass an appropriation</p>	<a href="#">Electoral Act</a> , ss <a href="#">23</a> , <a href="#">24</a> , <a href="#">25</a>

	Bill).	
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	Fixed parliamentary terms came into effect in March 2009 with the next election fixed for the fourth Saturday in August 2012. <sup>59</sup>	
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In many overseas jurisdictions, parliaments have terms of around 4 or 5 years, with very few (e.g. New Zealand)<sup>60</sup> having 3 year terms or less.<sup>61</sup> The House of Commons in the United Kingdom has a 5 year maximum term.<sup>62</sup> Canada's House of Commons moved to 4 year fixed terms in 2007.<sup>63</sup>

## LINKS TO FURTHER READING

### BILL AND ACCOMPANYING DOCUMENTS

- [Constitution \(Fixed-term Parliament\) Amendment Bill 2009 \(Qld\)](#); [Explanatory Notes](#); [Second Reading Speech](#), p 965

### ACT AMENDED

- [Constitution of Queensland Act 2001 \(Qld\)](#)

### RELEVANT GOVERNMENT AND PARLIAMENTARY WEBPAGES

- Queensland Constitutional Review Commission, [Report on the possible reform of and changes to the Acts and laws that relate to the Queensland Constitution](#), February 2000
- Queensland Legislative Assembly, Legal, Constitutional and Administrative Review Committee (LCARC), Review of the Queensland Constitutional Review Commission's recommendation for four year parliamentary terms, *Report No 27*, July 2000. See also LCARC, [Four Year Parliamentary Terms, Background Paper](#), April 2000; [Submissions](#) received by LCARC, tabled 31 May 2000
- Electoral Commission of Queensland, [Queensland State Referendum 1991](#)
- Australian Parliament, Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)' *Report of the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto*, September 2005
- Scott Bennett, Parliament of Australia, Department of Parliamentary Services, 'House of Representatives Fixed Terms: the barriers to implementation', *Research Paper*, Parliamentary Library, 13 November 2008

### JOURNAL ARTICLES

- M Sawyer & N Kelly, Political Science Program, Research School of Social Sciences, 'Parliamentary Terms', *Democratic Audit of Australia*, The Australian National University, February 2005 (from [Democratic Audit of Australia website](#))

### RELEVANT QUEENSLAND PARLIAMENTARY LIBRARY PUBLICATIONS

- 'Duration of Parliaments: The Proposal for Four Year Terms', *Information Kit No 17*, February 1991

### ENDNOTES

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<sup>1</sup> See, for example, L Zines, *The High Court and the Constitution*, 4<sup>th</sup> ed., Butterworths, 1997, p 373.

<sup>2</sup> See, for example, L Zines, pp 373-374.

<sup>3</sup> In March 1994, the Inter-Parliamentary Union (IPU) unanimously adopted the [Declaration on Criteria for Free and Fair Elections](#) reaffirming the 1948 *Universal Declaration of Human Rights* and the 1966 *Universal Covenant on Civil and Political Rights* which establish 'that the authority to govern shall be based on the will of the people as expressed in periodic and genuine elections' Article 1 provides that such genuine, free and fair elections are held at regular intervals on the basis of universal, equal and secret suffrage: IPU, [Declaration on Criteria for Free and Fair Elections](#), 154<sup>th</sup> Session of the Inter-Parliamentary Council, Paris, 26 March 1994, <http://www.ipu.org>. The IPU is the international organisation of Parliaments ([Article 1 of the Statutes of the Inter-Parliamentary Union](#)). It was established in 1889. The IPU is the focal point for world-wide parliamentary dialogue and works for peace and co-operation among peoples and for the firm establishment of representative democracy. The IPU works in close cooperation with the United Nations.

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- 4 While the 'reserve powers' of the Queen's representative are discussed by many constitutional law experts and commentators, a concise overview is provided in J McMillan, G Evans & H Storey, *Australia's Constitution: Time for Change?* Law Foundation of New South Wales and George Allen & Unwin Australia, Sydney, 1983, pp 186-188.
- 5 In the Northern Territory and the Australian Capital Territory, the Administrator plays essentially the same role as the Governor of the states and the head of the government is the Chief Minister.
- 6 Australian Parliament, Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)' *Report of the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto*, September 2005, para 7.8. Western Australia had 4 year terms.
- 7 See M Sawyer & N Kelly, Political Science Program, Research School of Social Sciences, 'Parliamentary Terms', *Democratic Audit of Australia*, The Australian National University, February 2005, p 1 (from [Democratic Audit of Australia website](#)). The authors explain that the Chartist movement was named after the Charter published by the London Working Men's Association in 1838 and the Charter contained 6 points: universal (manhood) suffrage; annual elections; secret ballots; equal electoral districts; removal of property qualifications for candidates; and pay for members of Parliament.
- 8 In October 2007, the [Fixed-Term Parliaments Bill 2007 \(UK\)](#) was introduced into the House of Commons but did not find its way onto the statute books.
- 9 See Scott Bennett, Parliament of Australia, Department of Parliamentary Services, 'House of Representatives Fixed Terms: the barriers to implementation', *Research Paper*, Parliamentary Library, 13 November 2008, pp 1-2.
- 10 Queensland, the Australian Capital Territory and the Northern Territory having unicameral (i.e. one house) Parliaments.
- 11 The Legal, Constitutional and Administrative Review Committee (LCARC), Review of the Queensland Constitutional Review Commission's recommendation for four year parliamentary terms, *Report No 27*, July 2000 (Report No 27), p 12, referring to submissions received during the Review.
- 12 Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)', Supplementary Remarks by Senator Andrew Murray, p 397. See also, LCARC, Report No 27, p 16.
- 13 Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)', Supplementary Remarks by Senator Andrew Murray, p 397.
- 14 LCARC, Report No 27, p 43 (although this was mainly in the context of 4 year terms); Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)', para 7.71, citing Business Council of Australia, *Towards a Longer Term for Federal Parliament*, Melbourne, 1987; Phillip Hudson, 'Beazley opens door to four-year terms', *Age*, 17 April 2005.
- 15 LCARC, Report No 27, p 38, also referring to the Constitutional Commission, 'Fixed Term Parliaments', *Background Paper No 13*, Canberra, 1987; and G Griffith, 'Fixed term parliaments, with a commentary on the Constitution (Fixed Term Parliaments) Amendment Bill 1992', NSW Parliamentary Library, *Briefing Note No 003/95*, January 1995, pp 14-15.
- 16 Scott Bennett, 'House of Representatives Fixed Terms: the barriers to implementation', p 21, citing E Thompson, 'Tenure of Parliament', *Fixed Term Parliaments*, Australasian Study of Parliament Group, 3<sup>rd</sup> Annual Workshop, 29-30 August 1981, Canberra, pp 105, 110-111
- 17 LCARC, Report No 27, p 43, citing the Constitutional Commission, 'Fixed Term Parliaments', p 8.
- 18 A Tiernan & J Menzies, Centre for Governance and Public Policy, Griffith University, *Caretaker Conventions in Australia: Minding the Shop for Government*, Chapter 4 ([When do the conventions apply?](#)), E Press, The Australian National University, 2007, p 31.

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- 19 See Scott Bennett, 'House of Representatives Fixed Terms: the barriers to implementation', p 4, citing an Editorial, 'One thing that really needs fixing: the election date', *Age*, 13 September 2007.
- 20 M Sawyer & N Kelly, 'Parliamentary Terms', p 3.
- 21 Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)', para 7.75, citing Gough Whitlam writing for the *Sydney Morning Herald*, 24 January 2000.
- 22 J McMillan, et al., pp 264-265.
- 23 LCARC, Report No 27, pp 18-19, referring to a range of submissions opposed to longer parliamentary terms.
- 24 LCARC did, however, point out that '*the effectiveness of an upper house as an accountability mechanism should not be overrated. An upper house is likely to refuse to pass appropriation or other bills only where it is of a different political complexion to its respective lower house*': LCARC, Report No 27, p 43.
- 25 See LCARC Report No 27, pp 21-22, 29-30; J McMillan et al., p 266.
- 26 LCARC, Report No 27, pp 32-33, quoting a submission (No 36) received from a former Victorian Governor, the Hon R McGarvie AC.
- 27 LCARC, Report No 27, p 32, citing Hon R McGarvie AC.
- 28 As noted by LCARC, Report No 27, p 22, referring to the QCRC Report, p 41 (which believed it was an unlikely desperate step).
- 29 J McMillan et al., p 266; LCARC, Report No 27, p 22.
- 30 LCARC, Report No 27, p 23, citing Senator Austin Lewis, 'Fixed Term Parliaments', paper presented at the Australasian Study of Parliament Group, 3<sup>rd</sup> Annual Workshop (Fixed Term Parliaments), 29-30 August 1981, Canberra, p 2.
- 31 LCARC, Report No 27, p 35.
- 32 LCARC, Report No 27, p 33 citing Hon R McGarvie AC, and p 35.
- 33 LCARC, Report No 27, p 33.
- 34 LCARC, Report No 27, p 23; [Précis of Results of Queensland State Elections 1932 to 2006](#) (from *Queensland Parliamentary Record of the 51<sup>st</sup> Parliament 16 March 2004-15 August 2006*, 11<sup>th</sup> ed., 2006, pp 367-368).
- 35 [Local Government Act 1993 \(Qld\)](#) ss 266, 269. The election provisions are continued under the new [Local Government Act 2009 \(Qld\)](#), s 284.
- 36 See, for example, Constitution Act Amendment Bill 1890 (Qld), Second Reading Debate, *Queensland Parliamentary Debates*, 17 July 1890, pp 274-275.
- 37 Hon EG Theodore MLA, Premier, Constitution Act Amendment (Abolition of the Legislative Council) Bill 1921 (Qld), Second Reading Debate, *Queensland Parliamentary Debates*, 25 October 1921, p 1773.
- 38 (GE Fitzgerald (Chair)), [Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct](#), July 1989, p 124.
- 39 LCARC, Report No 27, p 43.

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40 Queensland Parliament, Community Engagement, [Referendums](#), Factsheet 6.2, updated February 2009 (includes information and commentary by Honorary Research Fellow Dr Paul Reynolds), <http://www.parliament.qld.gov.au>.

41 LCARC also consulted with persons and bodies with an interest in the issue (including members of the Queensland Parliament; senators and members of the Commonwealth Parliament; industry bodies and representatives; constitutional law academics; Queensland local governments and political parties). It also sought information from relevant interstate Ministers about the workings of 4 year term models and any benefits or problems that may have arisen: LCARC, Report No 27, p 2.

42 LCARC, Report No 27, p 42.

43 LCARC, [Annual Report 2004-2005](#), Report No 51, September 2005, p 8.

44 LCARC, [Annual Report 2004-2005](#), p 8.

45 The 'Cabinet documents' exemption provision has been narrowed under the new *Right to Information Act 2009* (Qld).

46 [Letter from Leader of the Opposition to the Queensland Premier](#), 30 April 2008, tabled 1 May 2008.

47 See Constitution (Fixed Term Parliament) Amendment Bill 2009 (Qld), [Explanatory Notes](#), pp 3-4.

48 The [Electoral Act 1992 \(Qld\)](#), s 95 also allows the returning officer to adjourn the poll on a booth by booth basis if the taking of the poll is, or is likely to be, interrupted or obstructed by storm, tempest, flood, fire or a similar happening; or by riot or open violence. In such a case, the taking of the adjourned poll must be fixed on a day not later than 34 days after the polling day.

49 The [Explanatory Notes](#) (p 2) also point out that because the current Parliament had been elected on the third Saturday in March, a future March date for a poll would ensure that the proposed new system started consistently. A March election would also give the elected government time to prepare a budget in anticipation of the start of the new financial year on 1 July.

50 LCARC's Report No 27 (p 28) noted that such provisions for a certain number of days to elapse without a motion of confidence in the government being passed would '*have the advantage of ensuring that the government could not delay resolution of the motion by causing the Assembly to adjourn after the notice of a no confidence motion was given...*'.

51 See also, Parliament of Australia, Department of Parliamentary Services, Rob Lunde, '[Australian Elections Timetable](#)', *Background Note*, Parliamentary Library, 25 June 2009.

52 See the discussion in Scott Bennett, 'House of Representatives Fixed Terms: the barriers to implementation'.

53 'Premier aims for "flexible" fixed terms', *ABC News Online*, 22 May 2009. See also Hon D Bartlett MP, Tasmanian Premier, '[Fixed term elections legislation](#)', *Media Release*, 17 November 2008.

54 Mr N McKim MP, Leader of the Greens, [Second Reading Speech](#), Fixed Term Parliament Bill 2008 (Tas), *Tasmanian House of Assembly Hansard Online*, 25 March 2009, pp 59-77, p 59. Mr McKim also referred to a similar Bill ([Constitution \(Fixed Term Parliament\) Amendment Bill 2008](#)) tabled by the Opposition.

55 See Fixed Term Parliament Bill 2008 (Tas), [Division](#), *Tasmanian House of Assembly Hansard Online*, 25 March 2009.

56 Hon D Bartlett MP, Premier of Tasmania, Fixed Term Parliament Bill 2008 (Tas), [Second Reading Debate](#), *Tasmanian House of Assembly Hansard Online*, 25 March 2009, pp 59-77, p 62.

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- 57 'Premier aims for "flexible" fixed terms', *ABC News Online*. See also, 'Fears of broken vow on fixed terms', *Mercury*, 23 May 2009, p 13; Nick McKim MP, Leader of the Greens, '[Premier breaks promise over fixed four-year terms](#)', *Tasmania Greens Media Release*, 22 May 2009.
- 58 Hon N Moore MLC, Minister for Mines and Petroleum; Fisheries; Electoral Affairs, Electoral Amendment (Miscellaneous) Bill 2008 (WA), Speech in Reply, 11 March 2009, pp 1593-1597, p 1596.
- 59 On 14 August 2009, the NT Government survived a 'no confidence' motion which could have triggered the 'exception' provision to the fixed term requirement (s 24 of the [Electoral Act](#)) for the holding of an early election: see 'NT Labor survives crisis of confidence', *ABC News Online*, 14 August 2009.
- 60 Under [s 17](#) of the *Constitution Act 1986* (NZ) the term of Parliament shall, unless Parliament is sooner dissolved, be 3 years from the day fixed for the return of the writs issued for the last preceding general election of members of the House of Representatives, and no longer. Thus, the exact date by which the term must end is known before the previous general election. This provision is 'referendum entrenched' by [s 268](#) of the *Electoral Act 1993* (NZ).
- 61 Joint Standing Committee on Electoral Matters, '[The 2004 Federal Election](#)', para 7.28
- 62 [Septennial Act 1715 \(UK\)](#), as amended by the [Parliament Act 1911 \(UK\)](#). The latter Act changed the original 7 year maximum term to 5 years.
- 63 See s 56(1) of the [Canada Elections Act](#). See also, A Dodek, 'Fixing our fixed election date legislation', *Canadian Parliamentary Review*, 32(1), Spring 2009.