



Speech by

Jarrod Bleijie

MEMBER FOR KAWANA

Hansard Tuesday, 23 February 2010

CONSTITUTION (PREAMBLE) AMENDMENT BILL

Mr BLEIJIE (Kawana—LNP) (3.18 pm): I rise to contribute to the Constitution (Preamble) Amendment Bill introduced by the Premier following the tabling of the report compiled by the Law, Justice and Safety Committee. The bill seeks to amend the Constitution of Queensland Act 2001. At the outset I would like to convey my opposition to the legislation before the House today. Can I say that it would take a lot of giving for me to agree with some of the things that come out of the Premier's mouth, but I have to say that I have found one thing—the other side may find it surprising but I have found one—and that is the preservation of Her Majesty Queen Elizabeth II in the oaths and affirmations that we swear to upon entering this House. Members would know that part of the recommendation from parliament was to look at ways to modernise the oaths and affirmations. I congratulate the Premier on believing that our current swearing of oaths and affirmations to Her Majesty Queen Elizabeth II, Queen of Australia, is modern enough to sustain even those members on the other side of the House who wished for all tradition and respect to be whisked away.

As a member of the committee, I would like to refer initially to the statement of reservation tabled as part of the committee report in September 2009 co-drafted by me, the member for Hinchinbrook and the member for Beaudesert. Firstly, a report compiled by the Legal, Constitutional and Administrative Review Committee and tabled in 2004 recommended against the insertion of a preamble in the Queensland Constitution. From that report a number of relevant observations were made and should be considered with this legislation, which was introduced by the Premier.

The public input received by the committee demonstrates insufficient support for a preamble to the Queensland Constitution and uncertainty exists as to how such a preamble should or might be used to interpret the Constitution, particularly if that preamble contains statements of values or aspirations. The recommendations of the report from the parliamentary committee tabled in 2004 have been blatantly disregarded by the Premier with the introduction of this bill. The 2004 report should have been used as a guide, or at least a point of reference, for the current committee's report but, unfortunately, that was not the case.

I am certainly not opposed to any preamble per se, but the process in which a preamble to the Constitution is reviewed and implemented needs a rigid and thorough framework applied, particularly in a state that has no upper house as a mechanism for legislative accountability. Public submissions received by the committee demonstrated minimal support for such a preamble. The lack of an extensive public consultation process should require that any recommended preamble to the Queensland Constitution be taken to the people of Queensland as a referendum. The Premier stated in her second reading speech—

This preamble will modernise our Constitution, providing a vision for the kind of state that Queenslanders believe in—a society based on democracy, freedom and peace.

I ask: how does the Premier think that she can speak on behalf of all Queenslanders when the government is meddling with their Constitution? For the Premier to stand in this House and say, 'This is the vision for the kind of state Queenslanders believe in—a society based on democracy, freedom and peace,' I say, yes, we are a society based on democracy, freedom and peace, but it is not for us in this place to toy with the people's Constitution of Queensland and it is certainly not for the Premier to do so.

Secondly, as the committee heard from Professor George Williams, statutory interpretation has not been given due diligence by the government. Professor Williams stated in his submission—

... Although a preamble does not create substantive rights or obligations, its symbolic aspect may assist in the interpretation of the constitution itself by providing normative guidance. Thus, in its second, justiciable aspect, a preamble can be used in constitutional interpretation and in the construction of statutes in the development of the common law as a legally useful statement of fundamental values.

A legal review that is independent of government should consider the implications of this preamble when interpreting the Queensland Constitution and other statutes as a legal instrument. The Acts Interpretation Act 1954 applies to all the acts of the Queensland parliament and that includes an amendment to the Constitution of Queensland Act 2001, which is what is being considered today. For any amendment to the Queensland Constitution to be considered, a proposed preamble should be reviewed by a legal entity separate to that of government that will consider all of the legal implications and interpretations related to the proposed preamble. It should be then taken to the people of Queensland via a referendum because, at the end of the day, we are inserting words into the people's constitution, not Anna Bligh's constitution. This is the case with any government proposed change to the Australian Constitution and should be the same in Queensland.

The rigorous process that an amendment to the Australian Constitution needs to adhere to before it is successful is both the majority of the votes in favour across the country and at least three of the six states with the majority of votes in favour of that state. In Queensland, the system requires only the government to conduct a review via the committee process. Of course, the committee process we have in Queensland is so accountable and full of integrity, is it not, when you have not one committee in Queensland that has opposition members outnumbering government members. Of course the government can tell the committees what to do based on its numbers on the committee. With this system of legislative enactment, the government will pass the law as it obviously has the numbers in the Legislative Assembly, as it does in the committees.

The federal system is rigorous and has enough checks and balances to ensure that any proposed amendment to the Australian Constitution receives the approval of the majority of Australians in the majority of states. This will ensure that the Australian Constitution is held sacred as the framework of the fundamental principles that govern how law is interpreted in this country. However, in Queensland that is not the case. The Bligh Labor government is tired, it is arrogant—

A government member interjected.

Mr BLEIJIE: I take that interjection. I certainly did not say the 'Bligh love government' because I can certainly say that on that side of the House there is no love for the people of Queensland. The Bligh government is tired and arrogant. The government is tired and it does not have the stomach for rigorous parliamentary debates that may see us here until the late hours of the evening, and it is arrogant to the highest degree in its presumption that the people of Queensland can be taken for granted and treated with absolute contempt.

That cannot be more evidenced than by the presumption that this bill will be passed even before the second reading debate has commenced. Only last week—and other members of the House would have received this—I received an invitation from the Minister for Local Government and Aboriginal and Torres Strait Islander Partnerships and the Minister for Disability Services and Multicultural Affairs on behalf of the Queensland government requesting my company at a reception—

Mr Elmes interjected.

Mr BLEIJIE: That is it. I take that interjection from the member for Noosa. I received an invitation on behalf of the government requesting my company at a reception to mark the introduction of a new preamble to the Constitution of Queensland. The function is being held this Thursday on the Speaker's Green. The preamble that will be celebrated this Thursday had not even resumed its second reading debate before RSVPs were called for by Monday, 22 February. There has been no debate, no vote and no royal assent, but the celebrations by the other side have already been planned in anticipation. What a disgrace that we would have ministers spending money on glossy invitations before the parliament has given due consideration to such legislation.

That is the attitude of a government that treats this parliament as a rubber stamp and which guillotines debates before members from both sides of the political spectrum can contribute on behalf of their constituents—which, may I remind the Leader of the House, is our job. The member for Sunnybank may not be interested in some of the debates, but that is not her call to make. This parliament should be a beacon for democracy in Queensland, but I am always disgusted that it is treated with the level of contempt that has been shown by the Bligh government.

In summation, I oppose the legislation and I am deeply concerned about various aspects of the process that has been undertaken. As a former lawyer, I am concerned about the legal implication of this preamble that may have implications when interpreting statutes of law. I know my other committee

members will agree that I have raised this issue every so often in the committee process. This legislation has not been properly investigated and needs independent, expert legal advice separate from the Solicitor-General or crown law.

I support the call by the honourable Leader of the Opposition for more resources into the issues that impact on the everyday lives of our dear Aboriginal and Torres Strait Islander people, including health, education and law reform, not tokenistic gestures that evidently will not assist one Aboriginal child to obtain better health care and will not provide one Aboriginal child with equal access to a better education.

As we have seen in this House, Premier Bligh likes to copy Kevin 07 in many aspects. We saw Kevin 07 deliver the sorry speech. Again very tokenistic but no action to follow it. Now we have the state government tampering with the people's constitution but no action. The Premier and Kevin 07 do have one thing in common—

Mr Kilburn: They are both in government: that's one thing they have got in common.

Mr BLEIJIE: I would not be talking too soon, Mr 'Oncer' from Chatsworth.

Mr DEPUTY SPEAKER (Mr Pitt): Order! I remind you again to please direct your comments through the chair.

Mr BLEIJIE: Absolutely. My apologies, Mr Deputy Speaker. There are many oncers on that side of the House. I look forward to the election next year when we go to the people of Queensland and what this government has actually done—or actually has not done—in this state will be laid out on the table. Kevin 07 and Anna Bligh have one thing in common: the glossy spin has washed away. Their true incompetent leadership traits have been revealed and Queenslanders have had enough. The people of Queensland want action: they want jobs, they want food on their tables, and they want their children to grow up in a state of which they are proud. They do not have that under this government and tokenistic gestures such as this bill do not assist. I condemn the bill being put to the House.