



Speech by

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CONSTITUTION (PREAMBLE) AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—LNP) (Leader of the Opposition) (12.32 pm): I rise to speak in the second reading debate for the government's Constitution (Preamble) Amendment Bill 2009, which was introduced into the Legislative Assembly by the Premier in late 2009. The Constitution (Preamble) Amendment Bill 2009 seeks to amend the Constitution of Queensland 2001 by inserting a preamble into the Constitution. The opposition will oppose this bill. We have not taken this decision lightly. We will oppose this bill for a number of reasons which I will outline in these remarks.

In the Legislative Assembly's consideration of this bill, the House should be aware of the background to the government's introduction of the bill. The Premier's desire to introduce a preamble that reflects a narrow and politicised agenda has been present for a number of years. In 2001 this parliament amended, consolidated and filled in many of the gaps in our state's Constitution through the enactment of the Constitution of Queensland 2001. The Constitution of Queensland consolidates the conventional and written constitutional law of this state. It begins with the entrenched provisions of the Constitution Act 1867 which are protected in operation by the Australia Acts and re-enacts them within a consolidated volume of constitutional law which spells out in great detail matters that were previously left to political and parliamentary convention. In particular, it places in written form many rules that were previously convention that deal with the composition and operation of the executive government.

Subsequent to the enactment of the Constitution of Queensland 2001, this government, under this Premier, has decided to incorporate a preamble into the state's Constitution. In November 2004 the Legislative Assembly's then Legal, Constitutional and Administrative Review Committee considered the need for and appropriateness of a preamble being inserted into the Constitution of Queensland 2001 and tabled a report entitled *A preamble for the Queensland Constitution?* The committee, chaired by the then member for Barron River, Dr Lesley Clark, recommended against the inclusion of a preamble. The committee cited a number of reasons for its conclusion that a preamble should not be included. Amongst other things, the committee said that—

- the public input received by the committee demonstrates insufficient support for a preamble to the Queensland Constitution;
- uncertainty exists as to how such a preamble should or might be used to interpret the Constitution, particularly if that preamble contained statements of values or aspirations;
- ...
- the preamble would need to be modified again if Australia moves to a republican system of government;
- further steps need to be undertaken to complete the consolidation of the Queensland Constitution;
- there is a lack of consistency between the content of the Queensland Constitution and the proposed aspirational elements of the preamble;
- given the nature of the consolidated Queensland Constitution, a preamble enacted now could not set out the reasons for the enactment of the provisions in their original form ...

Not content to let the all-party joint report settle the matter, the Premier and her government decided last year to revisit this issue through the Legislative Assembly's current Law, Justice and Safety Committee. That committee tabled a report of an inquiry entitled *A preamble for the Constitution of Queensland 2001* in September 2009. The committee's inquiry was chaired by the member for Springwood, and the opposition members of the committee were the honourable members for Hinchinbrook, Kawana and Beaudesert. The opposition members of the committee lodged a statement of reservation outlining the opposition's deep concerns with this bill. The new committee, having been given its marching orders by the Premier, recommended the enactment of a preamble.

As I have said, the opposition opposes this bill for a number of reasons. I will now outline those reasons. First, the opposition agrees with the first conclusion of the original committee's report into the proposal. The opposition believes that there is too little or no public support for the adoption of a preamble, regardless of the wording of the text. We cannot believe that the government is wasting so much of the parliament's time with a bill like this one. This is in a climate where the government is failing on so many fronts. The Bligh government is taking the state government debt to the astronomically high level of \$85 billion. It is desperately trying to privatise five of the state's key assets in a fire sale and is allowing Queensland to come last or second last amongst the other states in Australia in reading, writing, spelling, punctuation and numeracy in years 3, 5, 7 and 9.

This government is sitting back and allowing our health system to go from bad to tragic. One in five Queenslanders needing emergency hospital treatment within 10 minutes are not being seen on time, one in four children are not being seen on time at the Mater Children's Hospital and, as we saw in the last sitting week, the government cannot even organise a motor-racing event on the Gold Coast. The government is wasting this parliament's time debating the inclusion of a set of words at the start of the state Constitution just to appeal to a narrow section of the Labor Party's base—the so-called 'latte left'.

Secondly, the opposition opposes the enactment of this bill because it opposes the elevated recognition of one ethnic group within the Queensland community—Aboriginal and Torres Strait Islander people—to the exclusion of all others. It is a superficial nod in the direction of political correctness and is designed to divide Queenslanders and not unite us. As a child of Dutch and American immigrants, I have always had great pride in the fact that modern Australia is a free, liberal and tolerant society. Racism and racial preferencing have no place in our federation. We pride ourselves on our egalitarian traditions and our individualism. We are a composite society and, to use an Americanism, a great melting pot for different traditions, faiths, lifestyles and beliefs from other parts of the world.

Mr Choi interjected.

Mr LANGBROEK: Can I just say to the honourable member for Capalaba that he should look at the history of the party that he is a member of—the party that brought in the White Australia policy—before he starts to judge me. In a recent speech I spoke of the need for governments to treat all citizens as equals and not elevate one ethnic or cultural group above the others. I told delegates at a Young Liberal federal convention that I am uncomfortable with the message sent by public officials at public events and ceremonies when speakers begin every speech with the words, 'I begin by acknowledging the First Australians on whose land we meet and whose cultures we celebrate as among the oldest continuing cultures in human history.' Since Labor has been on the ascendancy in the states and now in the Commonwealth, this politically correct custom has become a staple feature of many public functions. It is a Keatingesque practice that we seem to have latched on to in more recent times. In my view, this platitude is a superficial nod in the direction of a select group of Australians. Many Australians find this practice to be offensive. Our governments and our leaders should be seeking to unite us, not divide us. The constant singling out of one racial group in our culture for special praise and recognition above all others is contrary to our egalitarian tradition.

The Labor Party uses it as a mechanism for division, and it is not always consistent with it, either. The Minister for Disability Services and Multicultural Affairs did not use it at the consular dinner, the Treasurer did not use it at the REIQ awards at the Sofitel Hotel less than two weeks ago and the Premier did not use it at the Chinese new year celebration at the Sofitel. They are not always consistent with its use. The recognition of cultural heritage must not and cannot be allowed to be a divide within the community and leaders should not seek to inflict this division on a community that wishes to be united. Kevin Rudd should stop trying to emulate Paul Keating with this practice. All Australians should be treated equally. Similarly, this draft preamble is a superficial nod in the direction of Indigenous Australians and is designed to divide us and not unite us. I do not want the opening words of our state Constitution to become another canvas upon which some parts of the Labor Party can paint their politically correct masterpiece.

The third reason the opposition opposes the bill is that the use of the expression 'First Australians' is a divisive term. It implies that there are second Australians and so on. This type of breaking away one group of Australians based on their race from the rest and elevating them to a level higher than others does nothing to promote a modern, inclusive and liberal society. The use of this expression also fails to

acknowledge the ethnic mix in Queensland. As a melting pot, we are a society that includes people from all ethnicities and people who have many ethnicities.

The fourth reason we oppose this bill is that the desire to protect our unique environment, whilst important, should not be taken out of context. The use of this expression by the Labor Party unduly oversimplifies the common goal of all Queenslanders. The community wants its parliamentarians to protect the environment and natural resources but also it wants its parliamentarians to promote prosperity, including economic prosperity.

In my address to the federal Young Liberal convention three weeks ago, I told delegates—

Political correctness has led us to get our priorities mixed up and has led us in Queensland to focus on narrow esoteric agendas and take our eyes off the bigger challenges faced by the State Government. Instead of changing the Preamble of the Queensland Constitution to recognise Indigenous Australians—which will provide no practical improvement to the lives of Queensland's Aboriginal and Torres Strait Islander residents—the Bligh Government should be focussed on improving the literacy and numeracy levels of all Queensland children, including Aboriginal and Torres Strait Islander children.

I believe that the real advancement of Aboriginals and Torres Strait Islanders should be the goal of the Queensland government, not tokenistic changes that achieve nothing and give false promise to the Aboriginal and Torres Strait Islander communities of this state. Just like the wild rivers legislation, this bill is designed to appeal to a narrow political agenda rather than provide a real improvement in the living standards and the realisation of the aspirations of Indigenous Australians. It is my belief that reconciliation is achieved only through closing the gap between Indigenous and non-Indigenous Australians in life expectancy and opportunities, in health and educational opportunity, and in achievement.

Additionally, I am not satisfied that, despite the inclusion of a new section 3A, the inclusion of a preamble will not prevent courts that wish to use the preamble as an interpretative tool from using the text of the preamble to interpret the Constitution of Queensland 2001 in ways that were not intended by the legislature and contrary to a black-letter approach to constitutional interpretation. Indeed, at the briefing supplied by the government, my office was advised that the government had no specific advice on the relationship between new section 3A and the Acts Interpretation Act, nor could the government assure my office that the exclusion includes the common law so that the preamble could not be used as an interpretative tool by judges in common law based reasoning. Despite an undertaking made on 8 January 2010 to get back to my office with advice on these two questions, the Premier's office still has not supplied this information to my office or to me. That just shows the arrogance of this Premier and her government. Given the way in which constitutions can be reinterpreted by judges over the years without regard to the views of a democratically elected parliament which represents the people, we should always be careful in transferring power from where it resides—with the people and the parliament—to an unrepresentative judiciary.

I have received some correspondence from Queenslanders who are opposed to the passage of this bill and the inclusion of a preamble in the state's Constitution. I want to mention one letter that I received from the Queensland branch of FamilyVoice Australia, which wrote to me and came to see me to present to me a petition signed by 783 Queenslanders. The petition sought my support in seeking to oppose this bill or, alternatively, advocating that this bill should be put to the people in a referendum. The organisers of the petition told me that they sought to present the petition to the Premier but, in what is now becoming increasingly common for this Premier, the Premier and her office arrogantly fobbed them off. I want to thank that organisation and the many other Queenslanders who have written to me on this topic.

Many people who wrote to me expressed the view that the preamble to a constitution is the endorsed words of the people, not those of the politicians elected under the Constitution. The opposition agrees. Just as the proposed new preamble to the Commonwealth Constitution in 1999 both needed to and, quite rightfully, went to the people for its endorsement, so, too, should any proposed preamble to our state Constitution. Our state Constitution is more than just a piece of run-of-the-mill legislation; it is a fundamental statement of our governing structures and gains its legitimacy, if not its legality, from the will of the people, not those elected under it. If this Premier were not so arrogant, she would submit the draft preamble to the people of Queensland for their approval. But the truth is that she thinks that the people of Queensland will get it wrong and will not vote the right way. This bill smacks of the arrogance that is now oozing from this Premier and her government.

This bill also smacks too much of the same lawyers who argue for a bill of rights to underpin their program of social engineering. The LNP will consistently oppose such proposals. We believe in this parliament and the people who elect us as being the ultimate bulwark against absolute power. Preambles and high-flying rhetoric do nothing to cure the social problems that many of our citizens of Aboriginal and Torres Strait Islander descent face. Solutions to real problems is what the LNP supports, not high-flying rhetoric to appeal to the consciences of inner-city minorities who think that it is their job to tell the people what they should want. It is for these reasons that the opposition opposes this bill and will be voting against the bill.