



- Speech -

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*Shadow Minister for Climate Change & Sustainability*

**Hansard – Tuesday 23 February 2010**

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**Debate: Preamble to the Constitution of Queensland 2001**

**Mr ELMES (Noosa--LNP) (4.13 pm):** I rise to make a contribution to this very important debate on the proposal for a preamble to the Constitution of Queensland 2001. I welcome the opportunity, as I do each and every time I am afforded time, to represent my electorate of Noosa in this place. My first reaction to the proposal to introduce a preamble to the Queensland Constitution was to simply ask why we would need one in the first place, particularly as the previous parliamentary committee charged with developing a draft preamble recommended against it on very good grounds.

The government, in response to report 46, stated-- Given the apparent lack of public support for a Preamble, concerns as to how a Preamble should or might be used to interpret the Constitution, and other concerns raised by the Committee, there is insufficient justification for the Government to seek to include a Preamble in Queensland's Constitution. My research shows that New South Wales, Victoria, South Australia and Tasmania have yet not seen fit to have a preamble to their respective constitutions. Neither has, for example, Canada, India, Mauritius or the United Kingdom taken the opportunity as yet to adopt one. Indeed, the Constitution of the UK is unwritten. The Western Australian preamble is steeped in the past, while the French Constitution of 1958 requires one to google a number of source documents to flesh out its meaning.

Of course, the Constitution of Queensland 2001 recognises and must be read in conjunction with the earlier constitution acts of 1867, 1890 and 1934. Matt Foley, a former minister in both the Goss and the Beattie governments, has written quite appealingly in the Courier-Mail of 30 November last. He opened his viewpoint article with the question, 'Why must the Queensland Constitution be so dull?' He could have been writing about constitutions, per se, could he not? They are not what we would call a sexy document.

I very much doubt there are too many Queenslanders who sit up in bed at night and read passages from either the federal or the Queensland Constitutions as perhaps some might do when they read the Bible or the latest Tom Clancy thriller.

To continue the metaphor, the Constitution is a security blanket; something that is there in times of great need; something that can be read, studied and, by its very nature, provides protection. We are lucky in Queensland when compared to so many other countries and communities throughout the world. Our collective need to rush to the Constitution rarely, if ever, occurs. We do not suffer from civil strife or revolution, but if we do the Constitution and the powers it grants to our various law enforcement and legal entities to govern and to our Governor, through Her Majesty the Queen, will stand us in good stead should ever the need arise. This being the case, I am perplexed as to why there is such economy with word, intellect and aspiration in the preamble that is being proposed.

The preamble before the House is the culmination of ideas that basically come from four government backbenchers. For the record, the opposition had three members on the Law, Justice and Safety Committee who presented a dissenting report. I believe it is an affront to the people of Queensland that this gang of four were charged to represent the values, ideals and aspirations of all Queenslanders, and that this government dares to presume that the members, although with good intention, have the wisdom and accumulated knowledge to speak on behalf of all Queenslanders and prepare a document intended to tug at the heartstrings of the people of this great state.

To illustrate my point, I am sure there are many in this House who remember the famous 'Beattie burger', as it became known--that amazing new logo that was to represent Queensland as the Smart State but which left everyone wondering what it was and believing it depicted a complete paradox to the catchphrase. Although members may think this logo was the work of the best doodler in the cabinet room, it was not. This logo was the result of many months of carefully considered design by professionals engaged at a cost of many thousands of dollars.

There were many months of careful professional doodling to come up with the little winner that it became. If a preamble is so important to this government, why does it not demand the same level of expertise by wordsmiths? In his article Foley cited that from the deliberations in early 2000 by the Queensland Constitutional Review Commission emerged the possibility for a preamble to emphasise the new foundation for the state's constitutional regime and for it to affirm widely held values. But if we are to have a preamble, why should it not be even more radical than this?

Should it not say who and what we want to be and what values and beliefs will underpin our aspiration? Should it not boldly state for everyone to see our great pride in ourselves as a fair, compassionate, tolerant, decent and caring society? Should it not reflect our equality and celebrate our diversity? Should it not reflect our love for our environment, that we are but the keepers of it for future generations and that we are obligated to enhance and not degrade it? Should it not recognise all of our forebears and their contributions to the richness of our society, its culture and its multicultural mix? Should it not thank all of those whose sacrifices maintained our freedom? Should it not thank those who fought, those who have been wounded and, above all, those who have made the ultimate sacrifice on our behalf so that we might remain a free people? And, yes, it should also include the vital role that Aboriginal and Torres Strait Islander people play and continue to play in our society.

Above all else, if we are to have a preamble, it is these values that I would like to see included. But it is not for me to impose my thoughts and values on the Constitution that belongs to all Queenslanders, nor is it the place for four government backbenchers and the cabinet to impose their political views on our most important document. If the government believes that to insert a preamble into our Constitution is so very important, then why did it not involve every Queenslanders whom it purports to represent? There are approximately 4 million Queenslanders. Less than 1,000 submissions were sent out by the first and second committees. I understand that over 200 submissions were received. The majority were variations of form letters stating that no preamble is desired. A further 19 submissions opposed any preamble at all. This being the case, why is it that this government is intent on persisting with an initiative of which the majority of Queenslanders are totally unaware or who believe the preamble is unnecessary?

The Constitution is the protection of the rights of people in this state. It is only the people of this state who have the right to change it or add to it. It is only the people of this state who by referendum and by referendum only should change any part of the state Constitution. And do members know why there is no referendum proposed here? Because it would fail spectacularly. A committee of seven members from this place was called on to form the Law, Justice and Safety Committee. It could not agree on the preamble. If consensus was not possible with only seven people, then why would any

government, let alone a Labor government--the alleged champion of working families, the doyen of democracy that speaks for all Queenslanders on matters such as petrol taxes, asset sales, energy privatisation, ill-conceived and failed infrastructure programs--seek to ram this bill through knowing that it is so obnoxious? Because they can and because they choose to respect democracy and democratic principles on one day and one day only about every 2 years on polling day.

At the outset of my contribution I also proudly mentioned the electorate of Noosa which I represent. My constituents are very conscious of the Queensland Constitution. Indeed, two of the more famous of those constituents--Jim Berardo and Bob Ansett--challenged the legislation to dispossess my community of its democratically elected council when they acted in the Supreme Court on behalf of that community.

In 2007 we watched gobsnacked as then Premier Peter Beattie contemptuously set aside the Constitution of Queensland 2001 by the Local Government and Other Legislation Amendment Act 2007. He removed the enshrined right of people to be consulted via referendum as to whether or not they welcomed amalgamation. Fortunately because of the Howard government, because the Liberal Party and the National Party at the federal level so valued the rights of the individual, a plebiscite was able to be held in Noosa. It is history now that 90 per cent voted no to amalgamation. But the Beattie-Bligh government ignored the decision of the people of Queensland and ploughed on, trampling the aspirations and democratic rights of the majority of its citizens with the now Treasurer riding shotgun. That this Labor government should further insult the people of Queensland with this preamble to once again meddle in their fundamental protections without asking them their views and without acting with even a scintilla of propriety or respect makes my blood boil.

But even the recognition of Aboriginal and Torres Strait Islander communities is instantly debased in this preamble with the riders which render it at once meaningless. It specifically does not grant any legal right to create any liability to be used or to be used as an aid to statutory interpretation of either the Constitution or any other law in Queensland. It appears to be the legal equivalent of a wisp of smoke on the wind. It appears to bear the hallmarks of so much of the grandstanding by this Labor government--no substance, all spin.

Before anyone gets up and calls a point of order, the relevance is this: when it suits the government's political purposes, it will gross up some gratuitous token of meagre recognition and milk it for every bit of political mileage it can get. But when the rubber hits the road--when there is real work to be done--it is nowhere to be found. It swats the community's rights like pesky flies. It has debased the meaning of 'consultation'. It has defied any notice of true community engagement. It stands for nothing, and it stands condemned. And here with the preamble it tries to knock off its relevance even before it is passed into law. How demeaning for us all!

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