

The River Festival

All fired up
Pages 10 and 11



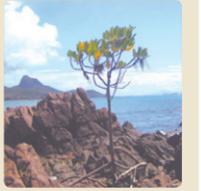
The Ekka 2005

A dog's life
Page 17



Hinchinbrook Island

Heaven and Hell
Page 20



No Upper House in Queensland, and now ... Amendment to Constitution 'dangerous', 'unnecessary'

Already shut ...



Legislative Council chamber ... vacant since 1922

Next?



Government House, Bardon ... changes foreshadowed

Section 34 – current wording

Ministers hold office at the pleasure of the Governor who, in the exercise of the Governor's power to appoint and dismiss the Ministers, is not subject to direction by any person and is not limited as to the Governor's source of advice.

Section 34 – proposed wording

Ministers hold office at the pleasure of the Governor who, in the exercise of the Governor's power to appoint and dismiss the Ministers, must, in accordance with constitutional conventions, act on the advice of the Premier.

Richard Murray

AUSTRALIA'S leading authority on parliamentary practice, Clerk of the Senate, Harry Evans, has expressed concern at the Beattie government's proposed changes to the Queensland constitution.

Mr Evans said that he considered the proposed changes to Section 34 of the Constitution of Queensland (2001) to be "dangerous and unnecessary".

"They could well be interpreted as abolishing, at least in part, the reserve power of the governor, and making the premier's power much greater," Mr Evans said.

Currently, section 34 of the Constitution provides: *Ministers hold office at the pleasure of the Governor who, in the exercise of the Governor's power to appoint and dismiss the Ministers, is not subject to direction by any person and is not limited as to the Governor's source of advice.*

The proposed amendment reads: *"Ministers hold office at the pleasure of the Governor who, in the exercise of the Governor's power to appoint and dismiss the Ministers, must, in accordance with constitutional conventions, act on the advice of the Premier."*

"The conventions of the constitutional arrangement known as responsible government contemplate that in some circumstances the representative of the Crown may properly reject the advice of a premier in order to preserve the integrity of the system," Mr Evans said.

"The example which is usually given of the appropriate exercise of the reserve power of a governor is that of a premier who has lost his or her parliamentary majority, or lost the support of his or her party, and attempts to cling to power by advising the governor to prorogue the parliament or dissolve the lower house for a second election," he said.

"There are, however, other circumstances in which the reserve

power may legitimately be exercised.

"One of these is where a premier has lost the support of his or her party and advises the governor to dismiss some or all other ministers in an attempt to cling to power. This situation occurred in 1987 with Governor Sir Walter Campbell and Premier Sir Joh Bjelke Petersen," he said.

"The explanatory notes accompanying the government's bill are completely unhelpful in explaining the proposed new section 34, simply repeating the terms of the section," Mr Evans said.

The issue was considered by the Legislative Assembly's Legal, Constitutional and Administrative Review Committee in 2002.

Mr Evans said he noted that some submissions to that committee had opposed the view that the governor should be bound by the advice of the



Peter Beattie

objection to the provision could be overcome by including the phrase 'in accordance with constitutional convention'. This phrase might be interpreted as preserving the reserve power by implication.

"The committee, however, did not think that this phrase solved the problem, and recommended against a provision that the government should act on the advice of the premier in appointing and dismissing ministers," he said.

Former chairman of the Australian Broadcasting Authority (ABA), former Dean of Law at the University of Technology Sydney (UTS) and the current head of Australians for a Constitutional Monarchy (ACM), Prof David Flint, said he was also concerned by the amendment.

"The problem in Queensland is, as it stands, the state government can do as they please.

"This will be compounded if the reserved right of the governor is revoked with the proposed changes to Section 34 of Constitution of Queensland Act, 2001," Prof Flint said.

He said with no Upper House in Queensland the governor was the final check on the power of the government and there was no chance of a public referendum on constitutional amendments.

continued page 2



CONSTITUTION OF QUEENSLAND 2001

Constitution ... to be amended

premier in appointing and dismissing ministers.

"Some of the other submitters supported such a provision," he said.

"I suspect that they did so on the basis that the reserve power of the governor operates in relation to the appointment and dismissal of the premier, and that when a premier is appropriately in office his or her advice on the appointment and dismissal of ministers should always be accepted.

"The government appears, however, to have taken up a suggestion by the committee that perhaps the