

Alarm bells ring over Constitution changes

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"At Federal level we have a vastly improved situation, because any changes to the constitution must be approved by the people through a referendum," Prof Flint said.

"I fear this situation will distance Queensland from best constitutional practice," he said.

Adjunct Associate Professor of Law at Bond University, David Field, said: "I think this is a serious state of affairs."

"What happens if the government misbehaves; what is the mechanism for controlling and moderating the actions of the state premier?"

"Given the concerns we have now about the independence of the CMC and recent events that have indicated that leading law officers of the state will give the advice that they are expected to give, it is a massive concern for the rule of law.

"The proposed constitutional changes were not going to harm any government that did not want too much scrutiny," Prof Field said.

Lecturer in Law at the University of Queensland, Nicholas Aroney, said the proposed constitutional amendments were "ambiguous" and "open to interpretation".

"One view is that it preserves the existing constitutional convention, and thus preserves the powers of the governor," Dr Aroney said.

"An alternative interpretation of the way it is worded is in effect declaring that the constitutional conventions require that the governor act on advice from the government," he said.

"If you interpret along those lines you would conclude that the governor's reserve powers have been reduced or eliminated.

"The Beattie government has not given a clear rationale for this amendment.

"Clearly this amendment makes no reference to the reserve powers of the governor, and is therefore open to a negative interpretation," he said.

Lecturer in Political Science at the University of the Sunshine

Coast, Scott Prasser, said the proposed amendments potentially gave more power to executive government.

"The problem is there are circumstances where the governor must act without the advice of the Premier or the Prime Minister. That's a convention," Dr Prasser said.

"There are situations like when the governor intervened in the dying days of the Bjelke Petersen era, where the governor is to assess the issues.

"The great thing about a governor in our system is a final umpire when the political system gets stuck, and on occasion it does," he said.

Independent member for Gladstone, Liz Cunningham, said she was concerned about the possible erosion of the power of the governor.

"I believe he [Mr Beattie] is endeavouring to undermine the governor's independence.

"That is a concern. It's a change that isn't entrenched, so legally he can do it, but morally I think it is wrong," Ms Cunningham.

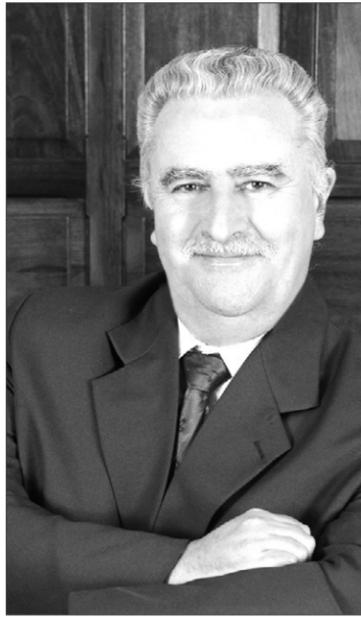
"I think it is morally corrupt. It's Peter Beattie being Peter Beattie, believing that he is able to do what he wants irrespective of what the public wants," she said.

"He's changing the role of the governor to a very subjective role, where she has to be directed by the Premier. This should of concern for the public of Queensland.

"He's ensuring in spite of how bad the government gets the governor will lack the power to be able to do anything.

"The fact is, the situation will

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Professor Field

arise where we will see situations like Health happening, and the governor of the day maybe persuaded that things have deteriorated out of control, but will be powerless to act," Ms Cunningham said.

Both the Premier and the leader of the Queensland Liberal Party, Bob Quinn, were unavailable for comment.

A spokesperson for the Leader of the Opposition, Lawrence Springborg, said Mr Springborg was, "... aware of concerns, but unable to comment at this early stage."



Liz Cunningham

The Constitution ... and the Upper House

QUEENSLAND'S Constitution is quite unlike the document that became the Constitution of the Commonwealth of Australia at the time of Federation in 1901.

The national Constitution was drafted, debated, amended and wrangled over for years before being finally voted on by the people at referendums in all the states in the lead up to Federation.

It can only be changed by a majority of the people and a majority of the states at a referendum.

On the other hand, Queensland's Constitution has been the product of a range of formal legal documents, including letters patent from the Monarch (which have been amended and replaced over the years), and Acts of the British (and later) Australian Parliaments that have recognised the separate existence of Queensland and the other states, and changes that have occurred in the relationship between Australia and Great Britain since Federation.

There is no document produced by, and voted on, by the people as is the case with the Commonwealth Constitution.

After many years of consolidation by committee, the Beattie government sought to incorporate the various bits and pieces that represented the Queensland Constitution into a single document in 2001.

But as with any other piece of legislation it can be amended by a vote on the floor of the Legislative Assembly.

Only "entrenched" constitutional matters (such as moves to either reintroduce an Upper House or abolish the post of Governor) require a referendum of the people to be held before they can be implemented.

Queensland's Upper House was abolished in 1922.

The Legislative Council at the time was hardly a model of democracy since its members were not elected they were appointed (by the Governor at the behest of the government) for life.

Since conservative governments had dominated the parliament in its early years, the make-up of the Legislative Council was conservative, and antagonistic toward Labor when it gained power in 1915.

The Labor government sought to do away with the problem altogether.

However, a referendum on the question of abolishing the Council (rather than reforming it) was held in 1917 was overwhelmingly defeated.

Not to be deterred, a few years later the Theodore Labor government took the opportunity in the absence of the Governor to appoint the Speaker of the House as Lieutenant Governor.

He then appointed sufficient new members of the Council to ensure a Labor majority in the Upper House on the condition that they vote themselves out of existence.

The "Suicide Squad" did as it was bid and on March 23, 1922, and the Legislative Council ceased to exist.

Labor lost government briefly in 1929 and there were suggestions that an Upper House might be reintroduced.

When it gained power again in the early 1930s, Labor passed an Act which established that an Upper House could only be reintroduced in Queensland by a referendum of the people.

No government since has been seriously inclined to embrace such a proposal - a reinvigorated Upper House might be an inconvenience if it were to act as a House of Review.

A suggestion that the Borbidge government in the late 1990s might hold such a referendum did not materialise.

Federal MP is 'Whistleblower Supporter of The Year'

Gemma Stenner

LIBERAL MP Bronwyn Bishop has been named Whistleblower Supporter of the Year for her work investigating the 1990 shredding of the Heiner inquiry documents.

The Queensland Whistleblower's Action Group annually awards whistleblowers, with the Whistleblower of the Year award, and those who support them, in recognition of their courage in exposing wrongdoings and corruption within the community.

A statement released by the group said the Whistleblower Supporter of the Year award acknowledged "the contributions of persons whose actions have been of outstanding assistance to improving the circumstances for whistleblowers" in Queensland.

Secretary of the group, and national director of Whistleblowers Australia, Greg McMahon said Ms Bishop had been selected

from a number of nominees for her role as chair of the House of Representatives Legal and Constitutional Affairs Committee.

This committee recommended members of the Queensland Cabinet, involved in the shredding of Heiner documents, be charged with an offence under section 129 of the Queensland Criminal Code.

Mr McMahon said Ms Bishop and her committee had made a "vital contribution", towards a much-needed reformation of Queensland's criminal justice system, by exposing the legal double-standards arising from the Heiner affair.

"Ms Bishop has made significant progress in as much as her committee has been the first to take evidence from the principle players in the shredding of the Heiner documents," he said.

He also said Ms Bishop showed "outstanding support to whistleblowers", with regards to the Heiner affair, and it was clear

Queensland was incapable of reforming without the influence of such outside authorities as Ms Bishop and her committee.

"The organs of the justice system in Queensland have shown themselves to be incapable of taking evidence from the principle players of the 'Shreddergate' scandal.

"They have been dancing around the issue ... and it has taken 12 years, and a committee from outside Queensland, to take evidence from Magistrate Heiner about the inquiry," he said.

This marks the twelfth year of the awards and Ms Bishop is the fourth recipient of the Whistleblower Supporter of the Year award.

The recipients of this year's Whistleblower of the Year award were Greg Maddock and Nathan Moore.

Mr Maddock, who committed suicide last year, was awarded, posthumously, for his "disclosures about the consequences of government dividend withdrawals from Energex



Bronwyn Bishop

upon the infrastructure integrity and reliability of operations".

Leading Aircraftsman Moore was cited for exposing drug use and weapons theft at Queensland's Amberley airbase in 2003.