

Parliamentary Report: Queensland

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Events in the Queensland Parliament — September 2006 to December 2007

The period from September 2006 to December 2007 in the Queensland Parliament was noteworthy for many reasons. An election was held, the 52nd Parliament was formed and controversial legislation was debated. The Queensland Parliamentary Service also embarked on a journey with a focus on engaging with all members of the Queensland community both near and far.

Queensland Election

After much speculation, and the Premier, Peter Beattie, having repeatedly stated that there would not be an early election, the Premier called an early State General Election, which was held on 9 September 2006. The election announcement (in August) was not quite the surprise that some had anticipated, after election material had been distributed and received, prior to the Premier's drive out to Government House. The Premier advised that he had no choice but to call either a by-election for Bundaberg, or a full State General Election, after the Labor Member for Bundaberg announced suddenly that she was too ill to continue. Despite a tough third term for the Beattie Labor Government and wide conjecture that they would have a difficult time winning a fourth term, they were returned, winning 59 of the 89 seats.

A precedent was set for the Queensland Parliament, by holding both the first sitting day of the 52nd Parliament, when Members are sworn and the Speaker is elected, and the official opening, on the same day.

The make-up of the Legislative Assembly on the opening of the 52nd Parliament was: Australian Labor Party — 59 seats; Coalition - 25 seats (National Party — 17/Liberal Party — 8); One Nation — 1; Independents — 4; Total — 89

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Despite the fact that there was little change in the make-up of the Assembly, many new members entered the parliament, following the retirement of several long-serving members.

The Honourable Mike Reynolds MP, Member for Townsville, was elected the 33rd Speaker of the Queensland Legislative Assembly on 10 October 2006. Mr Reynolds has had a focus on engaging with the people of Queensland, whatever their age, background, colour, religion or gender. As a result, a new goal has been set for the Queensland Parliamentary Service ‘to support the Parliament to engage with all Queenslanders.’

Almost a year after the election, Peter Beattie once again ended media speculation by announcing his resignation as Premier on 10 September 2007. Anna Bligh was sworn in as the State’s first female Premier of Queensland on 13 September 2007.

Community Engagement

A new Community Engagement unit was established in July 2007 to undertake a range of roles including parliamentary education, media, multimedia and publications, Indigenous liaison, protocol and parliamentary history.

Indigenous Liaison

The Queensland Parliamentary Service created a new position of Indigenous Liaison Officer. The Indigenous Liaison Officer, Brett Nutley is the first to be appointed to any parliament in Australia. He is responsible for improving engagement between Queensland’s Aboriginal and Torres Strait Islander peoples’ and the Queensland Parliament. Brett is a Mununjali/Yugambeh Man (Beaudesert, Queensland) on his mother’s side.

The Queensland Parliament conducted several historic events in 2007 that heralded a new era of Indigenous reconciliation. These include: the flying of the Aboriginal and Torres Strait Islander flags alongside the Australian and Queensland flags outside Parliament House and in the Legislative Assembly Chamber; the introduction of an acknowledgement of the traditional owners of the land at the beginning of each parliamentary sitting; the launching of the inaugural Indigenous artist-in-residence program; the staging of an Indigenous art display in the former Upper House Chamber; a Speaker’s Reconciliation Reception, including a traditional smoking ceremony; and the innovative Cape York to Parliament program for young Indigenous students.

Mr John Pene-Fonmosa of Indig-n-Arts gallery at South Brisbane was appointed as the Parliament’s inaugural artist in residence. Mr Pene-Fonmosa was commissioned to create a special didgeridoo for the Parliament which symbolises the custodianship by traditional owners of the lands that today make up the state of

Queensland. The didgeridoo ('the Wind Yarn') is now a significant parliamentary symbol displayed alongside the parliamentary mace and will be used in a ceremonial capacity, in consultation with the Indigenous community. The artwork on the didgeridoo depicts the journey of Indigenous and white settlement in Queensland.

Auslan Sign Language Interpretation of Question Time

In support of National Week of Deaf People, the Queensland Parliament invited members of the Queensland deaf community to Parliament House to observe Question Time on 17 October 2007. For the duration of question time, interpreters from Deaf Services Queensland were in the public gallery providing an Auslan sign language interpretation of the proceedings.

The Speaker welcomed the deaf community using Auslan, Australian sign language. Two Members used Auslan to ask questions without notice and the Premier used Auslan in an answer to a question without notice.

Video Broadcast of Parliamentary Proceedings

The Queensland Parliament began video broadcasting of its proceedings on 5 June 2007. While audio broadcasting has been in operation since 2003 this initiative provides a live audiovisual broadcast over the internet as well as a live feed to the media gallery.

The video broadcast is aimed at providing greater community access to the State's democratic processes via the parliamentary proceedings, particularly to those people living in rural and regional areas.

Work of the House

The Queensland Parliament sat on 43 days for over 500 hours in 2007. In that time 60 Bills were passed. Some of the more noteworthy legislation debated is discussed below.

Parliament of Queensland Amendment Act 2007 (Re: Members' allowances)

On 7 February 2007, the Premier and Minister for Trade introduced the Parliament of Queensland Amendment Bill. The Bill provided that Members who ceased being a Member during a period for which allowances had been paid, would be required to repay the unserved portion of the allowances.

The issue arose during the 2006 election campaign when it became publicly known that Members who had not recontested their seat or were not returned at an election, were not required to repay these allowances under the provisions of the

Members' Entitlements Handbook (the handbook), a document administered by the Government. The allowances represented a significant sum, as a number of allowances had been paid in advance in July 2006 for a six month period and the election was held in September 2006 (the election was due around February 2007). Following the election the Premier sought to amend the handbook and directed the Clerk of the Parliament to write to Members seeking reimbursement for the unserved portion. Some Members repaid the allowances voluntarily, while others maintained that the retrospective changes to the handbook should not apply in the circumstances. It was for this reason that the Premier sought, as part of an election commitment, to introduce retrospective legislation in order to legally force Members to repay the allowances.

The legislation, which passed on 21 February 2007, provides that Members are liable to repay the unserved portion of allowances paid, where Members cease being a Member during the period. Interest is also payable on any amount outstanding after six months. Similar provisions retrospectively apply specifically to Members not returned at the September 2006 general election.

The handbook has been amended to include the requirement for Members to repay the unserved portion of allowances received where Members cease being a Member during the specified period. The handbook now also requires that allowances paid to Members in the twelve months preceding an election should be paid in quarterly rather than half-yearly or yearly instalments. Prior to the handbook changes, the administrative practice had been to write to the Premier seeking advice regarding the payment of allowances in instalments in the twelve months preceding an election.

Whistleblowers (Disclosure to Members of Parliament) Amendment Act 2007

The *Whistleblowers Protection Act 1994* (WPA) allows specified persons to make complaints (a 'public interest disclosure') about specified conduct to particular entities. Under the legislation, complainants enjoy immunity from liability for what they allege and protection from reprisal. Amendments contained in the *Whistleblowers (Disclosure to Members of Parliament) Amendment Act* allow for public interest disclosures under the WPA to be made to Members of the Legislative Assembly.

The amendments arose primarily from recommendations of three inquiries that each highlighted shortcomings with Queensland's whistleblower protection regime.¹ The new provisions commenced on 1 May 2007.

¹ These were: the Queensland Public Hospitals Commission of Inquiry ('the Davies Inquiry'), the Inquiry into the Bundaberg Hospital ('the Morris Inquiry') and the Inquiry into the Queensland Health System Review ('the Forster Inquiry').

Research Involving Human Embryos and Prohibition of Human Cloning Amendment Act 2007 (Conscience Vote)

2007 saw the first conscience vote in the Queensland Parliament since 2003. The *Research Involving Human Embryos and Prohibition of Human Cloning Amendment Bill* was introduced on 7 August 2007. The Bill proposed to amend the *Research Involving Human Embryos and Prohibition of Human Cloning Act 2003* to mirror the Commonwealth legislation, as part of the intergovernmental agreement for national consistency. The Bill was debated on 10 and 11 October 2007.

As the consideration of the original legislation in 2003 involved splitting the Bill into two separate Bills and then re consolidating the two Bills back into one Bill, with several amendments and numerous divisions, there was an expectation that the consideration of the new Bill might again result in a rather lengthy consideration. There was also speculation that it would be quite a close result, particularly with many Members not 'showing their hand' until the last minutes of their second reading speeches. However, in the end there was only one division, on the second reading, with the result Ayes — 48, Noes — 34.

Local Government Reforms

Some of the most controversial legislation considered in 2007 was in relation to local government reform. Over the course of the year local government reform had been the subject of much debate including legislation, litigation, petitions and motions.

The Local Government and Other Legislation Amendment Bill was introduced into the Queensland Parliament on 28 November 2006. The object of the Bill in its original form related primarily to the conduct of local government elections. However, during the debate on 18 and 19 April 2007, amendments were moved during consideration in detail to establish the Local Government Reform Commission (LGRC), whose role it was to consider future boundaries and possible amalgamation of local government areas. Speaker Reynolds allowed reference to these amendments during the second reading debate on the Bill on the basis that 'the amendments are so significant that it would be unreasonable and almost impossible to not allow reference to the proposed amendments'. These amendments followed the tabling on 19 April 2007 of the Auditor-General's report to Parliament regarding local government audits.

On 24 May 2007, prior to the LGRC reporting, two Opposition Members and a number of Opposition staff took part in a protest, during which placards and red bras were placed on the fence of the Parliamentary Precinct. Speaker Reynolds sought an explanation from the Members. On the next sitting day (5 June 2007) the Speaker ruled that after consideration he would not refer the matter to the Members' Ethics and Parliamentary Privileges Committee.

The LGRC reported to the Queensland Government on 27 July 2007. The LGRC recommended that the number of local councils be reduced from 157 to 73 to take effect from 15 March 2008, when the next local government elections would be held.

On 7 August 2007 the Local Government Reform Implementation Bill was introduced. This Bill sought to implement the recommendations of the LGRC, including the reduction in the number of local authorities, the names of the new amalgamated councils and the number of councillors in each council. Prior to the Bill's introduction a motion was moved to declare it urgent to allow it to pass through all its stages during that week's sitting. The motion was carried following a relatively short, but emotion charged debate.

Amendments moved during consideration in detail of the Bill allowed for the Minister to take action against councils which sought to conduct referenda regarding the local government reforms. Again there was highly emotional debate on the Bill. The debate on the Bill commenced at 11.44am on 9 August 2007 and ended just after 4am on 10 August 2007. With the House finally rising at 4.39am, this had been the longest sitting day in over 20 years.

Following the passing of the Bill, the Federal Government introduced the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill on 16 August 2007 to allow for polls regarding local government reforms to be conducted by the Australian Electoral Commission.

Legislation regarding local government reform in Queensland was not over yet, and on 22 August 2007 the Local Government Amendment Bill was introduced. This Bill sought to remove certain provisions which prevented councils from conducting polls in relation to local government reform.

Prior to debating the Local Government Amendment Bill, the Local Government Amendment Regulation (No. 2) was notified in the Queensland Government Gazette. The regulation partly repealed a provision of the Local Government Act 1993 (Qld), which had been amended by the Local Government Reform Implementation Act 2007 (Qld). While different in its approach, the regulation, like the Local Government Amendment Bill, sought to repeal the provisions preventing local governments from conducting polls.

The Local Government Amendment Regulation (No. 2) was tabled in the Queensland Parliament on 4 September 2007. Notice of Motion to disallow the statutory instrument was given the same day. The motion was debated on 5 September 2007. The validity of amending an Act by regulation was debated during the disallowance motion, the motion however failed. The Scrutiny of Legislation Committee also considered this issue in its Report No. 33 tabled on 12 October 2007.

The final sitting day for the year, 15 November 2007, saw the Local Government Amendment Bill debated as part of a cognate debate, which was declared urgent to enable the Bills to be passed that day. While the Bill was only a few pages long, a significant number of amendments (46 pages) were proposed by the Opposition for the consideration of the Bill in detail. However, a number of amendments were ruled out of order by Speaker Reynolds as they had already been moved and defeated during the consideration of earlier legislation.

Application for an injunction — Local Government Reform Implementation Bill 2007

The Local Government Reform Implementation Bill 2007 was the subject of an application in the Supreme Court of Queensland on 9 August 2007. The application sought a declaration pursuant to s 78 of the *Constitution of Queensland 2001* (the Constitution) that the Bill would have no effect as an Act if assented to in contravention of s 78 of the Constitution.

The applicants (Queensland electors) in the proceedings were concerned that the other stages of the Bill might be undertaken quite quickly and filed the application — which also sought an interim injunction preventing the Clerk of the Parliament presenting the Bill to the Governor for assent in contravention of s 78 of the Constitution — as an urgent matter.

Argument primarily focused on the construction of s 78.

Section 78(1) specifies that s 78 applies for a Bill for an Act ending the system of local government in Queensland. Section 78(2) provides:

The Bill may be presented for assent only if a proposal that the system of local government should end has been approved by a majority vote of the electors voting on the proposal.

[There had been no such vote regarding the proposals in the subject Bill.]

Section 78(6) provides:

An elector may bring a proceeding in the Supreme Court for a declaration, injunction or other remedy to enforce this section either before or after the Bill is presented for assent.

It was argued on behalf of the Clerk of the Parliament that there was no purpose in granting an injunction (even on an interim basis) if the applicants could not show that the Bill was a Bill for an Act ending the system of local government in Queensland.

Her Honour, Mullins J, noted that a consequence of the Bill, if enacted, would be to reduce the number of local government areas (city, town and shire) from the 157

existing local government areas to 73 local government areas. Thirty-seven existing local government areas would be unaffected by the Bill. The Bill established a new class of local government area (a 'region'). The argument of the applicants was that a 'region' was a distinctly different concept to the regime of cities, towns and shires.

Mullins J declined the application. In her judgment, she stated:

... The Bill amends the Local Government Act 1993. It leaves the fundamental system of local government in place. It changes the detail of that system in the sense of enlarging a number of local government areas but the system of having a number of local governments in Queensland remains intact.

I do not accept the argument of the applicants that changing the detail of the current system amounts to ending the system of local government in Queensland. That is why I would refuse the application for the interim injunction.

The judgment, *Berardo & Anor v State of Queensland & Anor* [2007] QSC 214, is published on the Internet at: <http://archive.sclqld.org.au/qjudgment/2007/QSC07-214.pdf>. ▲