

## OPINION

# REFORMING CABINET AND THE STATE CONSTITUTION

*Reform of the State Constitution to facilitate the recruitment of talented people to Cabinet may increase the quality of State government administration argues Andrew Lyons.*

Australia has a serious problem with the quality of State government administrations. A cause of the problem is the difficulty of staffing State Parliaments with sufficient politicians capable of properly discharging the duties of a Cabinet Minister. The past 15 years provide ample evidence of this. Governments have been ejected for gross incompetence in Victoria, South Australia and Western Australia. In Queensland, both sides of politics would benefit from an infusion of talent to tackle the plethora of major problems confronting the State.

The standard to be met by a competent Cabinet Minister is high. The duties are, in some respects, akin to that of a chief executive of a substantial corporation. Both are responsible for the expenditure of large sums of money (hundreds of millions, if not more) and supervision of large numbers of staff (often measured in thousands).

Ensuring that Cabinet Ministers are of sufficient standard is a matter of far reaching importance. The calibre of a given Minister is usually more important to the wider society than that of a given chief executive. His or her decisions, individually and in conjunction with others, affect the whole society or large sectors of it more readily and frequently than those of the head of a single company.

Australia cannot rely upon the public service as a substitute for a competent Minister. Even the best designed sports car underperforms

*...both sides of politics would benefit from an infusion of talent to tackle the plethora of major problems confronting the State.*

if the driver lacks skill. The public service should provide impartial advice, not drive the politics.

Various causes may be identified as contributing to the inadequate supply of able State Ministers. One is the lure of national politics attracting a disproportionate share of the quality recruits. Another is the higher remuneration and better lifestyle available in the private sector. A third is the lack of respect that the community has for politicians. A fourth may be the political parties' recruiting and internal promotion systems.

Even if these and other causes of the problem are addressed, the problem is likely to remain. There is a structural reason for that. It affects both sides of politics.

This structural problem may be illustrated by reference to Queensland. The State Parliament has 89 members. Thus, to be in the majority, a party needs to hold at least 45 seats. For the purposes of argument, let us assume that the governing party holds, say, 50 of the 89 seats.

At present in Queensland there are 18 Cabinet Ministers. Thus, from a pool of 50 Parliamentarians, the governing party needs to find 18 persons of Cabinet calibre. It is improbable in the extreme that either side of politics can do that consistently. They are simply not able to attract that volume of talent into their Parliamentary party. This is not something unique to them. Few organizations can recruit that proportion of high achievers into their ranks.

How does one redress this situation?

One can address the factors mentioned above that limit the supply of talent to the Parliamentary pool, e.g. increase the remuneration,



# HEARSAY

ISSUE 7 • 15 AUGUST 2006

## CONTENTS

In Brief - News and Current Affairs	2
A New Brisbane Supreme and District Courts Complex - A Step Closer?	4
CPD News	5
Direct Access Briefs - Update	6
Opinion - Reforming Cabinet And The State Constitution	9
Defamation - Limitations Under The Uniform Defamation Legislation	11
Practice And Procedure - Concurrent And Proportionate Liability	12
Information Protection in Australian E-courts	20
Practice Management - Managing Your Cash Flow	22
Book Review - Control of Government Action	24
Publishing Information	25



BACK



NEXT



PRINT



EXIT

encourage the public to have more respect for the important role politicians play in our society. Even if these steps are taken, one is still left with the problem that the pool from which Cabinet Ministers are drawn is very small.

*Australia cannot rely upon the public service as a substitute for a competent Minister. Even the best designed sports car underperforms if the driver lacks skill.*

Another remedy is to increase the size of the pool from which Cabinet Ministers are drawn.

One way of doing this would be to increase the size of Parliament. While there would be advantage in doing this, even a 50% increase in the number of MLAs is not likely to create a pool of sufficient size that over time it will consistently provide 18 people of the desired calibre on both sides of the political fence. Further, increasing the number of politicians may be quite unpopular in the electorate. For better or worse, the public may adopt the approach that more politicians is a bad thing rather than a good thing.

Another way of increasing the talent sitting at the Cabinet table is to allow a limited number of Ministers to be recruited from outside the ranks of members of Parliament. That would increase greatly the pool of talent from which Cabinet Ministers are drawn. Thus, if the governing party wished to recruit, say, a person with proven project management skills to solve a pressing problem, it could appoint such a person from a large engineering firm or public company that routinely addresses and solves such issues.

Such an approach is not unprecedented. In the US, Secretaries of State are drafted from both inside and outside the House of Representatives and Senate. In the private sector, public companies routinely recruit chief executives from outside their existing staff.

One should not allow such a reform to undermine democratic principle. In particular, such a change should not, and need not, undermine the doctrine of responsible government. That term "is frequently used to describe the method of government in which executive powers are required by custom to be exercised upon the advice of Ministers controlling a majority in the popularly elected House of Parliament."<sup>1</sup>

Safeguards could be introduced to ensure that the elected representatives, through Parliament, remain in control. Those safeguards could include requiring that any Minister who is not a Member of Parliament:

- be confirmed in office by the Legislative Assembly;
- hold office only at the pleasure of the Crown and while he or she retains the confidence of the Legislative Assembly;
- can only be a Minister for a limited number of years without becoming a Member of Parliament;
- attend before the Legislative Assembly as and when required by Parliament including for Question Time and before relevant Parliamentary Committees; and
- be one of a limited number, say 5, Ministers who are not Members of Parliament.

*Who is likely to oppose such a change? The obvious vested interest likely to do so is sitting MLAs. They will not want to allow a wider field of candidates for the plumb jobs. The prize of Ministerial leather, higher pay, chauffeured limousines, etc. is not one they would wish to share.*

Implementation of such a reform would require amendment of the State Constitution. That is a significant exercise not free of complexities, but, given the structural nature of the problem, worth consideration.

Who is likely to oppose such a change? The obvious vested interest likely to do so is sitting MLAs. Their self interest is obvious. They will not want to allow a wider field of candidates for the plumb jobs. The prize of Ministerial leather, higher pay, chauffeured limousines, etc. is not one they would wish to share. They are only human.

Notwithstanding potential opposition, such reform is in the best interest of the State. The consequences of not recruiting enough people of high calibre compel it. The damage caused by not doing so is potentially enormous and continuous.

**Andrew Lyons**

<sup>1</sup> Evatt, H.V.; *The King and His Dominion Governors*; O.U.P.; London; 1936; p. 12.

### CONTENTS

In Brief - News and Current Affairs	2
A New Brisbane Supreme and District Courts Complex – A Step Closer?	4
CPD News	5
Direct Access Briefs - Update	6
Opinion - Reforming Cabinet And The State Constitution	9
Defamation - Limitations Under The Uniform Defamation Legislation	11
Practice And Procedure - Concurrent And Proportionate Liability	12
Information Protection in Australian E-courts	20
Practice Management - Managing Your Cash Flow	22
Book Review - Control of Government Action	24
Publishing Information	25



BACK



NEXT



PRINT



EXIT



# HEARSAY

The Fortnightly e-Bulletin of the Bar Association of Queensland



## INSIDE THIS ISSUE

Please click on a story below or use the buttons on the bottom of the page to navigate through the e-Bulletin.



In Brief - News and Current Affairs 2

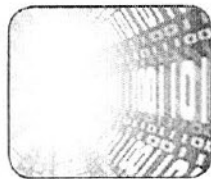
A New Brisbane Supreme and District Courts Complex – A Step Closer? 4



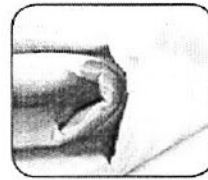
CPD News 5

Direct Access Briefs - Update 6

Opinion - Reforming Cabinet And The State Constitution 9



Defamation - Limitations Under The Uniform Defamation Legislation 11



Practice And Procedure - Concurrent And Proportionate Liability 12



Information Protection in Australian E-courts 20



Practice Management - Managing Your Cash Flow 22

Book Review - Control of Government Action 24

Publishing Information 25

ISSUE 7  
15 AUGUST 2006



BAR ASSOCIATION  
OF QUEENSLAND

Bar Association of Queensland  
Level 5, Inns of Court  
107 North Quay  
Brisbane, Queensland 4000

Phone: (07) 3238 5100

E-Mail: [qldbar@qldbar.asn.au](mailto:qldbar@qldbar.asn.au)

Web: [www.qldbar.asn.au](http://www.qldbar.asn.au)  
[www.barweb.com.au](http://www.barweb.com.au)

