



# ***COMMITTEE OF THE LEGISLATIVE ASSEMBLY***

**Members present:**

Mrs DE Farmer MP (Acting Chair)  
Miss VM Barton MP  
Hon. MC de Brenni MP  
Hon. SJ Hinchliffe MP  
Ms L Linard MP  
Mr SJ Minnikin MP

**Staff present:**

Mr N Laurie (Clerk of the Parliament)  
Mr M Ries (Deputy Clerk)

## **PUBLIC HEARING—INQUIRY INTO THE CONSTITUTION OF THE QUEENSLAND AND OTHER LEGISLATION AMENDMENT BILL 2016**

### **TRANSCRIPT OF PROCEEDINGS**

**FRIDAY, 29 JULY 2016**

**Brisbane**

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### **Committee met at 9.03 am**

**ACTING CHAIR:** I declare open this public hearing for the Committee of the Legislative's inquiry into the Constitution of Queensland and Other Legislation Amendment Bill 2016. I would like to introduce the members of the committee. I am Di Farmer, acting chair of the committee, Deputy Speaker of the Legislative Assembly and member for Bulimba. The other committee members are Miss Verity Barton MP, member for Broadwater; the Hon. Mick de Brenni MP, Minister for Housing and Public Works and member for Springwood; Mr Stirling Hinchliffe MP, Leader of the House and member for Sandgate; Mr Steve Minnikin MP, member for Chatsworth; and Ms Leanne Linard MP, member for Nudgee.

On 21 April 2016, the Premier and Minister for the Arts, the Hon. Anastacia Palaszczuk MP, introduced the Constitution of Queensland and Other Legislation Amendment Bill 2016 into the Queensland Parliament. In accordance with standing order 131 of the standing rules and orders of the Legislative Assembly, the bill was referred to the Committee of the Legislative Assembly for detailed consideration. Written submissions to this inquiry have now closed.

The purpose of this hearing is to provide those who have made a written submission to the inquiry the opportunity to appear before the committee. Witnesses will be provided with an opportunity to make a brief five-minute statement, followed by the members asking questions of the witness to gain further information or to clarify points made in their submissions and statement.

This briefing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. Hansard will record the proceedings and you will be provided with a transcript. The briefing is being broadcast live on the parliament's website. Before we start, I ask that mobile phones be turned off or switched to silent mode. Some witnesses might wish to table further material for the committee to consider. If we wish to do so, you will need to seek the leave of the committee and we will determine whether it is accepted. For the benefit of Hansard, I ask that you state your name the first time that you speak.

### **COLLYER, Mr Nick, Queensland Advocacy Incorporated**

**ACTING CHAIR:** I would like to welcome Nick Collyer from Queensland Advocacy Incorporated. Thank you very much for coming in this morning. Would you like to make a brief, five-minute opening statement?

**Mr Collyer:** Yes, I would. Good morning, everybody. It is good to be here. I will just briefly say who Queensland Advocacy Incorporated is. We are a disability advocacy organisation. We are a statewide organisation, located at the moment over in South Brisbane. We are primarily a legal service. We have a Mental Health Legal Service that represents people in the Mental Health Review Tribunal. We have a Human Rights Legal Service that represents people in relation to guardianship and administration matters. We have a Justice Support Program that supports people with intellectual disability as they go through the criminal justice system.

We also have a Systems Advocacy branch, which is primarily just me. We are funded not by the state government through the legal interest trust fund, through Legal Aid. We are funded through the National Disability Advocacy Program, a Commonwealth program. Because we are advocating for people with disabilities and most service delivery is at the state level, we often make submissions to parliamentary committees, probably on average six or seven every quarter. We are very much invested in this committee system, particularly given that Queensland does not have an upper house. We fully support the primary proposal which is that all legislation be considered by portfolio committees. It is an important safeguard.

We would urge this committee to consider the issue of the declaration of urgency that is proposed. At the moment the proposal is that urgency can be declared by a majority in the House, allowing a bypass of committee scrutiny. We agree with the Law Society submission that there should be further clarification of what urgency is in these circumstances. We also urge the committee to consider perhaps, rather than an ordinary majority of the House permitting bypassing of committee scrutiny, a special majority—for example, 65 per cent plus at least one member of the opposition.

I would like to talk briefly about the proposal that would support committees to initiate their own inquiries. We think that is a very important and a very good proposal. However, we think that, in order to put a brake on excessively party political or perhaps even vexatious proposals, they should be subject to a public interest test and possibly a parliamentary interest test. A public interest test could be through an e-petition, for example. I understand that in the UK they use e-petitions. Once the petition reaches the threshold of a certain number of signatures—I believe it is something 100,000 over there; obviously if it were implemented here it would be a lot less—then the petition committee can present the substance of the petition to the House for debate. As far as the parliamentary interest test goes on initiation by committees, perhaps a majority of the House after debate on the floor would be a suitable test. That concludes my comments.

**ACTING CHAIR:** Thank you very much. I am going to ask committee members if they would like to ask questions, but I do have one of my own to start. Going back to your point which you made in your submission, and you have elaborated on that in the statement you have just made, about committees being given the power to initiate their own inquiries, in your submission you also talk about the fact that the committees must heed government priorities. In terms of the ability of the committee to act independently in their inquiries, in some ways heeding the government agenda seems like the polar opposite to that, if you understand what I mean. I am just wondering about the relative contradiction between the two, if you do not mind my saying.

**Mr Collyer:** If you will forgive me, we have developed our thinking since the written submission. That is where we have gone on to consider how committees would do that. That is where the public interest test and the idea of a parliamentary interest test comes in.

**ACTING CHAIR:** Thank you very much for clarifying that.

**Mr HINCHLIFFE:** I want to unpack that because from what you have described about your further thinking and what you have submitted to us today in fact sounds to me as though you have stepped completely away from supporting the proposal about self-initiated inquiries.

In essence, you have described two paths for a test for the initiation of a committee inquiry. One of them is, as you have described, a parliamentary test. That is effectively what we have now. The House can refer matters to any parliamentary committee based upon a majority of the parliament supporting that sort of referral. That is what occurs now. While generally a referral is moved by someone who believes they command a majority in the House, there is nothing to stop anyone moving such a referral. It sounds to me as though you have reiterated that it is your preference to retain the power of the parliament to be the referrer of inquiries rather than there being self-initiated inquiries.

Secondly, the petition model—the model that you rightly refer to as being in place in Westminster and, indeed, in other parliaments around the world—is externally initiated. I just want to clarify that it sounds to me that you are suggesting that you are not supporting self-initiated inquiries by the committees in supporting the current arrangements with the addition of a publicly initiated reference.

**Mr Collyer:** We are not opposed to self-initiated inquiries per se. We were merely concerned about the need for there to be some kind of interest test to make sure that there are not vexatious or excessively party political inquiries launched. The specific nature of the test is up to you, of course, but they were examples of tests that could be used.

**ACTING CHAIR:** On the matter of petitions, you mentioned potential figures. You talked about the number that is required in the UK, and you may have read the submission from the Queensland Greens who nominate a particular percentage as well. In New South Wales 10,000 signatures on a petition results in the petition being debated in the House. Do you have a view on the figure or do you think—

**Mr Collyer:** I had a quick look through closed petitions on the parliamentary site last night and there are not many that get 10,000 signatures. I think there has been only one this year, but if people knew and campaigners knew that there was this threshold I think that would change the game a bit and we are more likely to get more signatures. Somewhere between 10,000 and 15,000 would be about the right ballpark.

**ACTING CHAIR:** I think the point you make about a more targeted campaign is made by the Queensland Greens as well. As there are no other questions from committee members, I thank you very much, Mr Collyer, for the information and for taking the trouble to make a submission and appear today. We really appreciate your time.

**Mr Collyer:** My pleasure, thank you.

**CONNELLY, Ms Julia, Policy Solicitor, Queensland Law Society**

**DUNN, Mr Matt, Principal Adviser, Government Relations, Queensland Law Society**

**ACTING CHAIR:** Good morning. Were you present when I made the opening statement earlier?

**Mr Dunn:** No, we were not, I am afraid.

**ACTING CHAIR:** I will do an abbreviated version of that. Thank you for coming along this morning. I am Di Farmer, the acting chair and Deputy Speaker of the Legislative Assembly and member for Bulimba. The other committee members are Miss Verity Barton, the member for Broadwater; the Hon. Mick de Brenni MP, Minister for Housing and Public Works and member for Springwood; the Hon. Stirling Hinchliffe MP, Leader of the House and member for Sandgate; Mr Steve Minnikin MP, member for Chatsworth; and Ms Leanne Linard, who is the member for Nudgee.

I will ask you to make a brief five-minute statement followed by members asking questions to gain further clarification. I ask you to note that this is a formal proceeding of the parliament and subject to the Legislative Assembly's standing rules and orders. Hansard will be recording the proceedings. Please ensure that mobile phones are switched off or put on silent. I formally welcome the representatives of the Queensland Law Society. Would one of you like to make a brief opening statement of up to five minutes?

**Ms Connelly:** Certainly. We will divide that task if we might. The Queensland Law Society is delighted to appear before the honourable members of this committee this morning. The society is the peak professional body for the state's legal practitioners, over 9,000 of whom we represent, educate and support. The society advocates for good evidence based law and good lawyers.

In response to this bill, the society raises four key points, two of which I briefly cover and the other two of which I will defer to my esteemed colleague Matt Dunn to speak to. Briefly, in response to this bill, the society supports and endorses the proposed section 26B requirement that proposed legislation must be referred to a portfolio committee. The reservation that the society would hold in relation to that is that this is somewhat muddled by the lack of definition around the concept of urgency and the lack of requirement for bipartisan support for bills declared as such. The general tenor of the objection to having no clarity or definition around that concept is that political expediency ought not to override fulsome consideration which the democratic process requires.

**Mr Dunn:** The two key issues that I would like to raise are slightly more aspirational issues at this point, but I think they are worthy of consideration. The first one flows from the fact that committees are being empowered to take own-motion inquiries. This is a very positive step and a very good development. Perhaps the next part of that process is to consider whether the policy committees can submit unanimous amendments to the House in a similar way to New Zealand. I know that the committee's report said that this perhaps was not yet the time for that step, but I think there is a process to be able to get us to that point.

One of the benefits about being able to consider a mechanism to achieve that is that it could permit the policy committee review processes to be a little more effective as an opportunity for both parties to come together and deal with some of the more complex or controversial policy issues and come to a bit of a landing in a slightly less heated environment than the chamber to determine what is picked up in a unanimous way, have that taken into the House and then refine the issues where there is some difference of opinion, some difference of view, and also to be informed by stakeholder groups and further consultation with the community. That might change the nature of the piece of legislation or the focus slightly, or in our case the Queensland Law Society deals with some unforeseen consequences or technical problems which were never really intended to be caught by the legislation and have really only arisen in the process of development and for whatever reason were not picked up before the bill was introduced into the parliament. If the process were brought to that point where those types of unanimous issues could be brought to the parliament directly rather than having to be at the discretion of the minister of the day, that may allow those sorts of things to be dealt with more easily and more quickly and not be a partisan issue as much as simply a good law issue. The Queensland Law Society's mantra is about progressing good law and supporting good lawyers.

The fourth issue we would like to raise which is a key issue is also aspirational, and it is about the role of the fundamental legislative principles which are presently in the Legislative Standards Act. They are a very valuable and very important guideline for the standards that the Queensland parliament sees as being fundamental to all good law and good legislation. Those provisions are

currently parked in the Legislative Standards Act that I mentioned. This is the piece of legislation that creates the Office of Parliamentary Counsel, and that is good, but those principles are more important than just being the concern of the Office of the Queensland Parliamentary Counsel. Those principles are the concern of the parliament, of stakeholders, of the community and of the Parliamentary Counsel.

Our submission is that perhaps in a symbolic way those principles need to be elevated into one of the more foundational documents in Queensland, whether that be the parliament act or the Constitution act because they are not simply the province of Parliamentary Counsel. Those types of principles should transcend not only the formation of legislation but also inform government policy, the administration and development of departmental policies and procedures as well as being an important yardstick to measure regulation and subordinate legislation against. Those are our four key points we wanted to bring to you today.

**ACTING CHAIR:** Thank you for giving us so much detail. I will pass over to the member for Broadwater.

**Miss BARTON:** I want to tease a little more out about how you would define bipartisan support. Given that we are in a hung parliament at the moment, it is particularly relevant. From your point of view does it have to be someone who is a member of the officially recognised opposition to achieve true bipartisan support or can it be a member of the crossbench? Given that at the moment some members of the crossbench are more conservative and some members are perhaps not, I wonder whether you thought that would be sufficient or whether it would need to be someone from the opposition.

**Mr Dunn:** Our thinking is not progressed to the state where we have an actual legislative model to portend to you. In terms of bipartisan support, what we mean by that is urgency being defined in such a way that it really deals with and speaks to issues that are and would be objectively seen by everyone as urgent issues that need to be fixed and dealt with. We were toying at one point with thinking of a list of those types of issues, whether they be national security, environmental disaster or some type of crisis situation. Ultimately, what would probably work better is if there was at least a concurrence of the formally recognised opposition and the government of the day. Ideally, it would be a unanimous issue for the House, but that might be too difficult a threshold to achieve so we will not necessarily suggest that.

Certainly I think the essence of our submission is that the urgency motion should be something that is seen objectively by everyone as being something that has that quality of urgency and therefore needs to bypass the scrutiny process for that particular reason, and being urgent for both the opposition and any crossbenches and urgent for the government of the day rather than necessarily just being something that is urgent for the policy platform of the day and a broader concept than that. I would not suggest that you would have to get every member of the House to concur, because otherwise there is no point in having urgency in the circumstances.

**Mr HINCHLIFFE:** Thank you for your presentation. Mr Dunn, I would like to talk about the matters you have raised in relation to fundamental legislative principles—where they might be best placed, how they might be best carried and conveyed in the construct, as you say, of the set of lower case ‘c’ constitutional arrangements. I want you to comment on whether you think this avenue is necessarily the best course. I know there are other broader debates going on and the potential for consideration of a legislative bill of rights in the state of Queensland. Would you like to reflect on where you think these matters are best placed?

**Mr Dunn:** Thank you for the question. There is the concurrent process around the consideration of a bill of rights, and that is another aspect to the rights framework here in Queensland and that is an important part of the discourse. If there were to be a legislatively prescribed bill of rights, then that would obviously take the role of what those fundamental legislative principles are and come over the top of those. I am conscious though that a bill of rights is a different creature to the fundamental legislative principles. While they can have a similar effect in a number of cases, it is acknowledged that the fundamental legislative principles can be overridden in certain circumstances where there is a good policy reason to do so with enough justification. Often the concerns are about whether there is enough justification in circumstances.

Perhaps the discourse around the bill of rights is about more fundamental and axiomatic elements which really are more difficult to displace. When is it appropriate to do away with the presumption of innocence, and when is it appropriate to do away with someone’s human rights, is a far more difficult matter than some of the issues that may be dealt with in the fundamental legislative principles about how administrative decision-making should have appropriate review mechanisms

and things like that. The FLPs are more rubber on the road perhaps, and a bill of rights or those fundamental human rights are more where the road is going in the first place. There are certainly two different issues in that space. They could well be connected. Depending on what the outcome may be from that process might trump that, or there may be no outcome necessarily from this iteration of that process. If that is the case, then some consideration of the FLPs is still quite valid I think and quite important.

Those FLPs have been in place since 1992. That was the work of previous parliamentary committees which identified these sort of fundamental virtually common law aspects of our parliamentary and democratic systems. Those principles are well accepted and well entrenched. They could be further entrenched I guess. The bill of rights does that but it does other things as well so there is a slightly different aspect. For example, breach of fundamental legislative principles is not an issue that anyone could claim they could seek review of a piece of legislation over, whereas some people are saying a bill of rights should allow people to bring cases to say that the particular policy or process is in breach of that. Fundamental legislative principles do not fulfil that role.

**ACTING CHAIR:** Some of our submitters have actually gone to the matter of the committee being able to initiate their own inquiries and have suggested that a trigger for doing that might be an e-petition. Does the Law Society have any views on that? Sorry to put you on the spot there.

**Mr Dunn:** That is not an issue that we have considered in the circumstances. Certainly, in terms of committees initiating inquiries, you would think that the committee should be empowered to take whatever type of feedback it wants to initiate an inquiry. If it chooses an e-petition to be the trigger for that, then that is all well and good. It might be stymieing those committees to require an e-petition before there can be an own motion inquiry. I thought the purpose of the report and the discourse of this committee was about trying to increase the scope of the areas that the committees can take their inquiries on. It may come down to an issue of whether a committee needs to come to a vote in order to be able to bring on an own motion inquiry and then what type of vote that needs to be. Is it just a simple majority of members? In that case, the government members might be able to start an inquiry without the concurrence of the non-government members. Or should it be a higher threshold than that? That may be some of those issues.

In terms of limitation, it is not an issue we have considered. It would probably be valuable that that should be an input, but it is probably not to be determinative because then there will be other opportunities that might not arise if there is not an e-petition or if an e-petition needs to be created and manufactured in order for a committee to do what it actually obviously needs or wants to do.

**ACTING CHAIR:** Thank you very much for answering that without any notice. Do any of the other committee members have any questions? If not, I thank you for taking the time to make a submission and for appearing this morning. We really appreciate that information.

### **THURLLOW, Mr Ross, Private capacity**

**ACTING CHAIR:** Good morning. Thank you very much for coming in this morning. I would like to introduce the members of the committee. I am Di Farmer, the Acting Chair, Deputy Speaker of the Legislative Assembly and member for Bulimba. The other committee members are: Miss Verity Barton MP, member for Broadwater; the Hon. Mick de Brenni MP, Minister for Housing and Public Works and member for Springwood; the Hon. Stirling Hinchliffe MP, Leader of the House and member for Sandgate; Mr Steve Minnikin MP, member for Chatsworth; and Ms Leanne Linard MP, member for Nudgee. We will ask you to make a brief statement of up to five minutes and then we will follow with members asking questions just to clarify any information that you have provided. This is a formal proceeding of the parliament so it is subject to the Legislative Assembly's standing rules and orders. Hansard will be recording the proceedings and we will provide you with a transcript. Would you like to make a statement of up to five minutes?

**Mr Thurlow:** I am here on my own accord. I am not representing any bodies, institutions or anything like that. My submission was in regards to the granting of own motion inquiry powers. This is my first time speaking in front of an audience like this, so excuse me.

On the whole, I support the amendment. I think having the power to conduct own motion inquiries is generally a good thing. In theory it should provide committees with more autonomy. Obviously, being a unicameral parliament, anything that can ensure oversight and accountability should in theory be encouraged.

Another positive I believe is it might increase public participation and consultation. Giving committees the power to conduct own motion inquiries might allow them to investigate into areas of public policy that the public would not normally get a chance to be involved in, which is obviously a positive thing as well.

The other benefit is the sort of creation of an informal separation of powers. As you probably all know, there is no real formal separation of powers in the Queensland parliament so giving more autonomy to committees could effectively be a de facto way of ensuring more of a separation of powers between the legislative and the executive.

The other thing that was touched on by the previous speakers was that it could also help ensure the protection of rights and human rights abuses. As we know, there is no bill of rights in this country in general. Although we have the FLPs—and I must stress that I am nowhere near as educated as the previous speakers are on that topic—this could be a way to prevent laws that might discriminate or abuse and infringe upon people's rights.

In saying that though, although in theory it is a positive thing to give committees the power to conduct own motion inquiries, obviously in practice things do not always work out that way. One of my biggest concerns with portfolio committees in general really is the influence of political motivations. I know I say this as I am staring across the room from MPs. I am a big fan of adopting a model similar to the CMC where you have judges basically appointed. The way I see it the purpose of the committees is to basically evaluate whether it is a good law or a bad law. I do not see how anyone is more qualified to do that than people who have served on the bench or possibly have experience in those areas of public policy. That is something that might need to be touched on in more depth, maybe even inquired into a bit further, but that is definitely something I think needs to be addressed to make portfolio committees more effective.

Another suggestion is how governments respond to the reports and the recommendations given by inquiries. As you might already know, that issue came to the forefront in the mid-2000s when the *Sydney Morning Herald* published articles about the federal government's responses to inquiries. That is obviously irrelevant to Queensland, but I still think that is something that needs to be looked into and addressed a bit more—how committee reports and recommendations are actually acted upon by the sitting government at the time.

Another issue with parliamentary committees and inquiries is the inquiry process itself. This is quite a formal process. I am somewhat educated and somewhat confident speaking in front of people in a situation like this, but the vast majority of the general public would not be able to, first of all, have the resources to even investigate into these matters and then be able to actually participate in this process. Unfortunately, I think that leads to a situation where these processes are dominated by larger interest groups because they have the time and the resources to be able to put submissions forth and to speak. Just even being able to get here, to take time off work, things like that—people do not always have that option. That is essentially all I will say for now. Sorry to bore you.

**ACTING CHAIR:** It does not bore us at all. We love this stuff. I am going to ask the member for Chatsworth to ask a question.

**Mr MINNIKIN:** I think for a first time speaker you are doing exceptionally well, so thank you for joining us this morning. One of your recommendations was that the committee be made up of people who are not necessarily MPs—people from the Public Service, members of the private sector et cetera. What would such a recommendation mean for our system of democracy, having non-elected people forming parliamentary committees? Would you be able to elaborate on that?

**Mr Thurlow:** I can definitely appreciate that angle of having unelected members being involved in the committees. My take on it is that for committees to be truly effective they need to be completely autonomous from the parliament. One of my suggestions was to have people who are not necessarily members of the parliament on the committee. Obviously, that brings up a whole raft of issues in terms of costs and where you get these people from. Someone who is an expert in a particular area of public policy might be making quite a good living in the private sector and not really have much motivation to serve on a committee. They might have to give up their job because there is a conflict of interest, so they would lose out on employment benefits and things like that.

I guess I was hoping that maybe it would just get the discussion going and possibly lead to another inquiry or just some sort of discussion on alternative ways of doing it. I look at the way that the CMC is set up and I feel that the general public has pretty good confidence in the way that the CMC operates and is run and I figure that could be a model to look at. I am not trying to take away jobs from you guys or anything like that.

**Mr de BRENNI:** Mr Thurlow, I want to take you to your recommendation about a formal public review at the end of each parliamentary term. Have you turned your mind to who you suggest ought to conduct such a review and what that review might consider?

**Mr Thurlow:** My thoughts behind that was to try to promote confidence in the general public that these committees are serving their purpose. It is a bit of a far-fetched idea because, first of all, numerous academics have pointed out that there is no real way to test the effectiveness of a parliamentary committee. There are different methodologies that have been used, but even the authors of those methodologies have acknowledged that it is not perfect. That is the first challenge with that. To address your question about who would possibly initiate it, it could possibly be a commission like the CMC, the Ethics Committee or someone who has the powers to investigate into those matters, call witnesses or whatever may be required. That is probably something that I have not thought about too much.

**Mr de BRENNI:** I am interested in your views around the accessibility or the opportunity for people to contribute to an inquiry process, and you mentioned particular challenges of individuals. You also cite in your recommendations options for greater capacity for individuals to contribute and you talked broadly about technology supporting that. Do you have any specific suggestions that you think would be useful for consideration?

**Mr Thurlow:** I think it is a bit more of a broader, complex issue. In general, the general public is not well educated enough on how, first of all, our legal system and our political system works. I think that is the No. 1 thing that needs to be addressed first. I did not learn anything in school about how parliament worked. I did legal studies in school. I learned a little bit about the legal system, but it was not until I started studying law that I actually found out what it is. You cannot teach someone a law degree in high school, but I believe that there is definitely a big gap between the knowledge of the general public and the knowledge of people who are involved in institutions like parliament, the QLS or whatever it may be. You could definitely use the internet as a forum, blogging or public consultation through a website sort of thing or even social media. Again, I feel that if the public is not really educated on how the system works and how things are working then you are not really going to get that discussion anyway. You are still going to get the same people from interest groups or whoever it may be who are educated on these matters actually participating rather than getting the greater public consultation, which is obviously what the committee and what the parliament wants.

**Mr HINCHLIFFE:** Thank you, Mr Thurlow, for your contribution. I want to try to flesh out and understand what you were talking about earlier in terms of the non-elected persons being able to contribute in a parliamentary committee process. I am guessing that that is very specifically in relation to the review role of legislation to be able to contribute to the determination as to whether the legislation is well designed and whether it is going to meet the needs of the broader community and of the policy objectives for which it has been put forward. Another way of understanding what you are talking about is in effect having some sort of standing commission which would have members, expert or otherwise, appointed to it to which the parliament would filter its legislative process. It would, in effect, refer to that commission. In effect, you are talking about the parliament remaining the legislative body but there is an external body to which the review process that is currently conducted by parliamentary committees filters to that external body. It is not really about bringing unelected

people into the parliament in the parliamentary context. It is, in fact, the very opposite of what this bill is about. It is saying that there should not be committees as part of the parliament but that there should be some sort of review process. Is that another way of looking at this and understanding it?

**Mr Thurlow:** No, I might not have explained it as well as I should have. I was not suggesting an overhaul of the committee system. I believe it is a good system. What I was more touching on was the actual composition of the members of the committee itself. Rather than having an external third party which reviews the work of the committee, possibly looking at ways of reforming the membership of the committees to maybe incorporate, like I was suggesting, people who have served on the bench or people who have served in the bureaucracy of that particular department or that particular area of public policy or someone from the private sector or somebody along those lines.

**Mr HINCHLIFFE:** There is a model of that in some respects and it is unelected upper houses. We used to have one. It did not necessarily follow that model, but the modern conception of it, in the way that they exist now that you could describe in Westminster. Certainly in the Canadian context upper houses are full of appointed experts who conduct that review process and that is where the key committee elements happen and so forth. Is that closer to the model that you are prescribing?

**Mr Thurlow:** I guess so, yes, in that way. I would say so, yes.

**ACTING CHAIR:** Thank you. Do any other members have any other questions? Thank you very much for coming in this morning. I hope your first experience has been a positive one. We would love to see you back again. I thank you for your really quite detailed submission. You obviously put quite a lot of work and research into that. Also, you made a brief reference before to the bill of rights. I do not know if you are aware that there has been an inquiry and I certainly encourage you to follow that if you are not doing so. You might find that of quite a bit of interest. Thank you very much again for attending this morning.

**Mr Thurlow:** Thank you, all.

**PINK, Mr Anthony, Queensland Greens**

**BARTLETT, Mr Andrew, Queensland Greens**

**ACTING CHAIR:** Good morning. My name is Di Farmer. I would like to introduce myself properly as well as the members of the committee. I am the acting chair and also the Deputy Speaker of the Legislative Assembly and the member for Bulimba. The other committee members are: Miss Verity Barton, the member for Broadwater; the Hon. Mick de Brenni MP, Minister for Housing and Public Works and member for Springwood; the Hon. Stirling Hinchliffe MP, Leader of the House and the member for Sandgate, who has just had to go out quite briefly but will be back very shortly; Mr Steve Minnikin MP, member for Chatsworth; and Ms Leanne Linard, member for Nudgee.

I will be asking one of you to make a brief statement of up to five minutes and then members of the committee may wish to ask you some questions to clarify the information that you have given. I ask you to note that this is a formal proceeding of the parliament and so is subject to the Legislative Assembly's standing rules and orders. Hansard will record the proceedings and you will be provided with a transcript. This briefing is being broadcast live on the parliament's website.

Could I ask that mobile phones be switched off or put on to silent mode? For the benefit of Hansard, before you start speaking in the first instance could you just state your name, please? I welcome to the committee Mr Anthony Pink and Mr Andrew Bartlett. Thank you both very much for coming. Would one of you like to make an opening statement?

**Mr Pink:** I will be making the opening statement but I believe Andrew has some extra comments to add. Thank you, once again, for inviting us along to talk about this legislation about committees. First, we would like to start with the legislation itself. We believe the legislation is perfectly fine and it should be passed as soon as you have the opportunity to do so. However, we do believe that the legislation is a bit of a lost opportunity to make our committee system a much more participatory institution, which is basically the focus of our submission. We would also like to have another look at recommendation 9 from your original report, which I believe may actually solve some of the issues that have occurred in parliament since that particular submission was finished.

We will start with the recommendation for a trigger that allows committees to start an inquiry based on an e-petition. Earlier submissions did suggest that this might be the only trigger. We are only suggesting that it be one in many triggers. We wanted a trigger that was specifically for the people to use rather than parliamentarians or the executive. We wanted it to be a popular measure, so we thought tying it to a specific petition would be a good idea. We do realise that not every e-petition should go to a parliamentary inquiry. That would be a rather wasteful use of resources, but on issues of import to the people of Queensland we believe this might be a worthwhile measure.

How we envisioned this would actually work is that an e-petition would be started by either a member of the public or by a group. If it reached a certain level of support—we believe 2.5 per cent of the voting population of Queensland, about 75,000 people—then it should automatically trigger an inquiry by a committee that is appropriate to the legislation that is being proposed or at least the area that the petition regards. We also left a trigger in there for local submissions on local issues such as road upgrades or particular placements of buildings and the like. For those, we suggested a slightly shorter process, one that required more input from the Public Service and from parliamentarians to try to come up with a solution to the problem that is being petitioned. It has a lower bar but it requires local support to make that work. We also halved the bars if it is supported by a member of parliament. There is also a reason for parliamentarians to support particular petitions. We think this is good process and we really hope that you give it good consideration.

As for recommendation 9, I draw your attention to the Electoral (Improving Representation) and Other Legislation Amendment Bill 2016 and the slightly interesting process that made it come to pass. Those legislative moves were all very interesting and very odd to the onlooking public, who must have wondered what was actually going on. We would like the committee to consider bringing back the special majority provisions in recommendation 9 which would have actually prevented that bill from going ahead in the form that it was recommended and also probably would have stopped the implementation of the third reading amendment that was passed at the last moment. We would recommend No. 9 as it is, but we would also suggest adding a second section there so that any amendments that have not been considered by a committee also be referred back to that committee at that point for further scrutiny—half the time, half the resources. I believe that it is all I have to add. Andrew, would you like to add your comments?

**Mr Bartlett:** The only thing I would add, which I think I said in my concluding comments the last time I appeared before this committee, is the importance of resourcing the committee system adequately. I know that is not central to this piece of legislation, but in terms of the principle of trying Brisbane

to improve the strength of the committee system. I noticed that one of your other submissions—I think it was Ms Hasson's—suggested incorporating some automatic appropriation into legislation so that the resourcing of the committee system is guaranteed. I am not sure how feasible that is, but do I think that nonetheless it is worth taking every opportunity to ensure. Resourcing is obviously a key part of it and the more staffing resources you have to do the research, the more comprehensive a job committee systems can do. I think that does need to be put on the record as often as possible.

**ACTING CHAIR:** I think the member for Broadwater has a question.

**Miss BARTON:** Anthony, I want to touch on what you have said with respect to the amendments. I note that you mentioned what happened in the House last year with respect to some changes to the way Queensland votes. You mentioned that it had not gone through the committee system, which is a fair observation to make, particularly given that the other changes had previously been considered by committees. When you talked about amendments that had not been considered by the committee or recommended by the committee going back to the committee before passage or unless they were voted on by the majority of the House or by 100 per cent of the House, is it your expectation that the committee would then conduct an inquiry on those? Particularly where a crossbencher or a member of the opposition moves an amendment, often those have not had a chance to be considered by the committee because they would not know what the crossbench or the opposition are necessarily thinking. Do you think that a committee could then effectively in maybe three weeks run an inquiry and then potentially report on a particular amendment?

**Mr Pink:** Just to make it clear, I am not recommending that 100 per cent of the parliament vote towards an amendment in that situation. I am recommending the special majority provisions of recommendation No. 9, which is 65 per cent plus one member of the official opposition. There was talk of including crossbenchers. That is a difficult thing to manage, but if we are only talking about crossbenchers who are not providing confidence or supply to the government that might work, but that might require quite a bit of good faith from the parliament.

With regard to your question, no, I do not expect every amendment to go back if the amendment is likely to fail anyway; just failing the amendment would probably be fine. If the amendment is likely to pass it might be worth sending it back to the committee for further inquiry, or if a vote is held and it passes but not with a special majority it could go back. Because we are talking about amendments we are usually not talking about something that is massively big, although admittedly compulsory preferential voting is a rather large change to the system. Maybe resourcing appropriately for the amendment might be a good idea, but in most cases I do not expect that a lot of amendments will require considerable input.

**Miss BARTON:** You said that if amendments do not reach the 65 per cent rule and if 51 per cent of the House voted for an amendment and it then went back to the committee to consider, how do we then move on from that? Because the House has considered and passed an amendment, are we then saying that we have to wait another three weeks before we can begin the process of the bill that has been passed by the parliament becoming law?

**Mr Pink:** Technically the amendment has failed at that point because it requires a special majority to pass because it was not recommended by the original committee. It would go back to the committee for further inquiry, but it would come back to parliament in some form in the future. I am not 100 per cent sure how that would work, but there is definitely a process that could be applied there.

**Ms LINARD:** My questions are with regard to the trigger petition trigger that you have mentioned. Firstly, I assume that that is around serving public interest if the public is particularly interested or concerned about a matter and you feel it is an appropriate trigger or a trigger that could be used to reflect that. Do you have any comments or reflections on whether it may also be used by interest groups with their resources to harness the numbers to be able to bring a matter before the parliament which may not be a key concern for the public?

**Mr Pink:** Certainly that is a concern, but on the other side of that coin if it has met the requirements of the parliament, then maybe it should be considered. Yes, there is a distinct possibility that a lobby group I do not particularly like would get an inquiry into something that I did not want considered, but on the other hand we still have a sensible, reasonable parliament and executive to make sure that the excesses of those particular processes are not passed as they are. It is sort of like having a citizen-initiated referenda with a control from the executive and the government to make sure that the things are appropriate for everyone in the state rather than just a small number of people in the state.

**Ms LINARD:** When you say a citizen-initiated agenda that is the heart of the question. Do you feel that it would be a genuine citizen-initiated agenda or that it would be an agenda that can be captured by those interest groups?

**Mr Pink:** It could be either. I would imagine that some groups would want to see a particular change and some would be driven by particular interests, but at the same time if those interest groups can convince enough people to support a particular inquiry maybe that inquiry should be considered at the very least. I am not suggesting that it should be law or should change the executive's legislative agenda, but it should at least be considered.

**Ms LINARD:** Do you have any thoughts about verification and authentication of signatures or what process should be required to ensure that it meets the bar around that?

**Mr Pink:** I am suggesting that the electoral roll be the basis for any e-petition that wants to come up to this criteria. We would probably do it the same way that you would check your enrolment online. If you can provide your name and address and date of birth, all of the things that make you on the electoral roll, then you have probably signed up to the petition.

**Ms LINARD:** Mr Pink, do you have any thoughts about if this approach was adopted, whether there should be some limitation placed on whether an issue that may have already been looked at is looked at again, what time period that might be? In my particular case I am looking at a particularly emotive issue currently. If people were unhappy with an outcome they may be able to get an e-petition continuously.

**Mr Pink:** Yes, in the submission that we wrote we suggested that each issue only be addressed by parliament once in the term.

**ACTING CHAIR:** Member for Nudgee, I am going to move to the member for Springwood because we only have a limited period of time.

**Mr de BRENNI:** My question relates to the issue of thresholds. You mentioned that one of the caveats on achieving such a threshold is that the issue cannot have been the subject of a successful petition in the current term of government. Does your submission assert that a petition that supports a particular proposition, if successful, cannot be followed by another petition even if it has a greater number of petitioners that opposes a particular proposition? Is that what your recommendation asserts?

**Mr Pink:** If it has been considered by a parliamentary committee and a recommendation has already been made, another submission—even if it opposes the original submission—would not necessarily change the outcome of the committee. My suggestion is that in one term your committee is only going to come to one conclusion on a particular topic; however, if there is a part that was not addressed in the first that should have been addressed, a significant variation from the original petition, then maybe there is an argument. I am not too sure who could make that decision. Maybe the committee itself could make a ruling on that.

**ACTING CHAIR:** The time for this particular session has expired, but thank you very much for your submission to the inquiry in writing and also for taking the trouble to appear this morning. We very much appreciate it.

**MATHEWS, Mr Brynn, Private capacity**

**ACTING CHAIR:** Good morning, Mr Mathews. I would like to introduce the members of the committee this morning. I am Di Farmer, the acting chair of the committee, Deputy Speaker of the Legislative Assembly and member for Bulimba. The other committee members are: Miss Verity Barton, the member for Broadwater; the Hon. Mick de Brenni MP, the Minister for Housing and Public Works and member for Springwood; the Hon. Stirling Hinchliffe MP, the Leader of the House and member for Sandgate; Mr Steve Minnikin MP, the member for Chatsworth; and Ms Leanne Linard, the member for Nudgee.

The purpose of this hearing is to provide witnesses like yourself with an opportunity to appear before the committee and elaborate on the written submission that you have already made. I am going to give you an opportunity in a moment to make a brief statement of up to five minutes. I ask you to note that this briefing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. Hansard will record the proceedings and we will provide you with a transcript. This briefing is being broadcast live on the parliament's website. If you do have a mobile phone, I would ask you to switch it to silent or switch it off. For the benefit of Hansard, if when you first start speaking you could state your name we would be very grateful. I also note that you have made some quite considerable effort to get down here today to appear before us, and we are very grateful for that. Thank you very much for taking that trouble. Would you like to make an opening statement?

**Mr Mathews:** Thank you very much for the opportunity to appear in front of you. I am a little disappointed that so few people have bothered to make submissions on this bill. I think that highlights some of the problems with the process unless you are continually monitoring the parliamentary committee's website or you get the emails like I do. I am appearing today as an individual, but I am also on the management committee of the Environmental Defenders Office of Northern Queensland based in Cairns. In my role in that organisation I have appeared in front of four or five parliamentary committees from the planning bills in 2014 up to most recently the vegetation management bill, so I have some experience of different committees and different processes and how they work.

Basically, my submission is that I support the bill because any improvement in the committee system is an improvement, but I feel it falls short of a system where you have good separation of powers between the executive and the parliament and the community as well. My observations of a number of committees I have appeared in front of is that the committee sends its report back to parliament and parliament has just basically put it in the bin. They have just ignored very specific recommendations in a number of instances in the Mineral and Other Legislation Amendment Bill, the Ports Bill and a whole range of different things like that. I know there are over 1,000 submissions on the vegetation management bill and the committee hearings were quite chaotic in some sense. I found that—without identifying any particular members—the views they came into that hearing with were very clearly on display, and if your response did not fit what they wanted to hear you were cross-examined et cetera, because there were obviously very heated issues on the vegetation management bill and a lot of very conflicting views.

A lot of people did not seem to realise that it was part of the previous government's commitment under the Reef 2050 Plan. You had to enact it. End of story. You could not throw it out, because the World Heritage commission would be on your case and the Great Barrier Reef would be listed at risk. I think there is a lack of understanding of what the committee's role is and what the role of the legislation is that you are looking at in a lot of cases and how it all fits together.

I was quite ignorant of the role of parliamentary committees for a very long time, particularly the separation of powers between cabinet, executive and parliament. I thought that they were all the same thing. I realise now they are not, obviously. There is the separation of power there, but the power goes one way. I think it is really a great idea that a committee is appointed at the start of a parliament, it has a specific role to deal with a specific series of legislation and it is not just at the whim of the minister whether a piece of legislation goes to review or not. I think that is really important.

I also think that it falls short in that the committee—its deliberations—can be so readily ignored when it goes back to parliament. I do not know how we get around that. I listened to the other presenters today. I really think that the idea of the committee being able to initiate its own hearings is invaluable but we just have to work out what the triggers of that are going to be and what the opportunities are for the community. I think the community needs to have the support of at least one MP to put a trigger up to a committee and how those opportunities are managed to try to make the whole thing work a bit better.

At the end of the day, as I said in my submission, it is a really poor substitute for a proportionally elected upper house. It will be 100 years since Queensland became unicameral in another seven years. I think, personally, there is a strong public mood for an upper house. I know that it is Greens policy, because I have had a look at that and checked it, but this is what we have to deal with at the moment. This bill is an improvement on the current situation, but it still falls well short of a proportionally elected upper house as a house of review.

**ACTING CHAIR:** Thank you very much. I think the members have a few questions to ask you. I am interested in the point you just raised then about potential triggers for the committee to initiate its own inquiry. I know that you did not cover that in your written submission, but I wonder if you have any views on the matter that has been raised by a couple of submitters—that one such trigger might be an e-petition of a particular number. Do you have any views on that?

**Mr Mathews:** I am very concerned about the idea of populist politics. You only have to watch the Republican convention in America to see how alarmingly wrong that can go. Also, I scrutineered our elections in Leichhardt. I was very alarmed at the rather large piles of votes for the One Nation party as they came out. It was very odd. I thought the communities who were voting in that way were generally a lot more multicultural than was indicated by the stack of votes that One Nation was getting from that booth.

I do not really endorse the idea of particularly an online petition, because it is very easy to get people excited and agitated and to generate thousands of people signing off on electronic petition. I think it does need to be more formal. It needs to be something like a parliamentary petition presented by an MP where you have to go through a more lengthy process than just ticking a box in an e-petition; you have to go to the parliamentary website, you have to put your data in and you have to make more effort.

**ACTING CHAIR:** Thank you very much for that. Leader of the House?

**Mr HINCHLIFFE:** Thank you, acting chair and thank you, Mr Mathews, for your contribution and for your attendance today. I note your comments in your submission and in your presentation to the committee at this hearing today about your experience and observation of committee members at committee hearings bringing, as you have termed it, their bias to bear into the space of the hearings and, obviously, therefore, the consideration of matters before committees. You suggest that a better solution to that would be committees being founded in an upper house elected by proportional representation. I would be interested to understand how you think that would result in fewer entrenched and, to use your term, biased positions being presented at committee hearings. Clearly, in an elected circumstance like that, those members would be representative of particular positions in the same way that members of the Legislative Assembly are and, in fact, potentially more entrenched because proportional representation means that they could have a particular narrower world view, including those that you have just suggested that are not particularly ones that you would favour and support.

**Mr Mathews:** I have no problem with that. You would you get more diversity of views. I appeared in front of the planning committee in 2014 with the Newman government's planning bills. I was very interested. I think Cairns was the first place where it was held and almost everybody there was scathingly critical of that bill. The committee's report did not reflect that. Local government said, 'Why are you messing it up? It is going to cost us a fortune to redo all of our paperwork and websites and everything else.' Other regions where they went I think were a lot gentler with the committee on that legislation. Certainly, there was no-one in Cairns who felt that it was a good idea at all. It seemed to be change for the sake of change.

One of the previous presenters talked about professionally qualified people and various boards. I would reflect on the composition of things like the Wet Tropics management committee, the Great Barrier Reef management committee et cetera where you go out and you actively seek qualified people within the community with specific interests and knowledge in a particular area. I think there is an opportunity there to generate committees that have a broader cross-section of views that are not quite as politically biased.

Historically, the upper house was scrapped by the Theodore government because it was stopping the corrupt way they were running the state. We need to remember that an upper house is a house of review. It is meant to present a balance. Sometimes it does not work very well, but I think it works better than a single unicameral parliament where it is at the mercy of massive swings in representation without any balance.

**ACTING CHAIR:** Thank you. Member for Springwood?

**Mr de BRENNI:** A number of witnesses, including yourself, have spoken about what you have indicated in your view is an apparent lack of awareness or ability to engage with the parliamentary committee system. I am wondering whether you think that it is the responsibility of the parliament to elicit a greater level of engagement from the public or whether you think that it is the role of advocacy organisations that might have a particular interest in the matter before a parliamentary committee?

**Mr Mathews:** I would agree with one of the previous presenters in that often the people get to these committees, including myself in this, because we have taken an interest in the legislation and we have been monitoring the various websites and getting the email bulletins. The general public has no idea. The general public would not even know that the parliamentary committee system existed as a review process for legislation. They would not even know about the separation of powers, really, because it is not something that people even bother to think about. They elect the government and they just think, 'They'll get on with it' for four years now—previously for three years. I think I have lost track of your question.

**Mr de BRENNI:** Do you think that the parliament could, in some respect, rely on advocacy organisations to develop that interest in the public in matters before committees?

**Mr Mathews:** Right. Yes, I think that the advocacy organisations—and I do not exempt myself from this—are the squeaky wheels. If you are really trying to get broader public input into these things, often you have to try to find some way of doing it that is better than it is at the moment, where only the advocacy groups understand the process and know how to use it. That is obviously going to bias the committee's hearings in a big way. I saw this with the Vegetation Management Act.

**ACTING CHAIR:** Thank you. Member for Broadwater, do you have a question?

**Miss BARTON:** Thank you very much, Madam Chair, and thank you very much, Mr Mathews, for making the trek down from Cairns. I think that we can all appreciate the commitment that you have shown, as a voter in Queensland, to wanting to make the committee system as good as it possibly can be. I am sure that we all appreciate the significant effort that you have gone to. I wanted to touch on your comment about committee reports and how governments respond to them and how the parliament responds to them. One of the things that had been mentioned by an earlier witness—and you may or may not have been here—is they drew the committee's attention to the process in New Zealand, where members of parliamentary committees in New Zealand are allowed to effectively make amendments to the legislation without the permission of the House. The recommendations of the committee effectively get put into the bill and then the parliament votes on the bill as it comes out of that committee. Do you think that that is an appropriate way of dealing with it—that only six members might deal with the amendments—or do you think that maybe we need to find some middle ground in between what your perception is based on your experience and what New Zealand is doing?

**Mr Mathews:** Yes, we definitely need some middle ground. With the sustainable ports bill, the committee hearings came back with a strong recommendation to the government that Cairns should be included in that list. I personally felt that Cairns should not have been included as an extra port. The whole thing about the ports bill was, again, trying to meet the requirements of the Reef 2050 Plan, which has a series of commitments to the World Heritage commission to maintain the status of the Great Barrier Reef World Heritage area. Yes, it is fairly easy for committees to be overwhelmed by public advocacy at times. In that situation, they could easily amend legislation in a way that really is not appropriate and is not delivering the desired outcomes of the legislation.

**ACTING CHAIR:** Thank you very much, Mr Mathews. The time for this session has expired. I do not think that any other committee members have any other questions. We would like to thank you again very much for taking the trouble to make a significant submission and, as we have just said, making the trek down from Cairns to appear before us. We are very grateful. Thank you.

**Mr Mathews:** Thank you.

**ACTING CHAIR:** On behalf of the committee, I would like to thank all of the witnesses who have appeared before us today. A transcript of this hearing will be available on the Hansard page of the parliament's website in the next few days. I now declare this hearing closed.

**Committee adjourned at 10.29 am**