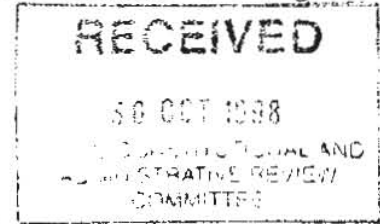


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Submission No 26



**CENTRE FOR THE STUDY OF ETHICS
in the Market, Government and the Professions**

28 October 1998

Mr Gary Fenlon MLA
Chair, Legal, Constitutional and Administrative Review Committee
Legislative Assembly
Parliament House
George Street
BRISBANE 4000

Dear Mr Fenlon

Inquiry into Issues of Electoral Reform Raised in the Mansfield Decision

I am happy to provide a brief submission on this matter.

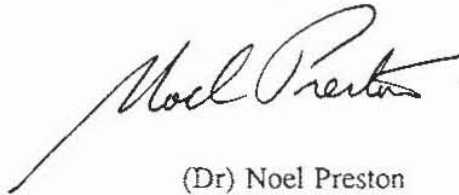
1. **Regarding how to vote card specifications:** I support Mr Justice Mackenzie's conclusions in para 153 that the Electoral Act should clearly require not only "the name of the party on whose behalf or on whose candidate's behalf it is distributed" (or where there is no party, the identification "independent" must be clearly stated), but also that that identification should "be printed in type of a size which is sufficiently large to be easily read and is not overwhelmed by other printing on the card".

The point is that material distributed on election day (or indeed throughout election campaigns) should not set out, or appear to set out, to deliberately mislead voters. In addition, as Justice Mackenzie says in para 148, "the electoral system nevertheless ought to at least minimise the opportunity to engage in conduct directed towards obtaining a preference which, while not unlawful, is likely to exacerbate disillusionment with the political process".

2. **Regarding the possibility of appeals to the Court of Appeal from decisions.** I have no firm view on this. Recognising that it is important to finalise these matters expeditiously, your committee may consider whether the sitting of the Court of Disputed Returns should either be before the members of the Court of Appeal or before, say, three judges of the Supreme Court.

I interpret your committee's terms of reference to exclude consideration of the question of optional preferences even though the extract from the Mackenzie judgment at paras 145, 146 and 147 refers to this matter. My view remains that EARC's recommendation for optional preferential voting is still valid as it represents the most democratic, practical voting method in our Australian context. It is not clear to me why it necessarily raises more practical problems of the sort in the Mansfield case than compulsory preferential voting could. In any case, clear action of the kind supported in this submission should act as a remedy.

Yours sincerely

A handwritten signature in black ink, appearing to read "Noel Preston". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

(Dr) Noel Preston