

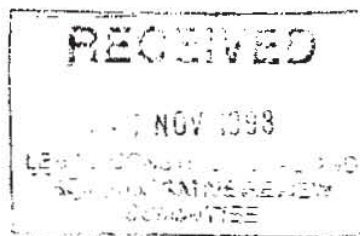


The Liberal Party of Australia

QUEENSLAND DIVISION

Submission No 35.

2 November 1998



Mr Gary Fenlon MLA
Chair
Legal, Constitutional and review Committee
Parliament House
George Street
BRISBANE 4000

Dear Mr Fenlon,

Thank you for the opportunity of forwarding a submission to the Legal, Constitutional and Administrative Review Committee of the Queensland Legislative Assembly on matter of electoral reform raised in the recent Mansfield decision before the Court of Disputed Returns.

Attached is a copy of the submission from the Liberal Party.

Should you require further information please don't hesitate to contact me on 3252 1316.


Greg Goebel
State Director

**SUBMISSION BY THE LIBERAL PARTY OF AUSTRALIA (QUEENSLAND
DIVISION) FOR THE INQUIRY INTO ISSUES OF ELECTORAL REFORM RAISED
IN THE MANSFIELD DECISION.**

2 NOVEMBER 1998

The Liberal Party of Australia (Queensland Division) welcomes the opportunity to present it's case for electoral reform to the Legal, Constitutional and Administrative Review Committee of the Queensland Legislative Assembly.

This report will outline the Party's belief and stance on the issues pertaining to how to vote card specification requirements and the need for the return of Compulsory Preferential voting.

Queensland's Voting System and the need for reform

At the 55th Annual Convention of the Liberal Party, delegates from branches across the State of Queensland overwhelmingly supported a call for the State Government to abolish optional preferential voting and reintroduce compulsory preferential voting as soon as possible.

The Party strongly believes that the ultimate conclusion of allowing an optional process for the allocation of preferences is that Governments could emerge that cannot claim to have been elected by a majority, regardless of the fairness or otherwise of the boundary structure.

The Party rejects the notion that Compulsory preferential voting forces a voter to vote for a candidate whether or not they feel inclined to do so. The Party believes that under compulsory preferential voting a voter is able to specifically indicate who they do not want to represent them by placing the candidate in question last.

By simply leaving boxes blank on a ballot paper, there is no guarantee of accountability nor does it bring about more democratic government.

The Party believes that optional preferential voting is a 'cop out' and that it is the democratic obligation of a constituent to allocate full preferences so that their full voting choice is heard.

This view is also held by the Anglican Archbishop of Brisbane, the Reverend Peter Hollingworth who warns that optional preferential voting can lead to instability and uncertainty, he also believes that a Queenslanders need to indicate their real preference for government instead of providing only one choice.

The system of Optional Preferential voting also provides for great confusion throughout the State as Federal Elections are conducted under the compulsory preferential voting system. This was particularly evident in 1998 when the Federal Election almost immediately followed the State Election.

In the 1998 Federal Election, the informal votes in Queensland rose to 3.33% of the total votes cast, this was an increase of .77%.

There has been a disturbing increase in the informal votes cast in the State of Queensland since the introduction of Optional Preferential voting, and has been shown from figures from the Australian Electoral

Commission to have been primarily because voters have not indicated a second preference vote.

Indeed Party scrutineers in the recent Federal election reported significant informal votes for both major political parties from voters who simply placed a number "1" in the box for the House of Representatives. This appears to have occurred in those electorates which, in the recent State election, had strong campaigns mounted to encourage voters to simply place one number in the square.

In a report tabled in the Queensland Legislative Assembly in 1991, the then Chairman of the Electoral and Administrative Review committee, and current Attorney General, Minister for Justice and Minister for the Arts, the Hon Matt Foley MLA said that '... while this proposal (for optional preferential voting) would achieve a desirable result in not forcing voters to declare preferences they do not have in order to avoid having their vote declared invalid, it would however be inconsistent with the compulsory preferential voting at Commonwealth elections and thus tend to give rise to confusion and resultant voting invalidity...'
(Parliamentary Committee for Electoral and Administrative Review, 1991, p ii)

In the Mansfield Judgement handed down by the Honorable Mr Justice Mackenzie the Judge stated that he believed that the system of Optional Preferential Voting brought about significant disillusionment with the political process with a major party as they tried to influence minor party voters. This was not only evident in the seat of Mansfield, but in many other close contests around the state as persuasion of electors both to record a preference at all and to record it in a particular way were particularly important objectives.

Justice Mackenzie believes that the electoral system ought to at least minimize the opportunity to engage in conduct directed toward obtaining a preference which, while not unlawful, is likely to exacerbate disillusionment with the political process.

The re-introduction of Compulsory Preferential Voting has also received the support of the National Party of Australia (Queensland Division) and in the case of the Australian Labor Party, notwithstanding its existing policy of supporting optional preferential voting, its written submission and oral submissions to the Mansfield decision advocated compulsory preferential voting.

The Liberal Party is of the view that electors in Queensland face a distinct disadvantage with the confusion of the different voting systems used at a State and Federal level.

Furthermore the optional preferential system of voting in Queensland gives some electors more say in the election outcome than others – making it manifestly unfair. This is because, in effect, the system allows for three different voting systems to occur at the same time, namely “first past the post” voting, “partial preferential” voting, and “full preferential” voting.

In the case of those who chose “first past the post” by allocating only a “1” vote, their vote is, by that action, exhausted with their candidate unless the candidate is elected. Those who chose a partial or fully preferenced vote for a candidate that is eliminated are given a further “voting opportunity” by having their preference vote counted in a distribution of preferences. In other words a preferenced vote counts for more in the final outcome of candidate election, particularly in the case of minor party candidates.

In the case of the Senate voting System, where “above the line” voting can take place, political parties allocate their preferences so that electors know that a number “1” vote for a political party automatically follows a predetermined preference allocation.

It does the political process no good to have a system that causes confusion, or misleads voters into thinking that their method of voting at one level is similar to that at another level, or enables some voters to have more influence or say in the final outcome of the successful candidate.

In view of those concerns it ought to be the responsibility of legislators to provide consistency. Therefore the committee ought to recommend a return to the system of compulsory preferential voting for State elections and ensure consistency with the Federal voting system, and equity in the voting influence of electors.

How to Vote Card specification requirements as currently set out in Section 161 of the Electoral Act.

The Liberal Party agrees with the decision of Justice Mackenzie in the Mansfield decision that there needs to be reform to the Electoral Acts to ensure that these circumstances in respect of the manner in which the second preference cards were handed out do not repeat.

In the Mansfield decision it was proven that supporters of the Australian Labor Party Candidate for Mansfield, Mr P Reeves MLA, handed out second preference how to vote cards to appeal to One Nation voters in a manner that was likely to mislead electors into thinking that they were campaign workers for One nation.

In accordance with the Electoral Act (S.161) the how to vote card was authorized with the name and address of an ALP official in the bottom corner of the card.

Evidence presented in the Mansfield decision proved that although the distribution of second preference cards was a legitimate practice, many voters became angry when they realised that the card in question was an ALP card and not a One Nation card in this situation. It was proved that this card was distributed by supporters of the Labor Party candidate, who did not have any party identification.

It is to be noted that the Liberal Party did also hand out second preference cards in the State seat of Mansfield, however, Justice Mackenzie confirmed that this card was unlikely to confuse the unobservant as to its origin since the one card was addressed to intending voters of three parties, not just One Nation. Furthermore the liberal Party workers handing out the cards were identified as Liberal Party workers.

The Liberal Party believes that it is a legitimate for political parties to seek the preferences votes of electors. And it is also legitimate to educate or explain to voters the likely electoral consequences of allocating preferences in a particular manner, or to one political party before another political party. Therefore the Liberal party does not object to preference cards - whether they be in the form of a recommended numbered preference card or a message based preference card.

However the Liberal Party is of the strong view that in seeking preferences from electors at the polling booth, party workers must not engage in practices of deception which may lead electors into thinking that the person handing out the preference card is representing another party other than that whose organisation authorised the production of the card.

The Liberal Party believes that the act must be reformed to minimize the possibility of situations such as this arising again.

A number of remedies are available which should be considered.

These would include:

- a clear authorisation on the card indicating the name or logo of the political party which produced the card, and in suitable typeface and font size as to clearly readable
- a requirement for the party workers handing out the card to display clear party identification. This could be in the form of a party identification badge. In the case of independents, identification that the person was representing an independent candidate

The Party supports the view of Justice Mackenzie and believes that there would be little room for confusion. These measure would be inexpensive to implement and would fully inform the voters before they decide whether to give a second or subsequent preference.

The Liberal Party also agrees that there would no practical problem about including the party's name prominently on the card and that it would be difficult to see any reason why there would not be cross party support for this implementation.

The Liberal Party does not support any pre-registration or any pre approval process for such cards. Such a requirement would place undue time constraints on the Electoral Commission and also political parties. Furthermore it could technically require the approval of eighty – nine original documents for a political party, which in turn would need to be conveyed to all presiding officers and their staff. Such a process is uncalled for and would be bureaucratically cumbersome.

Rather simple changes to the Electoral Act recognising the existence of political party second preference cards and how they can be authorised and distributed would be more acceptable and easy to administer.