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Submission No 18

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10 December, 1999

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

Facsimile: 3406 7070

Dear Gary,

Please find attached a submission from the Queensland Branch of the ALP on the review of Queensland's Electoral Act.

The submission deals with aspects of the Committee current inquiries.

If the committee needs to seek any further clarification of issues raised or opinions expressed then the ALP would be available to submit further written information or appear before the Committee.

Yours sincerely

Mike Kaiser
 STATE SECRETARY

SUBMISSION TO THE LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

Inquiry into issues of Queensland Electoral Reform.

There are two main areas the Committee has asked for comment upon.

The pending changes to electoral enrolment procedures and the wider issue of roll management.

The ALP believes that there are a number of guiding principles, that were also touched upon in the 1991 EARC report into electoral matters, that should also be dealt with by the committee in their deliberations.

Though not exhaustive, the guiding principles are these:-

- ◆ a commitment to electoral and procedural fairness
- ◆ a citizens right and responsibility to vote
- ◆ and the elimination of the potential for electoral fraud.

These principles require our electoral system therefore to be open, accountable and at all times remove impediments to a citizen exercising their right to vote.

The ALP believes however that some of the proposals before the committee and certainly the laws passed at the Commonwealth level do deliberately frustrate a citizen exercising their democratic rights and rather than stopping electoral fraud as was the stated aim, further undermine the public's confidence in the validity of any electoral result.

The ALP believes there are a number of concerns in relation to changes in enrolment procedures.

The Commonwealth's changes to electoral laws drastically restrict the ability for people to easily enrol and as noted in the committee's own Background Paper place 'significant hurdles' in the way of people choosing to enrol.

The Commonwealth Electoral Act as amended by the Electoral and Referendum Amendment Bill (No 1) 1998 provides for enrolment procedures that are highly restrictive, requiring original documentation such as birth certificates(not extracts) or a signed statement from a proscribed voter that has known the individual for at least 12 months.

These procedures appear more difficult than obtaining say a Tax File Number or a drivers licence.

The Commonwealth legislation and supporting draft regulations indicate requirements such as people needing to send their original birth or marriage certificate to the AEC,

or being known for more than 12 months by a member of say the armed services who has had five years continuous service

Put simply it will be impossible for many individuals to comply with these sorts of requirements.

These changes represent a direct attack on our democratic system and is reminiscent of similarly restrictive laws introduced by some Southern states in the America between the 1890's and the 1960's aimed at denying the right to vote for African-Americans by restricting their right to enrol. It took a federal Voting Rights Act in 1965 to restore those citizens rights in the United States of America.

These changes also have strong practical considerations in Queensland.

Many Queenslanders, whether they were working out West or having just moved to the Gold Coast from down south would find it almost impossible to comply with the Commonwealth changes. Many people could simply choose not to enrol because they would find it too burdensome or impractical to do so.

It has already been established that over 100,000 Queenslanders eligible to enrol under the previous administrative procedures are not on the roll. Any further restrictions will see even more Queenslanders who were eligible to vote being denied that opportunity to do so.

It is worth noting recent newspaper articles in both the Canberra Times(3/12) and the West Australian(8/12) that deal with results of restrictive enrolment procedures introduced by the Liberal Government in West Australia in the 1970's. At the end of the period in which this restrictive laws existed some 45,000 fewer West Australians were on the State Roll compared to that of the then Commonwealth Roll.

A commitment to increasing the number of Queenslanders exercising their democratic opinions can only strengthen our system of Government.

A further misguided and ill informed view behind these legislative changes was to restrict the incidence of electoral fraud. This conclusion was drawn by the majority of the members on Joint Standing Committee on Electoral Matters despite the Australian Electoral Commission stating in their submission to the JSCEM that no evidence of electoral fraud existed that could have changed the result of an election.

If the AEC hasn't found any electoral fraud, then what possible motivation can there be for introducing draconian administrative procedures designed to restrict people's access to the enrolment process?

The Commonwealth legislation seems more motivated at stopping people being enrolled than stopping any potential electoral fraud.

In addition the JSCEM saw the need to increase penalties for fraudulent witnessing even despite their highly restrictive list of supposedly notable witnesses such as police officers. This only further highlights that the changes have little or anything to do

with limiting the possibility of fraud, but more about restricting those who can obtain enrolment.

The second issue raised by the committee is one of roll management.

Though this will be dealt with in answering the 8 questions posed by the background paper, the ALP broadly accepts that given the changes at the Commonwealth level, there may be an increased administrative burden on the Queensland Electoral Commission if Queensland is to maintain an open and administratively simple enrolment procedure.

In a computerised age though, the administrative burden of managing such a roll is not great. The distribution points through State Government agencies and Australia Post offices would increase the availability of enrolment forms.

In relation to increased costs, it is the ALP's understanding that currently the Joint Roll Agreement with the Commonwealth costs Queensland over \$1.3million. Clearly this money would be directed to Queensland's efforts if we were maintaining the roll.

The Background Paper talks of the idea of further data matching that would become available if the roll was managed at the State level. Though naturally there are privacy considerations, this data matching could actually improve the integrity of the roll.

The ALP believes sufficient expertise and ability resides with Queensland Government authorities such as the ECQ and CITEC to manage the Queensland Roll.

In summary the ALP believes the following about the 8 questions as put by the Background Paper.

- 1 The ALP believes the Electoral Commission of Queensland has a primary focus on ensuring that as many eligible Queenslanders exercise their right to vote and if this requires increased controls then the ALP is supportive of increased resourcing and legislative changes
- 2 The notion of a Queensland Roll in the computerised age is more acceptable than the system that existed previously in Queensland with separate rolls held on manual ledgers that led to people being able to vote in Commonwealth elections and not in State elections and vice versa. As long as the separate roll increased participation of all eligible Queenslanders then the ALP would be supportive of these moves.
- 3 Any separate Queensland Roll should be computerised and a body like say CITEC should be given responsibility to maintain the computer records at the direction of ECQ.
- 4 The issue of data matching would certainly improve the integrity of the roll. Certain levels of data matching integrity would have to be put in place so the individuals are correctly matched. The additional linked information such as rates notices, electricity accounts or the like could be used.

In fact the integrity of the roll after such data matching would provide a higher level of integrity and safeguard against possible electoral fraud than the current highly restrictive Commonwealth Electoral Act provisions.

However if this matching was achieved the ALP believes an 'automatic' updating should occur with written advice being sent for the individual to change the information if necessary. The individual's enrolment would be automatically updated, unless advice to the contrary was received.

- 5 Data matching does create privacy issues, that's why having a body like CITEC administer data matching would ensure that information was being used purely for government purposes. Given that it is a requirement of the current Electoral Act that your enrolment is kept current this service is merely assisting the individual to remain correctly enrolled.
- 6 As outlined above the best method of balancing an individual's right to privacy and the right to vote would be for data matching to produce a letter with enrolment forms to be sent to the new address for the matched individual and then the individual elector authorises the enrolment change.
- 7 Given that enrolment is both a right and a responsibility, enrolment forms should be as conveniently available as possible to individuals. Having forms available at Transport centres and other government service offices would only enhance our enrolment procedures.
- 8 The ALP firmly believes that our current system has the right balance between accessibility and safeguarding the integrity of the roll. As stated earlier the ALP believes that using new technologies may only enhance the accuracy and maintain high levels of enrolment.

The challenge for Queensland is to make sure that democratically elected governments reflect the view of all eligible Queenslanders.

Any restriction or hindrance placed in the way of Queenslanders exercising the right to vote risks a fundamental change to our open and accountable system of government.

The ALP wishes the committee well in their deliberations and trusts that the committee will protect the rights of Queensland electors.