

DEPARTMENT OF GOVERNMENT

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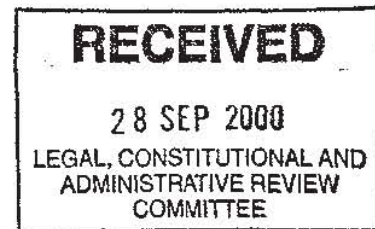
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*Submission No 4*

27 September 2000

Mr David Thanhausser  
Acting Research Director  
LCAR Committee  
Parliament House  
George Street  
BRISBANE QLD 4000



*Spec 33.2*

Dear David,

Please find enclosed my submission in response to the LCAR Committee's Issues Paper - September 2000, Inquiry Into the Prevention of Electoral Fraud.

My submission falls into two sections. The first deals with general matters in the purview of the Issues Paper, while the second addresses some of the specific issues canvassed on pages 13-15.

I have no wish to claim any confidentiality with regard to my submission, or any part thereof.

Yours sincerely,

Associate Professor Paul L. Reynolds  
Reader in Australian Government  
Department of Government  
The University of Queensland

## **Submission to the Legal, Administrative and Constitutional Review Committee of the Queensland Parliament in response to Issues Paper - September 2000: Inquiry into the Prevention of Electoral Fraud.**

### **Introduction**

While it would be idle to pretend that concern with matters of electoral fraud, which became prominent, in Queensland, in the latter part of 2000 did not stem from the conviction of Karen Ehrman, the issues at stake go beyond the facts of her specific case, as acknowledged by there now being CJC, LACRC and Commonwealth Parliamentary Inquiries into aspects of this case. Nothing taints the democratic process more than doubts over the integrity of the electoral process. Queensland's sorry experience from 1949 to 1989 of a malapportioned electoral system bears eloquent testimony to this, as recognised by the first recommendation of the Fitzgerald Report, that EARC establish an inquiry into the then electoral system.

The LACRC is right to stress (page 3 of the "Issues Paper"), "that Queensland's electoral system is [now] considered to be among the best in Australia, and that Australia's electoral systems are considered to be amongst the best in the world" but electoral systems, to enjoy such reputations, have to be like Caesar's wife Calpurnia - above suspicion. Despite the circumstances of the current inquiry, it is no bad thing that, eight years after the enactment of the EA, crucial aspects of the integrity of the process are up for inquiry.

### **Political Parties**

No where in the Issues Paper is the role of the political parties in the electoral process directly addressed. At one level this is understandable as the last thing a parliamentary inquiry needs is a protracted partisan debate to mire the committee in endless point-scoring as a way to

avoid electorally salient matters. However it is crucial not to lose sight of the parties as central players in electoral politics.

That having been said, the parties, in Australia, stand in a twilight zone. They are unrecognised by the Constitution (save for the casual Senate vacancy amendment passed by referendum in 1977) and are essentially private organisations with their own rules, procedures and processes. As such they stand beyond the scope of parliamentary regulation except where their internal operations impinge on the political (especially electoral) processes of the state. For example, Ehrman was not convicted of violating internal ALP processes, but of perpetrating electoral fraud. The connection was that she behaved fraudulently with regard to the latter, to corrupt the processes of the former.

Here then is the junction between the parties and the public sphere of politics. While electoral reform in all jurisdictions, from 1984, took electoral matters away from the Governments of the day and vested them in neutral and independent statutory authorities, the various Electoral Commissions, it is still the parties which operate the system by pre-selecting candidates supplying the campaign and being allocated constitutionally sanctioned positions (Government or Opposition) by the results. All parties, major or minor, together with Independents have a vested interest in the system and its operations, and all will utilise data and infrastructure provided by the electoral system for their own internal and particularist ends. It is now time for all political parties to enact protocols and transparent procedures in the way they utilise and deal with electoral rolls, postal voting, special postal voting, pre-poll voting, absentee voting and unenrolled voting.



The time is long overdue for the parties, now registered with the Electoral Commission, to furnish to the Commission, an account of how they used public information in their pre-selection procedures, advertising, policy processes and the like. Parties receive public funding based on electoral results and have to disclose funding details by way of donations. However the Hanson and One Nation case shows how unscrupulous persons can manipulate (or attempt to manipulate) the system for private gain. I propose therefore that the orbit of party accountability to the Electoral Commission be widened substantially and that the EC be empowered to police and enforce these requirements along the lines of the Auditor-General's Office and furnish reports to the Parliament.

### **Incidence of Electoral Fraud**

Anecdotal "evidence" of electoral fraud will always abound as those charges are easy to make but extremely hard to prove. The Issues Paper, in a careful compilation of available evidence shows that it tends to be "much ado about little" but the extreme sensitivity of the area means that even fairly minor or limited instances of irregularity can assume large, even sinister proportions.

On the evidence the ECQ performs in an exemplary fashion to maintain, update and cleanse the rolls. Ultimately a certain amount of trust must be provided, that people are giving correct information when they enrol, or change their enrolment, but the increasingly sophisticated computer programs to cross check data represents the best security at present, for the integrity of the rolls. It would be a stupidly retrograde step to abandon the joint rolls as Commonwealth and Queensland EC resources are an important safeguard for the public.

There is a case for disclosure and privacy laws to be investigated for electoral purposes to see if an acceptable balance can be achieved for accurate disclosure versus considerations of privacy. In particular, attention could be paid to what personal information is printed on the electoral roll; whether people can elect to be "off roll" (as in "ex-directory") and/or whether people, at the time of enrolment can specify what material, other than name, appears on the roll. Consolidation of disclosure/privacy legislation in an electoral context would be a major task, but would have the advantage of unambiguously striking an appropriate balance which, because it would deal exclusively with electoral law (and electoral law alone), need not be seen as a precedent in other areas of public policy.

### **Enrolment**

It is very difficult, in any jurisdiction, to know with accuracy how comprehensive is electoral enrolment. Periodically advertising campaigns are mounted and no doubt the ECQ monitors these to ascertain their success in extending the reach of the roll. However there seems to be a strong case for a continuing education campaign, targeted at the 17-25 year old age cohort, those recently naturalised and areas of high geographical and demographic mobility (e.g. outer suburbs, resort areas) to encourage potential electors to enrol and the mobile to re-enrol. Funds voted for ECQ could be specifically earmarked for this and overall programs monitored, annually, via Estimates Committee hearings. It would be incompatible with the foregoing objective to close the rolls with issuing of the writs as there is no *a priori* evidence that any late surge in enrolments is connected with fraud or roll stacking. The ECQ could be encouraged to monitor this with a view to reviewing late enrolments, from the issue of the writs to the closure of the rolls, to see if there appears to be such a linkage.

With regard to sub-divisional ('precinct') voting, it is the assumption of those who conduct electoral research based on polling booth analysis, that upwards of 80% of voters vote at their closest booth. Such an assumption is hard to validate empirically but, before such a measure is adopted - and it is not without merit - surveys should be undertaken to match vote recorded with actual address. There may be significant discrepancies in the ratios as between seat types e.g. Rural, provincial city, inner/outer suburban. This, it should be emphasised, is quite separate from absentee, postal etc. voting versus 'ordinary' voting.

Finally is the question of voter identification. This is a vexed question since, with the failure of plans for an Australia Card, there is no universal form of voter ID. If the principle of voter ID is accepted (itself a matter for debate), two possible solutions could be considered:

1. That a voter ID card be sent to every enrolled elector, say 6 months prior to the election, or immediately the poll is announced;
2. That a range of ID materials be specified for the purpose of voter ID (e.g. Driver's license, pensioner card, youth card etc.).

With either alternative the minimum ID would have to be a signature on the card which the electoral officials would need to verify. This could lead to delays and difficulties at the booth and would need to be handled with extreme sensitivity by the polling clerks who are essentially amateurs recruited for the purpose on the day.

There would certainly be objections to the whole notion of voter ID and the question calls for the fullest public debate. (Some may mount a civil liberties argument along the lines of infringing personal freedom and not taking people on trust. Others may see voter ID as an extension of compulsory voting (widely accepted at large) and argue that one has to show ID



for a whole range of commercial and other transactions, so why not do so for the most basic act of citizenship, namely voting.

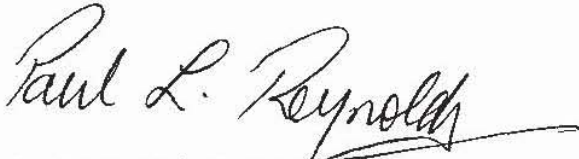
If the LACRC does recommend the introduction of voter ID, surely a prudent recommendation would be a separate Issues Paper on the subject, a call for submissions and recommendation to the Parliament.

### **Conclusion**

I have spent the best part of my academic career (now 32 years) researching electoral matters, while I currently teach two undergraduate courses, respectively on political parties and electoral behaviour. While my research and teaching does not directly or primarily focus on the more technical aspects of electoral law and procedures, as addressed by the Issue Paper, nevertheless these form the parameters with which the system operates.

Electoral reform in the 1990s has served Queensland well and, I believe, has gone a long way to restoring confidence in the electoral and political processes. A return to the old ways is unthinkable, so we can only progress from this point. That such is now the case is attributable, in no small measure, to the exemplary work of the ECQ, its Commissioner Des O'Shea and his extremely hard working and competent offices. It is significant that none of the matters raised in this Inquiry are directed at the ECQ or derive from criticism of its performance. They do their task as charged by the people through the Parliament. If the electoral laws and procedures are changed, altered or reformed as a result of the current Inquiry, it should be recognised that we can all have every faith in the ECQ's willingness and

expertise to administer such decisions. Thus is the integrity of the system both safeguarded and promoted.

A handwritten signature in cursive script, reading "Paul L. Reynolds". The signature is written in dark ink and has a long, sweeping horizontal line extending from the end of the name.

Associate Professor Paul L. Reynolds  
Reader in Australian Government  
Department of Government  
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