



Submission No 20



DEPUTY LEADER OF THE OPPOSITION

Parliament House • Alice Street • Brisbane Q 4000 • Telephone: (07) 3406 7997 • Facsimile: (07) 3221 1496
Email: opposition@parliament.qld.gov.au

The Research Director
Legal, Constitutional and
Administrative Review Committee
Parliament House
George Street
BRISBANE Q 4000

6 October 2000

Dear Sir,

Re. Inquiry into the prevention of electoral fraud

On behalf of the Queensland National Party, I am pleased to make the following submission to the Legal Constitutional and Administrative Review Committee's inquiry into the prevention of electoral fraud.

At the outset the Queensland National Party regrets that the Queensland Labor Party has breached the fundamental principles of trust and honesty that are inherent in a democracy. It is the exposure of these breaches that compelled the State Parliament to request LCARC to investigate the best way to minimise electoral fraud at elections.

In making this submission, the Queensland Nationals urge the Committee to be conscious of the Criminal Justice Commission's Shepherdson Inquiry into Electoral Fraud. Part of this inquiry is running concurrently with the timeframe given to LCARC to consider issues of Electoral Fraud.

It is possible that evidence and accusations may be given to the inquiry that had not been considered or identified at the time that submission's to LCARC closed.

As a result, there may exist recommendations and suggestions in this submission, and indeed other submissions, that may not been seen as adequate in addressing electoral fraud when further evidence is provided to the Shepherdson Inquiry and, indeed, a similar Parliamentary inquiry being conducted at the Commonwealth level.

As such, the recommendations contained in this submission are seen by the National Party to be adequate at the date of submission. However, developments at both the above-mentioned inquiries may alter the Party's position at a later date on some of these issues.

Scope of Review:

In setting out the scope of its review into electoral fraud, LCARC has ruled out looking into seven issues such as the setting of electoral boundaries and the method of voting.

The National Party accepts the exclusion of all but one of these issues, namely the registration of political parties.

The fraudulent registration of political parties, such as Pauline Hanson's One Nation at the last State Election, does have the capacity to generate fraudulent electoral results.

For example, if candidates appear on ballot papers beside the name of a political party that should not have been registered, then it is possible that MP's could be elected to the State Parliament that otherwise would not have been.

In addition to monitoring the adequacy of checks put in place by the Electoral Commission to ensure the proper registration of political parties, LCARC should also look to making recommendations to tighten the registration process.

The Commonwealth Government has recently announced proposed changes that would require a political party, irrespective of any existing Member of Parliament's membership, to have at least 500 members before its registration could proceed.

The National Party would support similar amendments in Queensland.

The National Party also notes that LCARC does not intend to revisit the issue of how-to-vote cards.

The Party suggests that LCARC should not be shy about re-looking at the issue to ensure the toughest possible safeguards are put in place to prevent the distribution of misleading how-to-vote material.

Material that has been designed to deliberately mislead voters in casting a preference is effectively an attempt to cheat and deceive.

It is arguable that if a result in a particular seat is determined on the basis of preference votes that were cast on the basis of deceptive material (designed to look like that of another political party or candidate), then the result in that seat is also one based on fraud.

Appropriate deterrents and Penalties:

It is obvious from recent convictions that the existing laws relating to electoral fraud have failed as a deterrent - even more so if claims made at the current Shepherdson Inquiry prove to be correct that it is widespread.

To this end, the National Party supports the following initiatives

Political and Public Office ban:

As a deterrent to electoral fraud, and as a statement of the revulsion that the community holds towards those who undermine our democratic processes, the National Party's Central Council adopted as policy:

Anyone who has been convicted of electoral fraud should be prohibited from:

- Holding membership, or involvement in the activities of a political party;
- Holding public and/or political office;
- Holding any office within a union or other employee/employer advocate organisation;
- Holding board membership within a statutory authority;
- Holding senior and/or executive positions within the public service.

Deregistration of Political Parties:

Currently legislation allows for political parties to register with the Electoral Commission Queensland which allows the name of the political party to appear beside the Party's endorsed candidate/s on the ballot paper.

When a political party applies for registration, then it is also applying for recognition within our democratic system. Inherent with this application is an understanding that the political party is committed to the integrity of our electoral system.

Where a political party betrays its commitment to the integrity of the electoral system, then it should forgo, for some period of time, its ability to partake in that system.

It should be possible for the Electoral Commission to de-register a political party for at least a period including the next scheduled State Election.

LCARC should look at the creation of a new offence that would allow for the de-registration of a political party when it is demonstrated that the Executive of that party either did not act appropriately on claims of electoral fraud or failed to report reasonable suspicion of electoral fraud.

To use a hypothetical case: it may be that allegations of electoral fraud were brought to the attention of the Party Executive and that the Party either failed to act, or acted in a way that was designed more to cover allegations of electoral fraud than it was to expose them.

In a sense, executives of political parties have a combined duty of care over the integrity of the electoral system. Where a Party Executive has failed in that duty of care, then there should be penalty provisions applicable to the Party as a whole.

There can be no doubt at all that the threat of de-registration at an election would ensure that any political party was extremely vigorous in reporting even the slightest suspicion of electoral fraud from within its ranks.

Such a de-registration mechanism however, should be temporary and should not allow an opportunity for someone else to register another political party by the same or similar name.

Adequacy of Penalties:

The existing maximum penalties for electoral fraud and other issues relating the electoral matters are sufficient. But like many crimes, the penalties do not prescribe minimum sentences.

LCARC should look to recommending minimum sentences which include mandatory terms of imprisonment for the more serious offences against democracy.

Key Issues:

- Are the current checks and balances in Queensland's electoral system sufficient to adequately prevent and detect enrolment and voting fraud?

The recent conviction of Labor Party members for their part in electoral fraud does indicate that some acts of electoral fraud are detected albeit too late.

Adequate measures would ensure, as much as possible, that any attempt to corruptly distort the electoral roll were identified and acted upon as close as possible to the action taking place.

For the most part, enrolment procedures are based on a degree of trust. An enrolment form only requires the signature-witnessing of another person on the electoral roll.

- Is the actual incidence of enrolment and voting fraud at such a level that it warrants reform of existing electoral legislation and procedures in Queensland? If so, what needs to be changed? Is there any evidence of systematic malpractice?

This is a difficult question to answer ahead of the Shepherdson Inquiry which, based on its early taking of evidence, does indicate that there has been systematic malpractice by certain members and factions of the Queensland Labor Party.

Essentially, the evidence provided so far indicates, not only that registering people at false addresses to achieve political gain has been widespread, but there has also been an allegation that at least one staff member within the Electoral Commission was actively involved.

In addition, notwithstanding the fact that our Electoral Commission does enjoy an extremely high reputation, recent events surrounding the fraudulent registration of Pauline Hanson's One Nation indicate that the Commission is not always best placed to identify potential irregularities within the electoral system.

The fraudulent registration of Pauline Hanson's One Nation was not identified by the Electoral Commission – but instead by a private citizen who was required to mount and fund his own legal case without any support from the Commission.

This episode highlighted very clearly that there is room to better resource the Commission and there is room for the Commission to improve procedures generally.

The National Party is concerned that since this episode, and since exposure of the Labor Party's involvement in electoral fraud, the current Beattie Labor Government has failed to increase resources to the Commission.

In fact this year's State Budget not only removed one full-time staff position from the Commission, but it also cut the Commission's budget by \$200,000 – representing 3% of its overall budget.

With this cut in funding and resources, State Cabinet nevertheless recently agreed to changes that will require the Electoral Commission to undertake ongoing monitoring and updating of the Queensland roll.

The Commission is required to undertake this additional responsibility with less staff and funding than the previous year.

- Is the prospect of enrolment and voting fraud being perpetrated by some people sufficient to warrant changes to our laws that simultaneously restrict the ease and opportunity of all citizens to enrol and vote?

It is essential that Queensland has a healthy democracy with mechanisms in place to ensure the maximum participation of voters. However, as always, this needs to be balanced with mechanisms to ensure that any result is a truly democratic one.

Recent convictions and preliminary evidence and allegations at the Shepherdson inquiry clearly indicate that the system has been easily abused by Labor Party members seeking political advantage.

The allegations are that electoral fraud has been widespread and was common within the Labor Party and was undertaken with the full knowledge of Party officials.

The ease with which these crimes were perpetrated do, in themselves, warrant careful scrutiny of the existing system.

In addition, the current political climate in Queensland, with the last two State Elections resulting in minority Governments, does give rise to concerns that electoral fraud could change the result of an election.

In requiring more stringent enrolment requirements, if these result in a recommendation that people should present themselves to a particular venue, it may be necessary for these requirements to be relaxed to some degree for people living in rural and remote areas where they live outside a certain radius of an Electoral Commission Office or Post Office.

- What more can be done to ensure and enhance the integrity of the electoral roll? What more can be done to prevent and detect fraudulent enrolment in the form of:
 - a) people enrolling themselves at a false address/in the wrong electoral district;
 - b) people enrolling false names at real, or false, addresses; and
 - c) people enrolling real names at real, or false, addresses?

The National Party does support the introduction of safeguards that would require greater levels of identification at the time of enrolment. However, a '100 points' system, would probably be too excessive and actually deter some people from the enrolment process.

A system of random physical door knocks to check the identity of people should be considered by the committee.

While not excluding so-called 'safe seats' it is probably best that the majority of these door-knocks take place in seats the Electoral Commission identifies as 'marginal' or 'fairly marginal' – more so, those seats which fall into this category that experience high enrolment rates or enrolment turnover rates.

If deliberate acts of electoral fraud are being undertaken, or if there is a temptation to undertake these actions, then it is highly probable that they would occur in these areas.

- What more can the Australian Electoral Commission (AEC) do to contribute to ensuring the integrity of the roll? For example, should Queensland legislate to open up certain State agency databases to assist with CRU activities? Should Queensland establish its own computer system to process enrolments and prepare rolls for elections?
- With regard to [the]... above, should Queensland revisit its joint roll arrangement with the Commonwealth? Should Queensland (re)establish a separate roll?

The National Party would not be opposed to moves for Queensland to maintain its own electoral roll in close consultation with the Commonwealth.

However, every effort should be made with the Commonwealth to retain a procedure that allows people to enrol at Commonwealth, State and Local Government Elections through the one application process.

- Currently the roll closes five to seven days after the issue of the writ for an election. Should the electoral rolls be closed as soon as an election is announced? What else can be done to address allegations of (last minute) so-called 'roll stacking'?

Closing the electoral rolls at the time an election is called would definitely minimise the opportunity for electoral fraud and any investigation into this proposal would be supported, subject to certain conditions, by the National Party.

One of the largest sections of the community who enrol after an election is called are first-time voters – mainly young people. It is imperative that every effort is made to ensure they are not disenfranchised.

Therefore, if the roll was to be closed at the time an election is called, then it would be necessary for the State Electoral Commission to run, on an ongoing basis, awareness campaigns urging people to enrol.

Recent moves by the State Government to consider allowing Drivers License applications to be used for enrolment will also help ensure the vast majority of young people are already enrolled when an election is called.

However, the National Party would only support such a closure of the rolls if investigations by the LCARC demonstrate that it is possible to apply adequate safeguards to prevent first-time voters from being unduly discriminated against by this measure.

- Should there be a complete re-enrolment of the voters of the State (once some or all of the above safeguards are in place) or of the voters of one electorate (as a trial or 'acid test' of existing or future arrangements)?

The answer to this question would be best determined when the respective State and Commonwealth inquiries have completed. However, it is hoped that this would not be necessary.

- What more can be done to ensure and enhance the integrity of the voting process? What more can be done to prevent and detect fraudulent voting in the form of:
 - a) multiple voting (e.g. voting at different places/booths; voting prior to, and again on, voting day);

- b) the impersonation of other electors (presumably someone not expected to vote); and
- c) so-called 'cemetery voting' (voting in the name of a recently deceased person)?

Multiple voting could, to some degree, be minimised by a requirement to provide identification where people are voting at a polling booth – as opposed to postal voting etc.

However, in its determination on this issue, it is necessary for LCARC to be satisfied that such a requirement would not unduly deter people from partaking in our democratic processes.

The issue of so-called 'Cemetery Voting' can easily be avoided if Returning Officers are provided with the names of those people who have been reported as being deceased between the closing of the roll and polling day (with regular updates to this list for those Returning Officers responsible for pre-poll votes in the lead-up to polling day).

Names appearing on these lists can be marked on electoral rolls used at polling booths that would allow the Returning Officers to be alerted if someone was attempting to obtain a ballot paper using the name and address of a person reported as being deceased.

- In relation voting generally, should electors, before receiving a ballot paper, be required to provide proof of identity to electoral officials by way of:
 - a) a suitable form of identification (prescribed or acceptable at the discretion of the polling official); or
 - b) a specific 'voting card' issued to all electors prior to polling day (either to be handed in at each electoral event or given out for permanent retention by electors)

Point (a) of this question has been responded to earlier.

In relation to point (b) LCARC's paper provides no comment or analysis on where this has been trialed before.

However, if such a proposal was to be adopted, then it would require very strict safeguards. This has been highlighted at preliminary evidence at the Shepherdson Inquiry where it has been alleged that a staff member at the Australian Electoral Commission was issuing false voter enrolment identification cards to Labor Party members.

- Should sub-district (or 'locality' or 'precinct') voting be introduced, whereby an elector's name appears on only one roll at one polling place, ie. the place at which the elector is required to cast an ordinary vote? (Electors voting outside the sub-district would be treated as absentee voters and subject to the further scrutiny of a declaration?)

This proposal runs the risk of severely deterring people from partaking in the democratic process.

Many people choose to go to certain events within the boundaries of their electorate, or even do their shopping on Saturdays, which would often take them outside their 'designated district'.

There is the very real risk, particularly in rural areas, that such a system would actually inconvenience a very large section of voters and not be conducive to a system which should encourage people to partake in democracy.

- Should electronic voting be introduced to replace the present manual voting methods? Is the technology available? Would electronic voting reduce, or increase, the possibility of electoral fraud?

On the surface there exists no sound basis for this recommendation not to be trialed.

However, LCARC should be aware of the growing degree, and not necessarily unwarranted, of community cynicism towards a total reliance on computer technology.

There would be nothing more infuriating for a properly enrolled voter to arrive at a polling booth to find the system is 'down' or that a computer advises them that they do not exist.

Nevertheless the National Party would support a trial of such a system. However, it would be appropriate for such a system to be trialed in a seat identified by the Electoral Commission as being 'safe' where any technical problems that may be experienced during the trial were unlikely to unduly impact on the timely declaration of the seat.

As technology, and distribution of technology advances, it stands to reason that there should be a progression towards electronic voting.

- Are existing arrangements providing for the presence of scrutineers during polling and the counting of votes adequate? If not, what more needs to be done?

The National Party is unaware of any complaints about the current practices governing scrutineers – indeed such a system is pivotal to maintaining community confidence in the accuracy of electoral results.

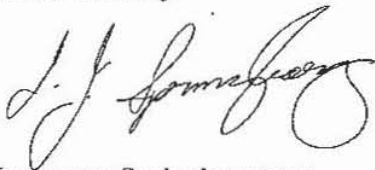
- Are the existing arrangements for the security of the supply, storage and transport of ballot papers adequate? Are the existing arrangements directed towards preventing and detecting the forgery of, and tampering with, ballot papers adequate? If not, what more needs to be done?

LCARC fails in its paper to outline what these existing procedures are.

However, in light of recent allegations that electoral fraud has been widespread in the Labor Party for decades, there is perhaps room to assess to adequacy of current provisions within the Electoral Act that only require certified electoral rolls and certain other material to be held for one term after the last State Election.

In addition, there have been reports, albeit few, in the past of unmarked ballot papers arriving at wrong destinations ahead of polling day.

Yours faithfully



Lawrence Springborg MLA
Deputy Leader of the National Party