Speech by

GARY FENLON

MEMBER FOR GREENSLOPES

Hansard 16 March 2000

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

Report

Mr FENLON (Greenslopes—ALP) (10.13 a.m.): I move—

"That the House take note of Report No. 19 of the Legal, Constitutional and Administrative Review Committee tabled in the House on 2 March 2000."

The recent changes to enrolment requirements passed by the Commonwealth Parliament threaten the integrity of our electoral system and the sovereignty of Queensland. In doing so, the changes go to the heart of the most substantial issues underpinning our systems of government. The changes not only threaten our State system but also have the potential to undermine our Federal electoral roll. The new Commonwealth laws, if promulgated by regulations, will disfranchise Queensland voters. The only question is: how many? As the Commonwealth now grapples with the drafting of these regulations, it is only moving closer to answering this question for us, and I will explain why.

The new Commonwealth laws, which affect Queensland because of our joint roll arrangements, mean that new electors must provide certain proof of identity and also that any elector who simply changes enrolment details, such as a new address, must have that enrolment form witnessed by a certain person as prescribed by the regulations. Any change from the current open enrolment system, whether for new or continuing electors, which creates obstacles to enrolment will disfranchise citizens. Even one disfranchised citizen is one too many.

The report cites, for example, the experience in Western Australia, where between 1979 and 1983 the Western Australian Government required enrolment applications to be witnessed by a restricted group of people. Over that period the State roll reportedly had 45,000 fewer voters than its Commonwealth counterpart. The history of the United States is peppered with graphic examples of various devices such as restricting enrolment sites to surreptitiously and insidiously strip minorities of their franchise. In a civilised Westminster state such as Australia we should not expect to see electoral laws that fit within this ilk, that is, laws that by their very nature conspire to restrict enrolments to vote. But that is clearly the domain within which these laws belong and that is the reason why the composition of these laws has reached high farce, with every State now considering means of avoiding the new requirements or Parliaments considering the blocking of requisite State legislation required to implement the new laws. It has also been described as voluntary voting by stealth.

That farce also extends to the process now under way whereby very unfortunate officers of the AEC are charged with the responsibility of drafting regulations that nobody wants and which were never needed in the first place. One the one hand the drafters face an insoluble drama of trying to dilute the provisions to avoid disfranchisement and cost blow-out, while on the other hand the more the provisions become diluted the more flimsy the justification for imposing those laws becomes.

So what of that justification? If this is the cure, what could be the disease? The disease for which this cure was recommended has never been identified. Even the Commonwealth parliamentary committee upon which these changes were based stated that the inquiry did not reveal improper enrolment in voting sufficient to affect any result at the election, but went on to equate enrolment to what it described as "lesser" transactions, such as opening a bank account or obtaining a passport. There is a difference, however; voting is a most fundamental right and obligation, not an entitlement and a test.