This is an issues paper and the committee has formed no firm conclusions on matters raised within it.

The committee calls for public submissions in relation to the above inquiry and releases this issues paper to facilitate the preparation of submissions by:
♦ providing the community with information delineating the focus of the inquiry; and
♦ identifying, though not limiting, issues of reform that submissions might address.

The closing date for submissions is Friday, 6 October 2000. Please see the back page of this paper for the committee’s contact details and guidelines on making a submission. Requests for confidentiality should be clearly marked.

Submissions become the property of the committee and are only made public after a decision by the committee. Persons making submissions should not release them or otherwise publish them to others without the authority of the committee. Submissions to the committee are protected by parliamentary privilege, but their publication without the authority of the committee is not protected by privilege.

The committee is conducting an inquiry into issues of electoral reform, namely, on ways to prevent the possibility of electoral fraud in State and local government elections.

The committee wishes to stress that it considers that the investigation of specific allegations of past instances of electoral fraud is properly a matter for the relevant law enforcement and anti-corruption agencies.

The committee has prepared this issues paper within the restrictive timeframe imposed by the resolution of Parliament initiating this inquiry.

1. THE COMMITTEE

The Parliamentary Committees Act 1995 establishes the Legal, Constitutional and Administrative Review Committee (LCARC; ‘the committee’) as a statutory committee of the Queensland Legislative Assembly. The Act provides that the committee’s broad areas of responsibility include legal reform, constitutional reform, administrative review reform and electoral reform.

The Act also states that the committee’s statutory responsibility regarding electoral reform includes monitoring generally the conduct of elections under the Electoral Act 1992 (Qld) and the capacity of the Electoral Commission Queensland to conduct elections.

The Parliamentary Committees Act provides that statutory committees are to also ‘deal with’ an issue referred to it by the Legislative Assembly.

2. FOCUS OF THE INQUIRY

On 22 August 2000, the Legislative Assembly, on the motion of Mr Peter Wellington MLA, seconded Mr Gary Fenlon MLA (Chair of this committee), passed the following motion:

That this House requests the Legal, Constitutional and Administrative Review Committee to investigate and report back to State Parliament by 14 November 2000 on the best way to minimise electoral fraud at elections, where the Queensland State electoral roll is used.
The committee notes that, during debate on the motion in the Assembly, Mr Wellington made the following comments:

*My motion does not intend to empower this committee to take over the role of the Police Service or the Queensland Criminal Justice Commission in relation to investigating past allegations of electoral fraud in this State.*

...  

*For the purposes of this motion and the ambit of my requested investigation, it is my intention that the investigation be limited to ways of improving the conduct of State and local government elections and not be extended to a consideration of the conduct of Federal elections.*

In light of Mr Wellington’s comments, the wording of the motion and this committee’s State-focussed jurisdiction, the committee considers that the inquiry referred to it by the Assembly comprises an inquiry into ways of preventing electoral fraud in relation to:

- an election of a member or members of the Queensland Legislative Assembly, and the conduct of those elections by the Electoral Commission Queensland (ECQ) under the *Electoral Act 1992* (Qld) (‘the EA’);
- an election of a councillor or councillors of local governments, and the conduct of those elections by the chief executive officer of the local government (or another returning officer—or the ECQ in the case of the Brisbane City Council if the council enters into an agreement with the ECQ to conduct the election) under: the *Local Government Act 1993* (Qld) (‘the LGA’), Chapter 5 (ss 289 to 441); the *City of Brisbane Act 1924* (Qld), Part 2, Division 3; and the EA;
- an election of a councillor or councillors under the *Community Services (Aborigines) Act 1984* (Qld) and the *Community Services (Torres Strait) Act 1984* (Qld);
- State referendums conducted under the *Referendums Act 1997* and referendums conducted under the LGA, Chapter 3, Division 7; and
- the maintenance of the electoral roll (the roll is used for the purposes of federal, state and local government elections) by the Australian Electoral Commission (AEC) under the *Commonwealth Electoral Act 1918* (‘the CEA’)—as authorised by the joint roll arrangement referred to in s 62 of the EA—but not the conduct of federal elections.

‘Electoral fraud’ in its widest sense might mean anything that threatens the integrity of the electoral system. The ‘electoral system’ was defined by the former Electoral and Administrative Review Commission (EARC) as the system that ‘provides an electoral process which includes voter qualification, candidate eligibility, apportionment of seats, rules for the conduct of elections, and laws which govern the mechanics of converting votes into seats’.  

However, the committee would stipulate that it does not see the terms of the Assembly’s motion as being so wide as empowering the committee to revisit such broad matters as:

- the setting of electoral boundaries;
- the redistribution process;
- voter qualification or candidate eligibility *per se*;
- the method of voting in Queensland elections;
- the registration of political parties;
- requirements concerning electoral funding and financial disclosure; and
- the powers of the Court of Disputed Returns.

Instead, the committee considers that the reference ‘the best way to minimise electoral fraud ...’ in the motion impels the committee to focus upon preventing fraudulent practices in relation to enrolment procedures and the casting and recording of votes.

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1 Daily Hansard, 22 August 2000 at pp 2567-2568.

2 EARC, *Report on Queensland Legislative Assembly electoral system*, November 1990, GoPrint, Brisbane at para 1.10.

3 This committee reported on aspects of electoral funding and disclosure in its report no 23, *Issues of Queensland electoral reform arising from the 1998 State election and amendments to the Commonwealth Electoral Act 1918*, May 2000, GoPrint, Brisbane. The JSCEM is currently reviewing the AEC’s 1996 and 1998 funding and disclosure reports.

4 This committee reported on matters concerning the Court of Disputed Returns in its report no 18, *Issues of electoral reform raised in the Mansfield decision: Regulating how-to-vote cards and providing for appeals from the Court of Disputed Returns*, September 1999, GoPrint, Brisbane.
Fraudulent electoral practices include what the AEC has described as ‘time-honoured methods of manipulating elections results’, such as multiple voting, cemetery voting, vacant lot enrolment and roll stacking in electorates.\(^5\)

**Section 8** of this paper lists, but does not seek to limit, possible issues that submissions might refer to in this regard.

The committee welcomes the opportunity that this inquiry presents to:

♦ address public concerns about electoral fraud; and

♦ make recommendations addressing those concerns and/or provide factual information to allay those concerns.

In relation to the 14 November 2000 timeframe for the committee to report, Mr Wellington said that such a deadline would:

… enable Queenslanders interested in minimising electoral fraud at elections the opportunity to tell us how the current system can be improved prior to the next State election.\(^6\)

### 2.1 Local government

While information contained in this issues paper might reflect a focus on State elections (that is, elections for a member or members of the Legislative Assembly), the committee stresses that it equally welcomes submissions concerning local government elections. Submitters addressing the issues set out in section 8 should feel free to adapt those issues accordingly (for example, submissions might replace references to ‘the ECQ’ with references to ‘the local council’, as the case may be).

In this regard, the committee notes that in June 2000 the Department of Communication and Information, Local Government, Planning and Sport (DCILGPS) released a discussion paper, *Review of local government electoral arrangements in the Local Government Act 1993*. Submissions in response to that discussion paper—which can be obtained from the Local Government Services division of the department—close on 6 October 2000.

The DCILGPS discussion paper outlines information about, and invites submissions on, local government arrangements, such as the role of the ECQ in local government elections.

The DCILGPS discussion paper also states that the department (as it does after each local government election) has written to local governments seeking advice on any amendments to the election procedures that are considered necessary to overcome any practical problems or issues encountered during the March 2000 local government elections.

### 2.2 Context of the committee’s inquiry

The committee’s inquiry is set in the context of substantial political and media attention to issues surrounding recent allegations of, and/or convictions for, fraudulent electoral activities perpetrated in Queensland. The committee observes that that attention has extended from the recent well-publicised convictions in Townsville of certain persons, including Ms Karen Ehrmann (and the context of those convictions, namely, the forging and uttering of Commonwealth—ie AEC—electoral enrolment forms in relation to political party plebiscites for pre-selection) to a questioning of the integrity of past results for some electorates and a raft of allegations of other instances of electoral fraud.

The events have provided impetus to not only this committee’s inquiry but also investigations into allegations of past instances of electoral fraud by:

♦ Queensland’s Criminal Justice Commission (CJC); and

♦ the Commonwealth Parliament’s Joint Standing Committee on Electoral Matters (JSCEM).

#### 2.2.1 The CJC inquiry

On 22 August 2000, the CJC appointed independent counsel, Mr Philip McMurdo QC, to examine information gathered during preliminary CJC investigations into certain allegations of electoral fraud, and to:

♦ direct and supervise any further inquiries he considered appropriate in order to assess

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\(^6\) Note 1 at p 2568.
whether there is a reasonable suspicion of official misconduct in relation to the allegations; and

♦ if there is such a suspicion, advise the CJC on how to proceed (and whether an open hearing should be held).? 

The preamble to the CJC’s resolution to appoint independent counsel is worthy to note for contextual purposes. Part of it is as follows:

(1) On 11 August 2000, Karen Lynn Ehrmann pleaded guilty in proceedings in the District Court of Townsville to 24 counts of forging and 23 counts of uttering Commonwealth Electoral Enrolment forms and was sentenced to three years imprisonment;

(2) During the course of the said proceedings documents were filed on behalf of Karen Lynn Ehrmann alleging the involvement or possible involvement of Australian Labor Party (ALP) members, including elected representatives, in electoral fraud;

(3) On 15 August 2000, allegations were made in the Senate by Senator Brandis that in 1998 Jennifer Hill, an ALP Councillor in the Townsville City Council, fraudulently caused a person to be recorded as a member of the ALP;

(4) On and from 15 August 2000, the Criminal Justice Commission (the Commission) has operated, of its own initiative, in conducting preliminary investigations of the allegations referred to in paragraphs (2) and (3) … 8

On 6 September 2000, the CJC presented Mr McMurdo’s report to Parliament.9 The CJC announced that ‘the essence of the advice is that there are matters, which if proven, could constitute official misconduct’ and that it had appointed an independent person to conduct a ‘full investigation of the allegations’ and hold public hearings.10

This committee notes that there are no indications at this stage that the CJC’s inquiry—to be conducted by retired judge, the Honourable Tom Shepherdson QC—will be finalised within the timeframe set by Parliament for this committee’s inquiry.

2.2.2 The JSCEM inquiry

On 23 August 2000, the Commonwealth Special Minister of State asked the Joint Standing Committee on Electoral Matters to examine the issues of the integrity of the electoral roll and fraudulent enrolment.11 At its meeting on 5 September 2000, the JSCEM considered the matter and, as this committee understands it, agreed to inquire into and report on:

♦ the adequacy of the Commonwealth Electoral Act for the prevention and detection of fraudulent enrolment;
♦ incidents of fraudulent enrolment; and
♦ the need for legislative reform.

As this paper goes to print, this committee understands that the JSCEM intends to call for public submissions in the very near future.

3. QUEENSLAND’S ELECTORAL SYSTEM

Free, honest and fair elections conducted using a true and accurate roll are the cornerstone of democracy.

The Fitzgerald report12 identified this, stating that:

A fundamental tenet of the established system of parliamentary democracy is that public opinion is given effect by regular, free, fair elections following open debate.

A government in our political system which achieves office by means other than free and fair elections lacks legitimate political authority over that system …

The Elections Act 1983-85 should … be reviewed in an impartial manner to ensure that more effective means are developed to guarantee the accuracy of electoral rolls, to prevent fraudulent voting practices and to maintain the

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8 CJC, n 7.
11 Letter from Special Minister of State to JSCEM, 23 August 2000.
confidentiality of individual voters, particularly in the case of absentee and postal voters.

... inquiry [by EARC] must be totally open with public access to the evidence and submission received by it...13

The former EARC, as required by legislation enacted by the Queensland Parliament after the Fitzgerald report, published various reports that dealt with the proper conduct of elections in Queensland. EARC’s electoral reports include reports on:

♦ The local authority electoral system of Queensland, September 1990;
♦ Queensland joint electoral roll review, October 1990;
♦ Queensland Legislative Assembly electoral system, vols 1 & 2, November 1990, in which EARC addressed the proper setting of electoral boundaries in Queensland;

It is from the thorough research and extensive public input reflected in EARC’s comprehensive reports that Queensland obtained its current electoral system. The EA, introduced in 1992, is based on a draft Electoral Bill that EARC attached to its Report on the Review of the Elections Act 1983-1991 and related matters. The EA also incorporated comments made by the former Parliamentary Committee for Electoral and Administrative Review, which had the task of reviewing all EARC reports.

The EA sets out the arrangements for State elections and establishes an independent statutory authority, the ECQ. The ECQ’s functions and powers include:

(a) Preparing for and conducting parliamentary elections, by-elections and referendums;

(b) Conducting elections and amalgamation ballots for industrial unions of employers and employees;

(c) Administering the funding and disclosure provisions of the Electoral Act 1992;

(d) Reviewing the external boundaries and electoral arrangements for local governments;

(e) Assisting in the maintenance and monitoring of the accuracy of the Commonwealth-State joint electoral roll;

(f) Providing research and operational support services to State Redistribution Commissions on appointment;

(g) Promoting enrolment, voting and public awareness of electoral matters by conducting information and awareness campaigns and providing educational material;

(h) Conducting research into electoral matters, and providing information and advice on electoral issues to the Minister and Government, the Legislative Assembly, and government departments and agencies; and

(i) Publishing material relating to the Commission's functions including monthly enrolment statistics, election, by-election and referendum results, and the results of research on electoral matters.14

The ECQ’s mission statement15 is to maintain the integrity of Queensland’s electoral system.

3.1 General comments

The committee observes that Queensland’s electoral system is considered to be amongst the best in Australia, and that Australia’s electoral systems are considered to be amongst the best in the world.

Queensland’s electoral legislation is founded upon EARC’s considered approach of attempting to ensure integrity without being overly prescriptive: Queensland’s electoral system is essentially based on an elector’s civic obligation of trust at first instance, within a finely-tuned system of various checks and balances (set out in section 3.2 below).16

13 Note 12 at p 127.


15 ECQ, n 14 at p 5.

16 In this regard, EARC considered but rejected certain proposals that had been made to it, for example, requiring proof of identification on polling day (see issue 15 in section 8 below) and a system of ‘locality’ or ‘precinct’ voting (see issue 17 in section 8).
The checks and balances arise from the following principles, which EARC laid down as the proper basis for an electoral system and the ECQ adopted as its on-going Charter.\textsuperscript{17}

**PRINCIPLES UNDERLYING THE ELECTORAL SYSTEM**

**Free and Democratic Electoral Events**

1. Electors must have only one vote; the ballot must be secret.
2. Electors must be free to cast their votes without coercion or improper influence.
3. The rights both to vote and be a candidate must be preserved.
4. Electors must be provided with maximum opportunity to cast their votes.
5. Electors must have access to information and assistance to aid them in selecting candidates and casting votes.
6. Ballot papers must be admitted to the count where the voters' intentions are clear.
7. Once admitted to the scrutiny, each elector's vote must be accurately counted.
8. The rights of candidates to be represented at polling and at the scrutiny, and to promote their candidacy must be protected.

**Legitimacy**

9. Electoral legislation and procedures must be open and regularly reviewed in the light of changing community expectations so that public confidence in the integrity of the electoral system and outcomes can be maintained.
10. Electoral officials must be politically neutral and the conduct and administration of electoral events must never be influenced by political considerations.
11. Electoral officials must have a level of competency sufficient to command the respect of voters.
12. All possible steps must be taken to eliminate electoral malpractice and fraud.
13. Political parties play an important part in the election process, and their place in the electoral system should be recognised.
14. Judicial and administrative review procedures should be available to all candidates and electors who wish to query or dispute the conduct or outcome of an electoral event.

**A Simple Voting System**

15. Procedures at polling booths must be simple and straightforward.
16. There should be the maximum level of compatibility possible between ballot paper marking methods in federal, State and local government electoral systems.
17. Administrative procedures must be efficient and cost-effective.
18. Election results must be made available without delay.

The committee notes that a number of these principles go to the core of this inquiry into preventing electoral fraud. The committee also notes that there is a certain potential tension between various principles. For example, the principle that all possible steps must be taken to eliminate electoral malpractice and fraud (principle 12 above) needs to be balanced with the principle that electors must be provided with maximum opportunity to cast their votes (principle 4).

In this regard, the committee considers that it is important to consider any proposals for the prevention of electoral fraud from a perspective that concurrently identifies the need to ensure that as many electors as possible access their right to enrol and are given the opportunity to vote.

**3.2 Current checks and balances**

It is useful to note that there are various important checks and balances already in place to deter, detect and act upon electoral fraud. The existing checks and balances that are in place to ensure the integrity of the electoral process generally (and to combat electoral fraud specifically) include at least the following:

**An independent electoral commission**

The *Electoral Act 1992* establishes the ECQ as an independent statutory authority, headed by an independent electoral commissioner.
Roll maintenance
♦ Continuing efforts by the AEC, with input from the ECQ, to improve the integrity of the electoral roll, such as:
− the on-going process of upgrading the AEC’s address-based Roll Management System (RMANS); and
− the move from the traditional periodic door-knock review of the electoral roll to the employment of continuous roll updating methods (CRU). CRU includes matching roll records with information recorded in the databases of other organisations (e.g. Australia Post, CentreLink, etc) to check electors’ addresses and make arrangements to update the rolls where necessary. (Such systems, when developed, provide a guard against enrolment fraud because they provide a number of ways to cross-check the identity of the voter and the authenticity of enrolment.)

Detection and investigation
♦ Various administrative safeguards employed by the ECQ (and by the AEC in relation to federal elections) and returning officers to prevent and detect possible instances of electoral fraud on and before polling day.
♦ Checks and investigations undertaken after each election by the ECQ to detect fraudulent voting. These include:
− post-election scanning of dual and multiple marks on the certified lists (see the glossary to this paper) to identify apparent multiple voting in the same name;
− subsequent investigations by the ECQ by way of ‘please explain’ letters to electors with multiple marks against their names (and to electors with no marks against their names);\(^{18}\) and
− subsequent reference by the ECQ of outstanding cases of apparent multiple voters\(^ {19}\) to the police for further investigation and prosecution.

Scrutiny
♦ The rights of candidates to be represented by (often legally trained) scrutineers at polling and, especially, at the count of the vote.

Disputed returns
♦ The capacity of the ECQ to dispute an election by challenging the result in the Court of Disputed Returns if the commission considers that instances of fraudulently or irregularly cast votes (e.g. multiple votes) were sufficient to affect a result for an electoral district. The ECQ considers that it has a clear statutory obligation to place an election result before the Court of Disputed Returns if there is any doubt in the circumstances that an election does not have a clear result.
♦ The capacity of unsuccessful candidates and persons qualified to vote in the relevant election to have recourse to the Court of Disputed Returns in the same way.

Monitoring and review
♦ After each State election, the ECQ consults with returning officers and reviews the commission’s processes. The ECQ subsequently provides a report to the Queensland Attorney-General containing recommendations for amendments to the EA that the ECQ considers warranted in light of the conduct of the election. This committee has previously reported on the recommendations made by the ECQ and/or the subsequently proposed amending legislation.\(^ {20}\)

\(^ {18}\) Often matches are found between apparent multiple voters and similarly-named electors who: (i) have no marks against their names situated one line above or below on the certified lists; and (ii) subsequently claim that they in fact did vote. These findings are often attributed to the error of polling officials when marking off names on the certified list on polling day.

\(^ {19}\) That is, those not explained by likely polling official error.

\(^ {20}\) See: LCARC, report no 2, Report on matters pertaining to the Electoral Commission of Queensland, 8 August 1996, GoPrint, Brisbane; report no 5, Report on the Electoral Amendment Bill 1996, March 1997, GoPrint, Brisbane; report no 19, Implications of the new Commonwealth enrolment requirements, March 2000, GoPrint, Brisbane; and LCARC, report no 23, n 3. A case that reflects how potential irregular activity is identified and addressed by the ECQ through its reviews is referred to in LCARC report no 23 at pp 7-10. That report describes an ECQ proposal to address past allegations that persons in charge of declared
After each federal election, there is a formal process whereby the incoming government establishes a JSCEM of the Commonwealth Parliament (see section 2.2.2 above) and provides it with a reference to inquire into and report on that election. Subsequently, the JSCEM publishes a comprehensive report following public consultation by way of submissions and public hearings. The reports contain various recommendations for the amendment of the CEA. The ECQ monitors JSCEM recommendations (and any changes to the CEA) to assess the appropriateness of those changes for Queensland.

This committee continues to monitor electoral matters (in line with one of its key responsibilities, namely, electoral reform including monitoring generally the conduct of elections under the EA). This committee has published reports on a variety of electoral matters.

4. PAST ANALYSIS BY AUTHORITIES OF ALLEGATIONS OF VOTING FRAUD

Throughout Australia, allegations are made of a wide variety of fraudulent electoral practices (especially voting fraud) following almost every election.

The committee considers that this issues paper provides an opportunity to provide information on what the AEC, JSCEM and ECQ have previously said about (allegations of) electoral fraud. (Though, the committee does not wish to suggest that, at this preliminary stage of its inquiry, it either accepts or agrees with the statements referred to in this section.)

The committee notes the following comments made by the AEC about allegations of electoral fraud previously made in relation to federal elections:

*It has been concluded by every parliamentary inquiry into the conduct of federal elections, since the AEC was established in 1984, that there has been no widespread and organised attempt to defraud the federal electoral system; that instances of multiple voting that do occur show no pattern of concentration in any Division, marginal or otherwise; and that the level of fraudulent enrolment and voting is not sufficient to have overturned the result in any Division in Australia. That is, there is no evidence to suggest that the overall outcomes of the 1984, 1987, 1990, 1993 and 1996 federal elections were affected by fraudulent enrolment and voting.*

As a matter of course, the AEC provides extensive information concerning possible fraudulent enrolment and voting to the JSCEM of the Commonwealth Parliament that is established to inquire into the conduct of the most recent federal election.

Based on this information the JSCEM usually makes conclusions about the incidence of electoral fraud.

The following edited summary of JSCEM findings over time (provided by the AEC) describes the evidence of enrolment and voting fraud.

*In investigating the conduct of the 1987 federal election, the JSCEM noted that allegations of fraudulent enrolment and voting, such as cemetery voting, where characteristically supported only by insubstantial anecdotal information, and no compelling evidence of widespread and organised fraud was available. It was reported that public awareness of multiple voting had probably been aroused by the widely-publicised prosecution of an individual who voted six times at the 1987 election, apparently in order to test the integrity of the electoral system.*

...
In investigating the conduct of the 1990 federal election the JSCEM again noted [as it had after the 1984 and 1987 elections] an increase in multiple voting statistics but again concluded that there was no factual data to substantiate allegations of widespread multiple voting, or to support allegations of cemetery voting. It was noted that, with the tight security checks built into the AEC computerised scanning systems to detect multiple voting and cemetery voting, it would be very difficult for fraudulent voting to escape detection by the AEC.

Following the 1993 federal election, the JSCEM examined the increase in multiple voting statistics and noted that there was no pattern across Divisions that might indicate organised fraud. The JSCEM also examined allegations of cemetery voting and noted that there was no evidence to support a single possible case ...

The JSCEM inquiring into the 1996 federal election reported:

The inquiry’s most contentious topic was the question of whether current enrolment and voting procedures can prevent, or even detect, electoral fraud. Electoral fraud can encompass multiple voting (in the names of existing electors, or in false names deliberately placed on the roll for the purpose), being enrolled for the wrong House of Representatives electorate, or being a foreign citizen or underage. Obviously some of these circumstances can also arise through misunderstanding on the part of electors, rather than deliberate attempts at fraud.

The inquiry did not reveal improper enrolment or voting sufficient to affect any result at the election. However, it is unacceptable that the most fundamental transaction between a citizen and the government – the act of choosing the government at a democratic election – is subject to a far lower level of security than such lesser transactions as opening a bank account, applying for a passport, applying for a driver’s licence or registering for social security benefits, to name but a few.

At State level, this committee asked the Electoral Commissioner at a meeting in May 1996 about the allegations of multiple voting that are often made after elections. The committee reported that the commissioner had indicated that ‘the problem was more one of speculation than of reality’ and that:

The Commissioner considered that, if there is any double or multiple voting, it is not significant. The Committee was informed that in 1992, 27 cases of suspected multiple voting were referred to Queensland Police Service for investigation. Only three prosecutions were launched which resulted in three pleas of guilty.

The Commissioner noted that between 7 and 60 double markings occurred on the roll per electoral district, with an average of 22 per district, and most of these were satisfactorily resolved through the process of sending out notices requiring explanation.

The committee understands that after the 1995 general State election five matters concerning multiple voting were referred to the police for investigation and no cases were subsequently prosecuted; and that after the 1998 general State election, six such matters were referred to the police for investigation and no cases were prosecuted.

In relation to allegations of so-called ‘cemetery voting’ (people voting in the name of recently deceased persons), the committee has also reported that:

The [Electoral] Commissioner indicated that there was little evidence of cemetery voting. In this regard, the Commissioner referred to research in South Australia which indicates that during the last general election in that state there was no cemetery voting. The Commissioner provided the Committee with a copy of a report from the South Australian Electoral Commission on this issue.

That report states:

“In South Australia, where sixteen of the 47 seats could be won or lost with a swing of 5%, at the December 1993 General Elections, it was considered appropriate to assess whether cemetery voting affected the outcome of those elections.

All death notices appearing in The Advertiser from the date the election was announced on 28 October until Friday prior to polling day 3 December 1993, were compared against the electoral rolls to determine if a match were possible. Between 28 October and 26 November a total of 450 names were matched and details were supplied to Returning Officers, together with instructions to cross those names off all copies of their certified scannable lists. Only one of those deceased electors claimed an ordinary vote on

25 AEC, n 5.
27 LCARC report no 2, n 20 at p 60.
polling day and on further inquiry it was established that the Department had made an incorrect assumption about the identity of the reported deceased person.

A further 158 names were matched between 27 November and 3 December but as it was then too late to annotate these on the certified lists a post poll check was undertaken to determine if any had voted. Again this produced a negative result which puts the nail in the coffin of anyone who suggests that cemetery voting occurred during these elections.28

The Commissioner noted that, whilst cemetery voting is always possible, the need to spend extra money to be vigilant against it was questionable. The Commissioner pointed out that if a seat was won by 200 votes the issue was irrelevant, and if the poll is close, the scrutiny of the Court of Disputed Returns would probably uncover any irregularities.29

[The committee adds that it commented on multiple and cemetery voting at that time in order to disseminate information on those issues. The committee had not formally inquired into the issues. Nor would the committee wish to represent the above comments of the Electoral Commissioner as his definitive statement on the issues.]

In terms of evidence of widespread multiple voting in Queensland, the committee notes the Queensland Court of Disputed Returns’ decision in Tanti v Davies30, ‘the Mundingburra decision’). The petition included challenges to a raft of votes on the grounds of alleged (i) impersonation of electors and (ii) multiple voting.

Mr Justice Ambrose found that, in relation to allegations of impersonation, no cases had been made out. In relation to allegations of multiple voting, this committee has previously reported on the Electoral Commissioner’s perspective on the case:

> despite the intense scrutiny which occurred during the Mundingburra Court of Disputed Returns trial, no multiple voting fraud was uncovered.31

5. PREVIOUS COMMITTEE REPORTS ON MATTERS RELATING TO THE ELECTORAL ROLL

In light of the focus of the current inquiry, the committee notes here that it has previously reported on issues relating to the integrity of the electoral roll in some depth.

The committee has previously reported32 in a critical manner on recent amendments (as yet uncommenced) made to the Commonwealth Electoral Act by the Commonwealth Government (namely, a requirement on persons seeking to enrol for the first time to produce proof of identity and citizenship, and more stringent enrolment witnessing requirements).33 The committee concluded that the amendments ‘have the potential to effectively disenfranchise a significant number of eligible voters’.34

The committee added:

> If electoral fraud is a problem, it should be addressed through a cooperative approach between the Commonwealth and the states. Such cooperative approach might include an enhanced continuous roll updating system with appropriate back-up and audit.

> Rather than the new Commonwealth enrolment requirements, the committee would prefer to see measures in place to increase the quality of the electoral roll and level of enrolment via a cooperative approach between the Commonwealth and the states.35

The committee revisited the matter of maintaining electoral rolls in a subsequent, related report.36

Having analysed available information and public submissions on the matter, the committee came to the following conclusion and made the following recommendations:

> The committee supports, in-principle, the concept of continuous roll updating (CRU) as a means of ensuring that electoral rolls are of the highest accuracy and integrity, provided that data obtained from CRU activities is used only to trigger the relevant electoral authority to make

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29 LCARC, report no 2, n 20 at p 5.
30 Tanti v Davies (No 3) 2 QdR 602.
31 LCARC, report no 2, n 20 at p 60.
32 LCARC, report 19, n 20.
33 Based on recommendations contained in JSCEM, n 26, ch 2.
34 LCARC report no 19, n 20 at p 26.
35 LCARC report no 19, n 20 at p 26.
36 LCARC report no 23, n 3.
further inquiries as to the accuracy of details recorded for a particular elector and not to automatically change details on the electoral roll.

To facilitate ‘data matching’ as a form of CRU, the committee recommends that the Attorney-General—as the minister responsible for the Electoral Act 1992 (Qld)—amend that Act so as to enable the Electoral Commission of Queensland to obtain name, address and date of birth data from state government departments and agencies for a price that reasonably reflects the cost of producing a copy of that data. 37

This recommendation is subject to:

➢ the proviso that, prior to the introduction of data matching, appropriate provision is made either in the Electoral Act, or in privacy legislation which might be introduced in Queensland, to ensure the protection of individuals’ privacy and additionally, in the case of silent electors, their safety. This should include privacy principles relating to the use, collection, storage and disclosure of data for electoral roll maintenance purposes; and

➢ the committee’s satisfaction with the draft legislation providing for this privacy protection.

The committee also urges the Electoral Commission of Queensland to liaise with the Australian Electoral Commission regarding expansion of the AEC’s current arrangement with Queensland Transport whereby an enrolment form is printed on Queensland Transport change of address forms. In particular, the committee suggests that an application for, or renewal of, a driver’s licence, 18+ card and other like cards should also serve as an application for enrolment if the applicant signs and has duly witnessed a voter enrolment application portion of the form.

Therefore, the committee has already extensively dealt with issues concerning the integrity of the electoral roll in its reports nos 19 and 23. Nevertheless, in light of the current reference from the Parliament, the committee will consider submissions to it about (the committee’s conclusions in relation to) matters concerning the integrity of the electoral roll contained in report nos 19 and 23. In this regard, the committee acknowledges that further work might now need to be done. 38

6. MOTION IN PARLIAMENT, 5 SEPTEMBER 2000

In relation to the committee’s report no 19, the committee notes the following extract from the Votes and Proceedings of the Legislative Assembly concerning a motion moved by Dr David Watson MLA in the Legislative Assembly on 5 September 2000:

NOTICE OF MOTION — ELECTORAL CORRUPTION

Dr Watson, pursuant to notice, moved—

In view of the conviction of three ALP identities for electoral corruption by rorting the electoral rolls [used] for Federal, State and Local Government elections, this House calls on the Queensland Government to amend the Electoral Act to require proof of identity and address from all voters before ballots are cast, and calls upon the Commonwealth to amend the Commonwealth Electoral Act to require proof of identity and address before a person may be registered on the electoral roll.

Debate ensued.

The following amendment was proposed by Attorney-General and Minister for Justice and Minister for The Arts (Mr Foley)—

Insert the following words before 'In view'—

“1. The House notes the conclusion in Report No. 19 of March 2000 by the all–party Legal, Constitutional and Administrative Review Committee that the Commonwealth’s "new enrolment requirements have the potential to effectively disenfranchise a significant number of voters";

2. The House further notes that on 22 August 2000 it requested the Legal, Constitutional and Administrative Review Committee to "investigate and report back to State Parliament by 14 November 2000 on the best way to minimise electoral fraud at elections, where the Queensland State electoral roll is used."; and

The committee urges submitters interested in matters concerning the electoral roll to consult the committee’s reports nos 19 and 23. All committee reports are on the committee’s website, the address of which is provided on the back page of this paper.

37 LCARC report no 23, n 3 at p 47.

38
3. The House requests that Committee to include in the said investigation and report consideration of Dr Watson’s motion that:”

Debate ensued.

... 

Question – That Mr Foley’s amendment be agreed to – put and agreed to.

Question – That the motion, as amended, be agreed to – put and agreed to.

7. AN ALTERNATIVE APPROACH: AN ENHANCED FRAUD ‘AUDIT’ FUNCTION?

The committee notes that, from one perspective, current electoral arrangements are ‘about right’ in the way the electoral system provides for free, honest and fair elections with a minimum of fuss to citizens. However, as identified by the JSCEM, there is also ‘disquiet in sections of the community about the potential for electoral fraud’ with associated calls for stringent measures, such as:

♦ ceasing new enrolments on the day that the writ for an election is issued; and
♦ subdivisional (or ‘precinct’) voting, where an elector’s name appears on only one roll at one polling place.39

At this opening stage of the inquiry, the committee asks whether there is also some room for an alternative ‘middle-ground’ in relation to the whole approach of preventing and detecting electoral fraud and/or in relation to its specific manifestations.

Is there some room for measures that will provide a significant deterrence against fraudulent electoral behaviour without being overly obtrusive to the whole electoral process or overly restrictive of the rights of all citizens to enrol and vote?

For example, should there be some form of an enhanced fraud ‘audit’ function whereby electoral officials select a random but representative sample of:

♦ enrolment transactions for further, comprehensive investigation as to the authenticity of those enrolments (perhaps via the sending out of an official to sight the

elector at their place of residence and ask for documentary evidence of proof of their identity); and

♦ voters at the time of voting for further, more comprehensive investigation as to their identification?

The form of any such ‘audits’ should be suggested by and compatible with other measures directed at the integrity of the rolls and of the voting process.

39 JSCEM, n 26 at pp 5-6.
8. **KEY ISSUES IN RELATION TO WHICH THE COMMITTEE INVITES RESPONSE**

The committee has identified at least the following issues with respect to the prevention and detection of enrolment and voting fraud in our State and local government elections. Submissions need not address all issues. It would be helpful if submissions addressed the issues as numbered.

**The incidence of electoral fraud**

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

2. 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?

3. 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?

(These first three questions could either be answered in their own right or guide responses to specific issues listed below.)

**The prevention and detection of electoral fraud**

4. 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 a real, or false, addresses?

5. Should people seeking to enrol for the first time and/or to change their enrolment details:
   
   (a) be required to provide electoral officials with proof of their identity; and/or
   
   (b) be subject to more stringent witnessing requirements on enrolment forms?\(^{40}\)

6. What more can the Australian Electoral Commission (AEC) do to ensure the integrity of the electoral roll in relation to its current process of implementing continuous roll updating (CRU) activities to replace periodic door-knocking review? (CRU activities include: data matching techniques; data mining of federal databases; and enrolment marketing.)

7. What more can the Electoral Commission Queensland (ECQ) 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?

8. With regard to points 5 and 7 above, should Queensland revisit its joint roll arrangement with the Commonwealth? Should Queensland (re)establish a separate State roll?

9. 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’?

10. Are current arrangements for objecting to names appearing on the electoral roll adequate?

11. 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)?

**Voting**

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\(^{40}\) Similar such measures are contained in recent (but as yet uncommenced) amendments to the *Commonwealth Electoral Act 1918.*
12. 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 issuing places/booths; voting prior to, and again on, polling 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)?

13. In relation to declaration voting, what more can be done to ensure the integrity and security of the voting process in relation to:

(a) postal voting;

(b) special postal voting;

(c) pre-poll (in person) voting;

(d) absentee voting; and

(e) unenrolled voting?

(Such terms are defined in this paper’s glossary.)

14. In relation to voting at special locations, what more can be done to ensure the integrity and security of the voting process in relation to:

(a) voting at declared institutions;

(b) voting in remote areas; and

(c) electoral visitor voting?

Specifically:

15. 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)?

16. Alternatively, is there scope for improving procedures surrounding issuing officers’ questioning of people seeking to vote for the purpose of deciding whether the person is entitled to vote?

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

18. 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?

19. What can be done to prevent and detect false declarations?

**Arrangements for polling and counting**

20. 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?

21. In terms of precluding the possibility of polling official malpractice, can improvements be made to the processes surrounding: the preliminary processing of declaration envelopes and ballot papers; the preliminary and official counting of votes; the recounting of votes; and the declaration of the poll?

22. 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?

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41 Currently, no Australian jurisdiction requires electors to produce documentary evidence of their identity when casing an ordinary vote.

42 This committee briefly discussed electronic voting in its report no 2, n 20 at pp 2-3.
**Possible enrolment and/or voting ‘audits’**

23. In relation to possible enhanced electoral fraud ‘audits’ mentioned in section 7 of this paper, what form might any new or improved electoral fraud ‘audit’ procedures take and how might they be implemented in relation to:

(a) enrolment procedures; and/or

(b) voting procedures?

**Offences and enforcement**

24. Is there scope for improving the offence provisions relating to enrolment and voting that are contained in the Commonwealth and State electoral legislation and in the Commonwealth Crimes Act and the Queensland Criminal Code?

25. Is there scope to increase penalties for enrolment and voting offences?

26. Can more be done to facilitate the public’s lodging of complaints of electoral fraud to the ECQ or AEC and/or the Queensland Police Service or the Australian Federal Police? Can more be done to improve the investigation of such complaints by those bodies?

27. Overall, can electoral laws be better enforced? If so, how?

**General**

28. What more can be done to improve the capacity of the ECQ and persons responsible for the conduct of local government elections to prevent, detect and act upon electoral fraud? Regard might be had to questions of:

(a) legislative functions and powers;

(b) the role of various officers and officials; and

(c) resources.

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**GLOSSARY OF TERMS**

**Absent vote.** A vote made at a polling place by a voter who is outside his/her own electoral district at the time of casting a vote or at a polling booth that has not been established for their enrolled district.

**Australian Electoral Commission (AEC).** The independent statutory authority established under the *Commonwealth Electoral Act* 1918 to conduct federal elections and referendums. Under Queensland’s joint roll agreement with the Commonwealth, the AEC maintains and updates the electoral roll for Queensland State and local government elections.

**Ballot box.** The sealed container into which a voter places a completed ballot paper.

**Ballot paper.** The paper which a voter marks to record their vote.

**Certified list.** A looseleaf, printed list of names and addresses of electors entitled to vote in an election or referendum. Used in certain circumstances to mark the names of electors. Is electronically scannable. (See also reference roll.)

**Court of Disputed Returns.** A Court constituted by a Judge of the Supreme Court to hear petitions from a candidate, elector or the ECQ regarding the validity of an election and to decide whether a candidate is taken to be elected or not or whether a new election must be held.

**Declaration votes.** Votes that are sealed in an envelope signed by the voter. These votes are cast when:

- the voter casts an absent, pre-poll or postal vote;
- the voter's name cannot be found on the certified list;
- the voter's name is marked off the certified list as already having voted; and
- the voter is registered as a silent elector (i.e. his/her address does not appear on the roll).

**Declared institution.** An institution, such as a hospital or nursing home, which is gazetted as a declared institution and visited by polling officials for the purpose of taking votes from patients, residents or inmates.

Gary Fenlon MLA

Chair

8 September 2000
Declared institution vote. A vote made by an elector who is a patient, resident or inmate in a declared institution. It may be an ordinary or a declaration vote, depending on the elector’s enrolment details.

Electoral district. A defined geographical area containing a similar number of electors to all other districts in the State.

Electoral roll. (see certified list and reference roll).

Electoral visit vote. A vote recorded by an elector who is unable, for reasons such as disability or illness, to attend a polling booth. The elector votes in his/her residence, after application to the returning officer for a visit by a special designated polling official.

Electoral visitor. A polling official engaged by the returning officer to visit electors who are entitled to an electoral visit vote.

Enrolment. The act of having a person’s name added to the list of electors entitled to vote.

Enrolment form. Application form to enrol to vote or to change your address in federal and state elections.

Formal vote. A ballot paper which has been correctly marked according to instructions, and is counted towards the outcome of the poll.

Informal vote. A ballot paper which is not counted towards the outcome of the poll because it is not filled in or is marked incorrectly.

Issuing officer. A person engaged by the returning officer on behalf of the Electoral Commission to issue votes.

Issuing point. The part of a table staffed by one issuing officer who is issuing ballot papers.

Nomination. The process by which a person applies to become a candidate for election. Nominations can be made after the writ for an election has been issued and by the time and date specified as the close of nominations. For each nomination a deposit must also be lodged.

Official count. The check and recount of ballot papers (that were counted in polling places on election night) after polling day by ECQ staff.

Optional preferential voting. The method of voting in which voters have a choice of whether to mark second or further preferences for other candidates as well as their first preference. Used in State elections in Queensland.

Ordinary vote. A vote recorded in the normal manner in a polling booth on polling day by an elector enrolled for that electoral district. Electoral visit votes and local votes at mobile polling booths are also cast by means of an ordinary vote.

Poll. An election.

Polling. The process of electors recording their votes.

Polling booth. A location designated as a place for electors to cast their votes.

Polling place. An office, other building, mobile facility or location designated as a place for electors to cast their votes and includes a polling booth.

Polling official. Any person engaged by the returning officer on behalf of the Electoral Commission to carry out duties relating to the recording of votes.

Postal vote. A vote recorded by post after application by an elector who will be unable to attend a polling booth during polling hours (eg people living in remote areas, people with a disability). As soon as the returning officer receives applications for the ballot papers for an election, postal voters are sent ballot papers and declaration envelopes.

Pre-poll (in person) vote. A vote cast at a designated place before polling day, in person by an elector who will be unable to attend a polling booth on polling day.

Preselection. The choice by a political party of its candidates for an election.

Provisional enrolment at 17 years. Persons who are 17 and who, when turning 18, will be qualified to enrol may apply for enrolment. Provisional enrolment ensures that, should such persons turn 18
after the close of the rolls but on or before polling day for an election, they will be able to vote in that election.

**Reference roll.** A printed and bound list of the names and addresses of electors entitled to vote in an election or referendum. Used in certain circumstances to verify enrolment. Is not electronically scannable (see also certified list).

**Returning officer.** A person engaged by the Electoral Commission to conduct an election for an electoral district.

**Roll.** (See certified list and reference roll).

**Scanning.** The process of electronically scanning the marked pages of the certified lists after an election to determine which electors have voted (and have voted more than once) and have not voted.

**Scrutineer.** A person appointed by a candidate to ensure that procedures and counting are undertaken in a proper manner. Candidates can appoint scrutineers for each polling place. Scrutineers have the right to be present when the ballot boxes are sealed and opened and when the votes are sorted and counted so that they may check any possible irregularities, but they may not touch any ballot paper.

**Scrutiny.** The process following the close of polling to determine the acceptability of ordinary and declaration votes for the count and the result of the election.

**Silent enrollee.** A person whose address details are omitted from the roll for security reasons. This person receives a ballot paper by post from the Electoral Commission.

**Special postal vote.** A vote arranged by post for electors whose written application has satisfied the Electoral Commission that their enrolled address as registered is more than 15km by the nearest practicable route from a polling booth, or whose address is excluded from the roll for security reasons (a silent enrollee). The Electoral Commission automatically forwards ballot papers to these electors.

**Supervisor.** A person engaged by the returning officer on behalf of the Electoral Commission to coordinate and oversee the conduct of polling, scrutiny and counting at a polling booth on polling day.

**Unenrolled vote.** A declaration vote provided to an elector whose name does not appear on the roll, but who believes he/she is entitled to vote because the omission is by official error.

**Writ.** The document issued by the Governor or Speaker, authorising an election or referendum to be held and giving dates by which various procedures must be completed.
GUIDELINES FOR MAKING A SUBMISSION

FORM
♦ There is no set form for a submission to the committee. Submissions may be in the form of a letter, a substantial paper or a short document and they may include appendices. Submissions may contain facts, opinions, arguments and recommendations for action.
♦ The committee will only consider written submissions. Typed text on A4 paper is preferable, though legible hand-written submissions are acceptable.
♦ Submissions must be signed and dated. Those signing a submission on behalf of an organisation should indicate at what level of the submission has been authorised (eg sub-committee, president, chair, state branch, etc.). A return address and contact number should also be provided.
♦ Public officers may make submissions as private individuals. However, if reference is made in a submission to their official position, it should also be made clear that the submission is made in a private capacity.

CONTENT AND RELEVANCE
♦ A submission should be relevant to the committee’s inquiry, otherwise the committee may decide not to accept it. The committee will inform you if it decides to reject your submission.

CONFIDENTIALITY
♦ If you want your submission, or part of it, to be treated confidentially, then you should clearly write ‘confidential’ on each page and, in a brief covering letter, explain why your submission should be treated confidentially. The committee will then consider your request for confidentiality.

UNAUTHORISED RELEASE
♦ A submission made to the committee should not be published or disclosed to any other person in that form without the committee’s authorisation.
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All submissions should be sent to:
The Research Director
Legal, Constitutional and Administrative Review Committee
Parliament House, George Street
BRISBANE QLD 4000

Submissions close on 6 October 2000
Extensions to the closing date may be given. If you need more time to make a submission, contact the committee secretariat.
For further information, contact the committee secretariat on:
Telephone: (07) 3406 7307
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