

LEGISLATIVE ASSEMBLY OF QUEENSLAND

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

The prevention of electoral fraud:

Interim report

November 2000

Report No 28

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

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1. Annual report 1995-96	8 August 1996
2. Report on matters pertaining to the Electoral Commission of Queensland	8 August 1996
3. Review of the Referendums Bill 1996	14 November 1996
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6. Report on the study tour relating to the preservation and enhancement of individuals' rights and freedoms and to privacy (31 March 1997—14 April 1997)	1 October 1997
7. Annual report 1996-97	30 October 1997
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16. Review of the Transplantation and Anatomy Amendment Bill 1998	29 July 1999
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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	17 September 1999
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22. The role of the Queensland Parliament in treaty making	19 April 2000
23. Issues of Queensland electoral reform arising from the 1998 State election and amendments to the <i>Commonwealth Electoral Act 1918</i>	31 May 2000

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27. Review of the Queensland Constitutional Review Commission's recommendation for four year parliamentary terms	28 July 2000

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Truth in political advertising (Issues paper)	11 July 1996
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The preservation and enhancement of individuals' rights and freedoms: Should Queensland adopt a bill of rights? (Issues paper)	1 October 1997
Upper Houses (Information paper)	27 November 1997
Inquiry into issues of Queensland electoral reform (Background paper)	25 November 1999
The role of the Queensland Parliament in treaty making (Position paper)	25 November 1999
Freedom of Information in Queensland (Discussion paper)	8 February 2000
Four year parliamentary terms (Background paper)	11 April 2000
Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution (Position paper)	27 April 2000
Inquiry into the prevention of electoral fraud (Issues paper)	8 September 2000

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LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

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[#] Mr Warren Pitt MP was appointed to the committee by resolution of the Legislative Assembly of 29 February 2000 replacing Mr Geoff Wilson MP.

^{*} Dr Peter Prenzler MP was appointed to the committee by resolution of the Legislative Assembly of 11 November 1998 replacing Mr Charles Rappolt MP, whose resignation from Parliament was received by the Speaker of the Legislative Assembly on 4 November 1998.

CHAIR'S FOREWORD

Since March 1999, Australia's system for maintaining the integrity of the electoral roll has gone through a major revolution that has been largely unnoticed by the public at large as well as commentators.

I am referring to the introduction of the 'continuous roll updating' (CRU) system. According to electoral authorities, it is a system that is fifty percent implemented and is already yielding better enrolment results than the former two yearly periodic door to door canvas method that it has replaced.

This is one reason why this inquiry has faced limitations in terms of the conclusions and recommendations that it has been able to reach at this point in time. That is, the effect of the CRU system upon the integrity and completeness of the electoral roll and the prevention and detection of fraud is not entirely clear because we are still, at most, midpoint in its implementation.

The second aspect which limits the inquiry's capacity to reach comprehensive conclusions and recommendations is the fact that the Criminal Justice Commission (CJC) inquiry into certain allegations of electoral fraud in Queensland chaired by the Hon T Shepherdson QC is not yet complete. While there is now ongoing disclosure of specific evidence before that inquiry, Hon Shepherdson at this point provides no conclusion about the level of electoral fraud historically or at present, nor about the future risk of such fraud.

These limitations have left the committee with a dilemma as to what conclusions and recommendations it could form now in relation to its inquiry and which areas of reform should be the subject of further consideration after the completion of the Shepherdson CJC inquiry.

This dilemma is resolved by placing the agenda of reform options into two categories.

The first category of reform options contain a range of matters that may be described as 'systemic' in nature as they apply to the efficient and effective maintenance of the electoral roll in general and the advancement of the CRU system capabilities in particular.

The committee felt confident about forming conclusions and recommendations in this sphere. First, because the conclusions and recommendations regarding CRU contained in previous reports (no 19 and no 23) of the committee, provide a logical foundation for these conclusions; second, because of the strong supporting evidence provided by the electoral authorities; and third, because such measures will serve to strengthen the system that is in place to deter and detect electoral fraud without infringing upon the fundamental principles on which our electoral system is balanced.

The conclusions and recommendations of this report therefore amount to a set of measures to facilitate and expedite the development of the CRU system. These measures should also expand the ultimate capacity of the CRU system to enhance the integrity of the electoral roll and deter and detect electoral fraud. The recommendations of this report are aimed at providing Queensland with:

- (a) its own computer-based data facility to reconcile State databases with the Commonwealth-maintained Queensland electoral roll, enabling enhancement of the roll's integrity;

- (b) the capacity to effectively conduct fraud audits of the Commonwealth electoral roll data;
- (c) an advanced data collection system based upon a geographic spot on the map; and
- (d) additional capacity to implement strategies to encourage enrolment via various State agencies.

In essence, if these recommendations are adopted and implemented by the Government, they will provide the Electoral Commission Queensland with capacity to more effectively fulfil its charter with regard to maintaining the electoral roll. In doing so, the recommendations will also provide a data system that is subsequently capable of being fine tuned to specifically address a particular level of perceived risk of electoral fraud in the future. It is this perception of the risk of electoral fraud and the capacity of an enhanced CRU system to deter and detect fraud that must inform the next stage of this inquiry as the committee proceeds to report on other matters raised during this inquiry.

The second category of reform options contains a list of reforms such as introducing proof of identity requirements at the point of enrolment and voting. These reforms, in general, represent a departure from the finely balanced set of principles upon which our current electoral system is constructed. These principles were established through the rigours of the post-Fitzgerald years via EARC and its Parliamentary committee PEARC.

The committee has taken the view that because of the limitations under which this inquiry has operated as outlined above, it would be unwise to recommend fundamental changes to these carefully crafted principles without far greater clarity as to the actual current levels of electoral fraud that are the subject of the Shepherdson inquiry; what the full impact of such changes may be; and what risks of electoral fraud would be addressed by such changes.

The committee's course is not intended to deny in any way the extreme seriousness of the matters that led to the initiation of this inquiry and which are now the subject of the CJC Shepherdson inquiry.

That is why the committee wishes to make it profoundly clear that this is an 'interim report' of the committee. All reform matters such as proof of identity at enrolment will be placed firmly on the agenda for future consideration by the committee regardless of whether the committee has previously expressed a view about such reforms or not.

The committee will examine afresh all such matters of reform after Hon Shepherdson has reported.

I must now briefly address two problematic issues that underpin this inquiry and which will be key to the next stage of the inquiry. Here I refer to the closely connected matters of first, citizens' privacy where various data concerning an individual is compiled via the CRU system, and, second, the establishment of the identity of an individual who seeks registration on the electoral roll.

The problem starts at the point of establishing the identity of an individual who seeks registration on the electoral roll, for there are 'two' critical pieces of data that are essential to the integrity of the electoral roll. That is, the valid registration of a citizen on the roll requires not only having sound verification of 'proof of identity' but also 'proof of address'.

The difficulty that therefore arises is, that there is no single piece of identification that reliably satisfies both of these requirements for every citizen.

What CRU addresses is that ‘proof of identity’ and ‘proof of address’ is not locked in one document. ‘Who we are’ and ‘where we live’ is established by reference to a set of information that citizens leave behind in the normal conduct of their lives like footprints in the sand. Intelligent correlation of this set of information ensures that the integrity of the electoral roll is the subject of constant vigilance by the electoral authorities as it constructs a data web through which a person intending to commit electoral fraud will find it very difficult to navigate.

The array of data concerning a citizen’s identity and location that is created via an enhanced CRU system gives rise to legitimate concerns about privacy. These concerns should be addressed via well-established privacy principles to effectively protect citizens.

Caution must be exercised by this committee in progressing to the next stage of this inquiry and great responsibility must be exercised by those with a capacity to influence the public debate that will ensue, to ensure that public examination of these issues proceeds on a well informed basis. The thorough research and the compilation of views at the foundation of this report should be closely examined in order to now guide public consideration of these matters.

In this regard, I note the editorial in *The Courier-Mail* of 8 November 2000 which argues that suggestions such as proof of identification before enrolment and closure of rolls on the day an election is officially called ‘*should be examined thoroughly*’. The same editorial argues that ‘*The Shepherdson inquiry has shown preservation of the status quo is no longer an option*’.

Clearly defining the status quo in this report has been an elusive exercise as we track the evolving CRU system.

I thank the members of the committee for their hard work in completing this report. On behalf of the committee I wish to thank Mr Des O’Shea, Queensland’s Electoral Commissioner, and Mr Bob Longland, the Australian Electoral Commission’s Electoral Officer for Queensland, and their staff, for their extremely valuable assistance. I would also like to thank Mr Ian Dickson, former New South Wales Electoral Commissioner, whom the committee engaged as a consultant for this inquiry, for providing the committee with his valuable insights as the report was being prepared.

On behalf of the committee I wish to pay special tribute to the staff of the Legal, Constitutional and Administrative Review Committee secretariat: Mr David Thannhauser, Acting Research Director; Ms Sarah Lim, Acting Senior Research Officer; and Ms Tania Jackman, Executive Assistant, who have displayed a Herculean effort in completing a lengthy and complex report within the limited time frame demanded by the Parliament and against the dynamic background within which the issues that are the subject of this report have unfolded.

Gary Fenlon MP
Chair

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1. THE REFERENCE AND THE INQUIRY PROCESS

1.1 BACKGROUND

1.1.1 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 additionally ‘deal with’ an issue referred to it by the Legislative Assembly.

1.1.2 The reference

On 22 August 2000, the Legislative Assembly—on the motion of Mr Peter Wellington MP, seconded Mr Gary Fenlon MP (Chair of this committee)—resolved:

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 subsequently resolved to conduct an inquiry into the prevention of electoral fraud (enrolment fraud and voting fraud) in Queensland state, local government and aboriginal and island council elections. The committee prepared an issues paper in relation to its inquiry (the issues paper is discussed further in the next section). In its issues paper, the committee noted the following comments made by Mr Wellington during the debate in the Assembly on his motion:

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.¹

In light of Mr Wellington’s comments, the wording of the motion and the committee’s State-focussed jurisdiction, the committee stated in its issues paper that it considered that the inquiry referred to it by the Assembly comprised 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 Queensland’s *Electoral Act 1992*;

¹ Hansard, Queensland Legislative Assembly, 22 August 2000 at 2567-2568.

- 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 Queensland's *Electoral Act*;
- 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*—as authorised by the joint roll arrangement referred to in s 62 of Queensland's *Electoral Act*—but not the conduct of federal elections.

The committee considered that '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'.²

However, the committee stipulated in its issues paper that it did not consider the terms of the Assembly's motion as being so wide as directing 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;
- requirements concerning electoral funding and financial disclosure;³
- the powers of the Court of Disputed Returns;⁴ and
- the registration of political parties.⁵

² Electoral and Administrative Review Commission (EARC), *Report on the Queensland Legislative Assembly electoral system*, GoPrint, Brisbane, November 1990 at 1.10.

³ This committee has previously reported on some aspects of electoral funding and disclosure. See the committee's report no 23, *Issues of Queensland electoral reform arising from the 1998 State election and amendments to the Commonwealth Electoral Act 1918*, GoPrint, Brisbane, May 2000.

⁴ This committee has previously reported on matters concerning the Court of Disputed Returns. See the committee's 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*, GoPrint, Brisbane, September 1999.

⁵ Such a delineation of the terms of reference was generally not referred to, or objected to, in submissions received by the committee, except that the National Party of Australia (Queensland Division) submitted that fraudulent registration of political parties (an issue addressed recently by the Commonwealth Parliament) should have been addressed by the committee because the 'fraudulent registration of political parties ... does have the capacity to generate fraudulent electoral results'. Several submitters (submission nos 3, 19, 20 and 26) also referred to misleading and deceptive electoral advertising, including how-to-vote cards, as a method of perpetrating electoral fraud. The issue of misleading how-to-vote cards has been comprehensively addressed by this committee previously: report no 4, *Truth in political advertising*,

Instead, the committee considered that the phrase ‘the best way to minimise electoral fraud’ contained in the Assembly’s reference to the committee compelled the committee to focus upon means of preventing fraudulent practices in relation to enrolment procedures and the casting and recording of votes. Fraudulent electoral practices include what the AEC has previously described as ‘time-honoured methods of manipulating elections results, such as multiple voting, cemetery voting, vacant lot enrolment, and roll-stacking in marginal electorates’.⁶

In relation to the 14 November 2000 deadline for the committee to report, Mr Wellington said during parliamentary debate on the motion on 22 August 2000 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.⁷

1.2 THE INQUIRY PROCESS

1.2.1 Issues paper

As mentioned above, the committee tabled an issues paper, *Inquiry into the prevention of electoral fraud*,⁸ in the Legislative Assembly on 8 September 2000 to guide and facilitate the making of submissions to its inquiry.

In its issues paper, the committee outlined:

- the context in which it is inquiring, and referred to other inquiries being undertaken into matters germane to the subject matter of this inquiry [see chapter 2 (Context of the inquiry) below];
- preliminary committee comments about the Queensland electoral system and the various checks and balances in the system that are aimed at ensuring the integrity of the electoral process [this matter is the subject of chapter 4 (Existing checks and balances in the electoral process) below];
- some conclusions previously drawn by electoral authorities [the AEC, the Commonwealth Parliament’s Joint Standing Committee on Electoral Matters (JSCEM) and the ECQ] about the incidence of enrolment and voting fraud; and
- this committee’s previous reports on electoral matters.

The issues paper also specified 28 issues relating to the prevention of electoral fraud that submissions might address and included a glossary of electoral terms.⁹

1.2.2 Call for submissions

The committee called for public submissions in response to its issues paper. The committee advertised its call for submissions on Saturday 9 September 2000 in *The Courier-Mail*, *Cairns Post*, *Rockhampton Morning Bulletin* and *Townsville Bulletin*, and—during the week

GoPrint, Brisbane, December 1996; report no 18, n 4; and report no 20, *The Electoral Amendment Bill 1999*, GoPrint, Brisbane, April 2000.

⁶ Australian Electoral Commission (AEC), *Multiple voting*, Electoral Backgrounder No 9, AEC, Canberra, July 1998 at <http://www.aec.gov.au/pubs/backgrounders/vol_9/main.htm>, downloaded 22 August 2000.

⁷ Hansard, n 1 at 2568. The next State general election must be called by the end of July 2001.

⁸ The issues paper is available at: <<http://www.parliament.qld.gov.au/comdocs/legalrev/LCIP0009.pdf>>.

⁹ See section 8 of, and the glossary to, the issues paper, n 8.

commencing 11 September 2000—in the following Queensland regional dailies: the *Bundaberg News Mail*; *Fraser Coast Chronicle*; *Gladstone Observer*; *Gold Coast Bulletin*; *Gympie Times*; *Ipswich Queensland Times*; *Mackay Daily Mercury*; *Mt Isa North West Star*; *Sunshine Coast Daily*; *Toowoomba Chronicle*; *Torres News Pty Ltd*; *Warwick Daily News*; and the *Weipa Bulletin*.

Apart from newspaper advertising, the committee directly wrote to approximately 420 persons and organisations that it identified as having a potential interest in the subject matter of the inquiry. The committee's letter enclosed a copy of the issues paper and asked for submissions from those persons and organisations, which included:

- members of the Queensland Legislative Assembly, including ministers;
- Queensland political parties;
- Queensland local governments, and aboriginal and island councils;
- Queensland Senators and Members of the House of Representatives;
- ministers responsible for electoral legislation in other jurisdictions, and local government departments in other jurisdictions;
- various legal and political science academics; and
- other relevant persons and organisations.

Submissions closed on 6 October 2000, although the committee continued to accept submissions past that date. The committee received 29 submissions to its inquiry. The committee tabled in Parliament 26 (non-confidential) submissions on 18 October 2000, and will table one further submission on 14 November 2000 when it tables this report. A list of those persons and organisations who made submissions to the committee's inquiry appears as **Appendix A**.¹⁰

1.2.3 Requests for information

In addition to forwarding copies of the issues paper to them, the committee made the following written requests of certain organisations:

- the ECQ, asking a series of specific questions focussing on procedures and measures currently employed by the ECQ (and the AEC, in relation to enrolment procedures) to ensure integrity in the electoral process and, specifically, to guard against fraudulent electoral and enrolment activity. The committee also asked for information about the impact of various possible reform options aimed at preventing electoral fraud. (In relation to enrolment matters, the committee asked the ECQ to consult with the AEC in preparing its response—the committee had understood that the AEC would not be directly submitting to the committee in light of the AEC concurrently preparing a submission to the JSCEM inquiry into the integrity of the electoral roll and incidents of enrolment fraud—the JSCEM inquiry is referred to below in section 2.2.);¹¹

¹⁰ Submissions can be viewed at the Bills and Papers Office, Parliament House, Brisbane. The Electoral Commission Queensland's (ECQ) submission (no 11) dated September 2000 is available via the committee's website at <<http://www.parliament.qld.gov.au/committees/legalrev.htm>>.

¹¹ The ECQ subsequently did consult with the AEC in preparing the ECQ submission. As mentioned elsewhere in this report, this committee has not had time to meaningfully consider the detailed AEC submission to the JSCEM inquiry, important as that submission is to the consideration of matters concerning the prevention of electoral fraud. (This committee was at the stage of considering the Chair's draft report when the AEC's submission to the JSCEM was tabled and publicly released on 31 October

- the Department of Communication and Information, Local Government, Planning and Sport (Local Government Services), asking similar questions in relation to local government elections;
- the Department of Aboriginal and Torres Strait Islander Policy and Development, asking similar questions in relation to aboriginal and island council elections; and
- all interstate electoral commissioners/electoral officers, asking for information about any measures aimed at preventing electoral fraud that have been implemented or proposed in their jurisdictions during the last 15 years. The committee also asked for any previously gathered evidence about the incidence of voting or enrolment fraud in those jurisdictions.

The committee tabled in Parliament on 18 October 2000 (along with submissions) three such responses to committee requests for information. The committee intends to table one further response on 14 November 2000 when it tables this report. A list of those agencies who responded to the committee's request appears as **Appendix B**.¹²

1.2.4 Hearing

On 24 October 2000, the committee held a hearing relating to the inquiry, asking questions of:

- the Electoral Commission Queensland (Mr Des O'Shea, Electoral Commissioner; Ms Trudy Aurisch, Deputy Electoral Commissioner; Mr Garry Wiltshire, Manager, Operations);
- the Australian Electoral Commission (Mr Bob Longland, Australian Electoral Officer (Queensland); Mr Peter Spelman, Director of Enrolment and Business Planning); and
- Mr Terry Tibbits, returning officer for numerous past State and local government elections.

While the hearing was not open to the public on the day, the committee intended to subsequently publish the transcripts of it and will table in Parliament the transcript of that hearing when it tables this report on 14 November 2000. The committee will also publish the transcript on its web site at <<http://www.parliament.qld.gov.au/committees/legalrev.htm>>.

1.2.5 General

The committee has now considered all submissions, the evidence gathered at its hearing and its other research. In addition, the committee has sought and considered the advice of Mr Ian Dickson (New South Wales Electoral Commissioner for 15 years until November 1999) as a consultant on a number of matters associated with the inquiry.

2000.) The committee did, however, receive evidence from AEC representatives at its hearing—see section 1.2.4.

¹² The response from the ECQ was in the form of a submission and tabled as such.

2. CONTEXT OF THE INQUIRY

The committee has undertaken its inquiry in a context of considerable media and political attention to issues surrounding recent allegations of fraudulent electoral activities (specifically and at least initially, fraudulent enrolment activities) in Queensland. That attention follows the now well-publicised successful prosecutions in Townsville of Ms Karen Ehrmann and Messrs Andrew Kehoe and Shane Foster for past forging and uttering of Commonwealth—ie AEC—electoral enrolment forms in relation to Australian Labor Party (ALP) plebiscites for pre-selection. The most recent prosecution, that of Ms Ehrmann, has led to a raft of allegations of other instances of electoral fraud, and public calls from a number of sources for various reforms to the electoral process.

The seriousness of the above events provided impetus to not only this committee's inquiry but also to investigations into allegations of past instances of electoral/enrolment fraud by:

- Queensland's Criminal Justice Commission (CJC); and
- the Commonwealth Parliament's Joint Standing Committee on Electoral Matters (JSCEM).

In addition, the above events appear to have led to:

- a motion in the Queensland Legislative Assembly on 5 September 2000 moved by the Leader of the Queensland Liberal Party, Dr David Watson MP, calling for proof of identity requirements for enrolment and for voting. The motion was successfully amended by the Attorney-General, Hon Matt Foley MP, to effectively refer Dr Watson's motion to this committee as part of its inquiry; and
- heightened attention to revised drafts of regulations that would give effect to recent (but as yet uncommenced) amendments to the *Commonwealth Electoral Act 1918* requiring, amongst other things, proof of identity when people enrol.

This committee has, in its report no 19 in March 2000, already commented (in an adverse manner) on the new Commonwealth requirements for proof of identity at enrolment.

These and other important background matters and developments are discussed in the remainder of this chapter. The impact of these developments (particularly that of the CJC and JSCEM inquiries) on the committee's conduct of this inquiry is discussed in chapter 3.

2.1 THE CJC INQUIRY

On 22 August 2000, the CJC appointed independent counsel, Mr Phillip McMurdo QC, to examine information gathered during preliminary CJC investigations into certain allegations of electoral fraud. On obtaining advice from Mr McMurdo QC, the CJC resolved on 5 September 2000:

1. *To conduct an investigation into any alleged official misconduct, by way of conduct which constitutes or could constitute a criminal offence or offences:*
 - (a) *affecting the electoral roll relevant to the conduct in 1996 of a plebiscite within the Australian Labor Party to select its candidate for the State electorate of Townsville;*
 - (b) *affecting the electoral roll for the by-election for the seat of Mundingburra held in 1996;*

- (c) *affecting the electoral roll relevant to the conduct in 1993 of a plebiscite within the Australian Labor Party to select its candidate for the Brisbane City Council ward of East Brisbane;*
- (d) *affecting the electoral roll relevant to the conduct in 1993 of a plebiscite within the Australian Labor Party to select its candidate for the Brisbane City Council ward of Morningside;*
2. *To conduct an investigation into such other alleged conduct, which constitutes or could constitute a criminal offence, in respect of any plebiscite conducted within the years 1993 to 1997 inclusive for the selection of the candidate of the Australian Labor Party for any electorate of the Legislative Assembly or the position of councillor of any local government within Queensland, in respect of which there could be a reasonable suspicion of official misconduct;*
3. *To undertake such preliminary investigations as are appropriate to determine whether there is a reasonable suspicion of official misconduct in relation to anything which constitutes or could constitute a criminal offence, in respect of any plebiscite conducted within the years 1993 to 1997 inclusive and as otherwise described in paragraph 2 above;...*¹³

The CJC further resolved to engage Hon Tom Shepherdson QC to conduct the investigation and report thereon. The ramifications of Hon Shepherdson's inquiry for the committee's current inquiry are substantial, and are discussed in chapter 3 below.

2.2 THE JSC EM INQUIRY

On 23 August 2000, the Commonwealth Special Minister of State asked the Joint Standing Committee on Electoral Matters to examine the issue of the integrity of the electoral roll and fraudulent enrolment.¹⁴ At its meeting on 5 September 2000, the JSC EM agreed that in examining the matter it would 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.

The JSC EM called for public submissions on 9 September 2000 (coincidentally, the day this committee advertised for submissions). Submissions to that inquiry closed on 13 October 2000. On 31 October 2000, the JSC EM publicly released some 27 submissions made to it, including a detailed submission from the AEC to the JSC EM on enrolment processes and their integrity.

Unfortunately, because on 31 October 2000 this committee was in the process of finalising its report to meet the procedural requirements of reporting by 14 November 2000 as requested, this committee has not had the opportunity to examine the AEC submission to the JSC EM in any depth. The committee has not had the opportunity to examine the other submissions to the JSC EM at all.

¹³ Terms of reference attached to a CJC press release dated 6 September 2000.

¹⁴ Letter from Special Minister of State (Senator the Hon Chris Ellison) to JSC EM dated 23 August 2000.

A media report on 14 October 2000, stated the JSCEM intended to commence public hearings in November 2000.¹⁵

2.3 MOTION IN PARLIAMENT, 5 SEPTEMBER 2000

On 5 September 2000, the Leader of the Liberal Party, Dr David Watson MP, moved the following motion in the Queensland Legislative Assembly:

*In view of the conviction of three ALP identities for electoral corruption by rorting the electoral rolls 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.*¹⁶

Dr Watson stated that, in light of the above-mentioned convictions of ALP figures for electoral fraud, and allegations that other people had perpetrated electoral fraud:

*... we can fix the future. We can take steps to make sure that it does not happen again. The first and most logical step is to tighten up the enrolment and polling requirements. That means proof of identity and address to register and vote.*¹⁷

Dr Watson acknowledged that this committee had previously expressed reservations in its report no 19¹⁸ (discussed below in section 2.5) about recent (but as yet uncommenced) amendments to the *Commonwealth Electoral Act* that would require, amongst other things, proof of identification to be produced when people enrolled. Dr Watson argued, though, that the committee's reservations in that report were no longer valid:

... because they were based on the official assurances that electoral fraud was not a major problem and a preliminary concern that the Commonwealth's requirements were unduly onerous.

*... there is now a clear need for these reforms and no valid objection.*¹⁹

Dr Watson envisaged that almost any form of identification (driver's licences, student identification and Medicare cards, etc) would be acceptable. Dr Watson suggested that, indeed, the new Commonwealth requirements did not go far enough, in that proof of identity and address should also be required of electors at the ballot box.

The Attorney-General, Hon Matt Foley MP, successfully moved the following amendment to Dr Watson's motion:

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";

¹⁵ Franklin, M & Callinan, R, 'Federal Labor MP interviewed over Oxley rort claim' *The Courier-Mail*, 14 October 2000 at 4.

¹⁶ Hansard, Queensland Legislative Assembly, 5 September 2000 at 2935.

¹⁷ Hansard, n 16 at 2936.

¹⁸ LCARC, report no 19, *Implications of the new Commonwealth enrolment requirements*, GoPrint, Brisbane, March 2000.

¹⁹ Hansard, n 17 at 2936.

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

3. The House requests that Committee to include in the said investigation and report consideration of Dr Watson's motion that'.²⁰

During the debate on the motion, various members made arguments for and against introducing requirements for proof of address and identity to be shown when enrolling and when voting.²¹

2.4 LATEST DRAFT COMMONWEALTH REGULATIONS IMPLEMENTING REQUIREMENTS FOR PROOF OF IDENTIFICATION AT ENROLMENT , ETC

2.4.1 Latest version of the Commonwealth regulations

During the current inquiry, there has been renewed focus on the draft Commonwealth regulations that would specify how two significant recent, but as yet uncommenced, amendments to the *Commonwealth Electoral Act*²² would be put into effect.

The two amendments are as follows.

First, the *Commonwealth Electoral Act* has been amended so that the identity of a person enrolling for the first time must be verified in the manner prescribed by regulations. Prior to the amendment (and until such time as the relevant amendment commences and regulations are promulgated), there was no requirement for first-time electors, or electors changing their enrolment details, to produce proof of identity to enrol. Further, a person who claims to be an Australian citizen because of a grant of Australian citizenship under the *Australian Citizenship Act 1948*, must have their citizenship verified before they can be enrolled. (See new subsections 98(2A), (2B), (2C) and (2D) of the Act.)

Secondly, witnessing requirements for enrolment cards have been made more stringent. The *Commonwealth Electoral Act* has been amended so that all enrolments²³ including transfers of enrolment must be witnessed by a person who is: (a) currently enrolled; and (b) in a class of electors prescribed by regulation. (See new s 98(2)(c) of the Act.)

This committee reported on those amendments in its report no 19 *Implications of the new Commonwealth enrolment requirements*.²⁴ (See section 2.5 below.)

During the course of this committee's inquiry, Special Minister of State, Hon Senator Chris Ellison, released a number of press statements (dated 23 August 2000, 30 August 2000 and 18 October 2000) referring to the desirability of implementing the draft Commonwealth

²⁰ Hansard, n 17 at 2938.

²¹ Hansard, n 17 at 2937–2946.

²² The amendments were made by the *Electoral and Referendum Amendment Act (No. 1) 1999* (Cth). That Act was passed by the Commonwealth Parliament on 23 September 1999 (assented to on 13 October 1999). The amendments have not yet commenced.

²³ That is, a claim for enrolment or transfer of enrolment or a claim for age 17 'provisional' enrolment. Provisional enrolment of 17 year olds is permitted under the *Commonwealth Electoral Act 1918*, s 100.

²⁴ LCARC report no 19, n 18.

regulations. Senator Ellison's media release of 18 October 2000 referred to the Senator's release on that day of a further updated form of the draft Commonwealth regulations.

2.4.2 The impetus to the new Commonwealth enrolment requirements

The October 1999 amendments to the *Commonwealth Electoral Act* concerning enrolment procedures largely stem from a report of the JSCEM on the 1996 federal election.²⁵ (That committee has, since the 1984 general election, publicly inquired into, and reported on, the conduct of each federal election.) One of the substantive issues which the JSCEM considered was the topic of electoral fraud.

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 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.*²⁶

Following consideration of a range of measures suggested to it (to combat electoral fraud), the majority of the JSCEM concluded that:

*Having examined the evidence to the inquiry, the Committee believes that the witnessing requirement on the enrolment form should be upgraded, that electors should have to produce at least one form of proof of identity for enrolment, that the government should expedite cross-checking of electoral data with information held by other agencies, that new enrolments should cease on the day the writ for an election is issued and that subdivisional voting should be re-examined.*²⁷

Despite the fact that the JSCEM recommendations were aimed at combating electoral fraud, three members of the committee in a minority report stated that:

The Committee has not been presented with any substantive material indicating the existence of electoral fraud. It has been limited to anecdote and hearsay.

*Despite a dearth of evidence that alleged loopholes are being abused, there are, in the Majority Report, serious new moves to complicate enrolment. The outcome will be discouragement of prospective and past re-enrolling voters.*²⁸

²⁵ JSCEM, *The 1996 federal election: Report of the inquiry into the conduct of the 1996 federal election and matters related thereto*, AGPS, Canberra, June 1997.

²⁶ JSCEM, report on the 1996 federal election, n 25 at 2.1-2.2.

²⁷ JSCEM, report on the 1996 federal election, n 25 at 2.4. The majority report was presented by Liberal Party and National Party members of the committee.

²⁸ JSCEM, report on the 1996 federal election, n 25 at 119. The minority report was presented by the committee's three ALP members: Senator S Conroy, Mr L Ferguson MP and Mr R McClelland MP. A minority report was also submitted by Senator Andrew Murray (Australian Democrats), though, Senator Murray's report did not address the majority's recommendations regarding the new enrolment requirements.

Further comments made by the JSCEM in that report are referred to in section 5.2 of this report. A copy of the JSCEM's report and the government's response to the committee's recommendations made in that report can be viewed via the JSCEM's web page at: <<http://www.aph.gov.au/house/committee/em/elec/elecinde.htm>>.

2.5 PREVIOUS COMMITTEE COMMENT ABOUT THE COMMONWEALTH REQUIREMENTS FOR PROOF OF IDENTITY AT ENROLMENT

This committee, in its report no 19 of March 2000,²⁹ has previously commented disapprovingly about the above-mentioned new Commonwealth enrolment requirements. Because the possibility of requiring proof of identify at enrolment is one of the major reform options for the prevention of electoral fraud, it is prudent to reproduce the following comments made by the committee its report no 19.

The committee believes that the changes to the Commonwealth's enrolment requirements have the capacity to effectively disenfranchise a significant number of eligible voters and hence reduce the number of citizens on the electoral roll.

The committee appreciates that the regulations are still to be finalised and that there is scope for the impact of the new requirements to be lessened by, for example, broadening the category of witnesses. However, in the committee's opinion it remains that the inconvenience—not to mention potential cost—to citizens of requiring first-time voters to produce an original form of identification and requiring enrolment cards to be witnessed by certain prescribed persons has the potential to effectively put such significant hurdles in the way of eligible voters as to deter them from (re)enrolling. This is of particular significance in light of recent knife-edge election results in Queensland where one seat has determined the fate of government.

...

The committee recognises that the 'degree' of deterrent effect of requiring the production of proof of identity documents as a condition of enrolment will depend on the identity documents actually specified in the finalised regulations. However, the deterrent effect will be exacerbated in cases where eligible electors do not already have proof of identity and it will cost them to obtain it. Effectively imposing payment as a pre-condition to the right to vote is antithetical to our democratic system of government.

Given that most first-time voters are likely to be 18 year-olds, the new requirements have the potential to further exacerbate existing difficulties in encouraging young people to enrol. (AEC research shows that under current enrolment procedures, only 69% of eligible 18 year-old Australians are enrolled to vote with the figure for 19 year-olds being only slightly better at 78%.³⁰)

Depending on their final form, the regulations also have the potential to make it more difficult for other groups in the community to enrol. For example, if cost is involved (due to people having to obtain proof of identity documents) then low income earners are likely to be adversely affected. If access to a prescribed witness is difficult ... the impact will more likely be felt by people in rural or remote areas, a concern of particular relevance to a state the size of Queensland.

...

²⁹ LCARC report no 19, n 18.

³⁰ Hallett B, (Director Information, AEC), 'Youth participation in Australia', paper presented at the International IDEA's 1999 Democracy forum—Youth and democracy, Stockholm, June 1999 at 7.

Queensland is not the only state concerned by the new enrolment requirements' potential to disenfranchise eligible electors. In this context, the new requirements have been described as 'voluntary voting by stealth'.³¹ ...

...

The committee believes that, if electoral fraud is considered to be a real problem, then more effective strategies can be implemented to overcome such activity.

A better and more proportionate means of addressing electoral fraud might be to increase the penalties for existing electoral offences.³² ...

A second and more potent approach is enhanced continuous roll updating (CRU) with appropriate back-up and audit. ... Rather than new enrolment requirements such as the Commonwealth Parliament has passed the committee would prefer to see effort directed to increasing current enrolment levels by other means. ... In other words, the committee is interested in pursuing avenues that achieve higher enrolment, not ones that will lessen it.

...

Committee conclusion 1

...

The new enrolment requirements have the potential to effectively disenfranchise a significant number of eligible voters.

This result would make it essential for Queensland to retain its enrolment criteria as they stood prior to the October 1999 Commonwealth amendments (which have not yet commenced). In practical terms, this would mean that Queensland should (re)establish a separate state electoral roll. This, in the committee's opinion, would be a necessary but undesirable outcome.

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.

Committee recommendation 1

The committee recommends that the Queensland Attorney-General—as the minister responsible for the Electoral Act 1992 (Qld)—facilitate a meeting with the federal minister responsible for electoral matters in order to:

- alert the federal minister to the above-mentioned conclusions of this multi-party committee; and
- foreshadow the possibility that, if the enfranchisement of Queenslanders is threatened, then Queensland will consider:

³¹ Contractor A, 'ACT set to adopt tougher electoral processes', *The Canberra Times*, 3 December 1999 available at: <<http://www.canberratimes.com/archive/news/1999/12/03/news4.shtml>>.

³² See, for example, the following provisions of the *Commonwealth Electoral Act 1918*: (a) s 44 (Forging or uttering electoral papers), penalty: \$1000 or 6 months imprisonment or both; (b) s 39 (Other offences relating to ballot-papers etc) which makes it an offence to, among other things: make any false or misleading statement in an enrolment claim card, penalty—imprisonment for 6 months; impersonate anyone for the purposes of obtaining a ballot paper and voting, penalty—imprisonment for 6 months; voting more than once at the same election, penalty—10 penalty units; and (c) s 342 (Duty of witness to claim), penalty—\$1000.

- (a) amending the Electoral Act 1992 (*Qld*) to ensure enrolment criteria, as they stood prior to the October 1999 Commonwealth amendments (which have not yet commenced), are retained for state elections; and
- (b) (re)establishing its own electoral roll.³³

In his 'Ministerial response' to the above recommendation, the Attorney-General, the Hon Matt Foley MP, stated that '*The recommendation has been adopted and implemented ...*'³⁴

2.6 LOCAL GOVERNMENT ELECTORAL MATTERS

The committee stated in its issues paper that, whilst information contained in the paper might reflect a focus on State elections (that is, elections for a member or members of the Legislative Assembly), the committee equally welcomed submissions concerning local government elections (and aboriginal and island council elections).

2.6.1 Concurrent review of local government electoral matters

The committee also noted in its issues paper 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*. The DCILGPS discussion paper outlined information about, and invited submissions on, local government electoral arrangements, such as the role of the ECQ in local government elections. Submissions to that discussion paper closed on 6 October 2000. The discussion paper indicated that the department would undertake a further round of public consultation once the Minister released consequent firm reform proposals.

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

2.6.2 Local government electoral matters in this report

The proper administration of local government and aboriginal and island council elections are obviously as important as the proper administration of state elections. Also, the issues raised by this inquiry have equal application to all elections where the electoral roll is used, with certain exceptions where local government and aboriginal and island council electoral processes are idiosyncratic (eg certain first-past-the-post local government polls; tighter communities in aboriginal and island council elections).³⁵

However, the committee has not had the time or resources to specifically research such matters. Furthermore, as indicated by Local Government Services,³⁶ local government

³³ LCARC report no 19, n 18 at 11-12, 14 and 24-27. These comments relate to the identity requirements; the amendments also introduced new witnessing requirements. Readers should refer to the actual report, available via the committee website, for the comment's full comments.

³⁴ Hon M Foley MP, Attorney-General and Minister for Justice and Minister for The Arts, 'ministerial response' to LCARC report no 19, tabled on 1 June 2000.

³⁵ The committee received 10 submissions from local governments and comments made in those submissions from local governments are referred to in the report.

³⁶ Department of Communication and Information, Local Government, Planning and Sport (Local Government Services) response dated 18 October 2000 to LCARC's request for information.

electoral arrangements tend to be based—as applicable—on State-level electoral policy decisions that are reflected in the provisions contained in the *Electoral Act*.

On that basis, for the remainder of this report, the committee mostly does not further delineate between local government, aboriginal and island council and state elections. Of course, any recommendations specifically about enhancing existing enrolment procedures will consequently directly affect State, local government and aboriginal and island council elections, as they are all based on the same electoral roll.

3. NATURE OF THE INQUIRY, INITIAL CONCLUSIONS AND CONTENT OF THE REPORT

3.1 NATURE OF THE INQUIRY

This inquiry has been a challenging one for the committee. The subject matter of the inquiry—the prevention of electoral fraud—is vitally important and requires thorough, informed consideration. The answer to the question that the Legislative Assembly has referred to the committee—what is ‘the best way to minimise electoral fraud at elections’?—requires consideration of the nature of our democracy, and of the features of the electoral process at its heart. It requires an assessment of how well the current electoral system is faring, and a weighing up of current arrangements with the broad reform options that are suggested from time to time.³⁷ The question also requires consideration about *how* the current electoral system should be adjudged, and about *how* the merits and suitability of reform options should be measured against current arrangements and desired outcomes.

Fundamentally, the electoral system must provide electors with maximum opportunity to cast their vote. Undue hurdles to the franchise are anathema to our democratic process. This is especially so in Australia where both enrolment and voting are compulsory. At the same time, all possible steps must be taken to prevent electoral malpractice and fraud in order to optimise the electoral effect of each vote and to ensure public confidence in the integrity of the electoral system. The legitimacy of the entire political process stems from legitimate electoral results.

The short timeframe given by the Assembly to the committee in which to report has heightened the challenge of the inquiry.

Nevertheless, the committee welcomes the opportunity that this report presents to the committee to place a good deal of valuable information about electoral matters into the public arena,³⁸ in the form of references to information and opinions contained in submissions received by the committee and the transcript of the committee’s hearing.

However, it is the existence of the two concurrent and ongoing inquiries mentioned in the previous chapter—the CJC’s Shepherdson inquiry into certain allegations of electoral fraud in Queensland and the JSCEM’s inquiry into the integrity of the electoral roll and incidents of electoral fraud—that has most accentuated the difficulty of the committee’s task.

Since the outset of its inquiry, the committee has been mindful, and concerned, that its reporting date of 14 November 2000 would precede the likely reporting dates of both the Shepherdson inquiry and the JSCEM inquiry. Indeed, during the process of preparing this report, news items on radio and television and in newspapers have appeared almost daily about:

- the information presented to the Shepherdson inquiry’s hearings; and
- other well-publicised allegations of past electoral fraud.

That information and those allegations are obviously very serious.

³⁷ Various electoral reform options are outlined in the latter parts of chapters 6-8 below.

³⁸ Electoral law and policy is an area that, for various reasons, has traditionally suffered from a lack of information compared to other areas of public importance.

Nonetheless, this committee, as signalled in the committee's issues paper, has not attempted to investigate specific allegations of past instances of electoral fraud. Instead, the committee intended that its inquiry be forward looking in nature—an inquiry about matters of electoral law reform, with the following two broad subcategories:

- matters relating to the possible reform of voting procedures to enhance, if necessary, the integrity of the voting process at Queensland State elections, local government and aboriginal and island council elections; and
- matters relating to the possible reform of enrolment procedures to enhance, if necessary, the integrity of the electoral roll.

It is the second broad subcategory of electoral matters that make up this inquiry—that is, enrolment arrangements—that is concurrently being inquired into by the Shepherdson and JSCEM inquiries. Unlike this inquiry, those inquiries are undertaking in-depth investigation of allegations of specific past instances of enrolment fraud.

Apart from various AEC investigations that follow elections, the Shepherdson inquiry appears to be the most thorough and best resourced investigation of possible instances of enrolment fraud in recent Australian history, despite the focus in the inquiry's terms of reference on enrolment fraud relevant to the conduct of internal political party (ie ALP) plebiscites for preselection of candidates for certain Queensland state and local government elections. (ALP party rules dictate that a party member's ability to vote in a particular branch's contest for preselection depends upon that member being enrolled to vote at an address within that branch's district.³⁹)

The JSCEM inquiry's terms of reference indicate that that parliamentary committee will be investigating allegations of specific incidents of enrolment fraud. It is unclear at this stage where the JSCEM's inquiries will lead it, but the outcome of the JSCEM inquiry will also be important to the consideration of the integrity of the electoral roll.

In this regard, it has been particularly frustrating to the committee not to have been able to duly consider the AEC's submission to the JSCEM inquiry. That submission was released by the JSCEM on 31 October 2000,⁴⁰ a time during which the committee was already considering the Chair's draft report. This committee always expected the AEC submission to the JSCEM to contain vital information about the integrity of the roll and current continuous roll updating activities undertaken by the AEC, activities which have only recently been developed and about which there is only limited information available.⁴¹

So, this committee has been faced with two major concurrent but unfinished inquiries concentrating on the actual incidence of irregular or fraudulent enrolment activity. Both inquiries will presumably shed light on the integrity of the electoral roll and consequently how much—and what—might need to be done, if anything, to prevent and detect enrolment fraud in the future.

³⁹ Mr Mike Kaiser MP outlined changes made during the 1990s to ALP preselection rules in the Legislative Assembly on 4 October 2000, Hansard, Queensland Legislative Assembly, 4 October 2000 at 3469-3470.

⁴⁰ During the first sitting week of the Commonwealth Parliament since submissions to the JSCEM closed on 13 October 2000.

⁴¹ The AEC nevertheless provided valuable information about such matters to the committee during the committee's hearing.

3.1.1 Conclusions about the integrity of the roll and the need for reforming enrolment procedures

In order to make comprehensive recommendations about the necessity for—and the form of—reform of existing enrolment laws and procedures, this committee needed, of course, to come to an assessment of the effectiveness of those laws and practices based on all available evidence. Because the Shepherdson and JSCEM inquiries are still in progress, the committee considers that it does not have all available (or soon to be available) evidence. Accordingly, the committee is reticent about coming to conclusions about the integrity of the electoral roll and, in particular, the level of enrolment fraud.

The committee therefore in this report does *not* make comprehensive or definitive:

- conclusions about the integrity of the electoral roll;
- conclusions about the effectiveness of enrolment laws and practices; or
- recommendations for the reform of enrolment laws and procedures aimed at ensuring the integrity of the roll, except for the important recommendations contained in chapter 9 and referred to in section 3.1.2 below.

The committee's caution about making conclusions about the integrity of the roll because of the existence of the current Shepherdson and JSCEM inquiries should not be interpreted as an indication that the committee has no confidence in the integrity of the roll. It must be remembered that many authoritative Australian electoral bodies have over many years given sound assurances based on the evidence before them that the electoral (including enrolment) system is in good shape.⁴² Those assessments should not, and will not, be displaced lightly.

3.1.2 Conclusions about the integrity of the voting process and the need for reforming polling procedures

The consideration of questions of the possible reform of voting laws and procedures to some extent *also* depends on an assessment of the integrity of the roll and the effectiveness of procedures surrounding enrolment. This is because some forms of possible voting fraud are predicated on prior fraudulent enrolment activity. To that extent, whilst the committee above (and throughout this report) makes a distinction between enrolment fraud and voting fraud, the distinction is somewhat artificial.

Apart from the two current (Shepherdson and JSCEM) inquiries, the committee has considered much valuable information about the incidence or otherwise of electoral fraud (voting and enrolment fraud) contained in: submissions to the committee; views presented at the committee's hearing; previously published submissions of the AEC to the JSCEM; JSCEM reports; and various other publications.

The information provided to this committee in submissions and during the committee's hearing does not suggest to the committee that there is a general problem of widespread electoral fraud, in terms of voting fraud or enrolment fraud. Indeed, the evidence before the committee suggests quite the opposite in relation to *voting fraud*—the evidence before this committee suggests that:

- existing arrangements for the actual conduct of elections are generally adequate to ensure the integrity of the voting process; and

⁴² Those views are outlined below in section 5.2.

- should it otherwise be the case in the future, there are sufficient checks and balances in place (outlined later in this report) to ensure that fraudulent behaviour surrounding the casting and counting of votes would, if sufficient to affect the electoral result of any particular electorate, be detected and dealt with.

In particular, no submission to this committee questioned the capacity generally of the ECQ to conduct elections in a free, fair and honest manner or to ensure the integrity of polling procedures. In fact, various submitters to this committee made explicit their confidence in the ECQ.

Nevertheless, again in view of the fact that the committee feels it does not have all the potential evidence before it (in light of the on-going Shepherdson inquiry), the committee in this report does *not* make any comprehensive or definitive:

- conclusions about the effectiveness or otherwise of voting laws and practices; or
- recommendations for the reform of voting laws and procedures aimed at ensuring the integrity of the roll (except to the extent indicated below in this chapter).

3.1.3 Nature of this report

As indicated by the above discussion, the committee intends this report as an interim report to Parliament in response to the Parliament's 22 August 2000 reference to the committee to inquire into the prevention of electoral fraud.

The committee in this report concentrates on providing Queensland electors with information about the checks and balances that are in place to protect the electoral process from fraud. The committee does so to inform public debate. The report also summarises the various views expressed to the committee about the effectiveness of the various checks and balances and about possible reform proposals.

Nevertheless, the committee does make some important positive recommendations in chapter 9 (The way forward—a separate State-based enrolment verification system) of this report about measures it considers important to implement now, regardless of what the Shepherdson and JSCEM inquiries ultimately report.

The committee looks forward to finalising its consideration of matters raised by this inquiry at a later time, after Hon Shepherdson—and, for that matter, the JSCEM—has reported on alleged incidents of electoral (enrolment) fraud.

The committee makes those recommendations with the following matters in mind:

- the Parliament asked the committee to report to it by 14 November 2000 on ways of preventing electoral fraud so that attempts could be made to introduce any necessary measures before the conduct of the next general State election (due mid-2001); and
- regardless of what the Shepherdson inquiry might ultimately find in terms of illegal activity or misconduct—and regardless of what that inquiry might specifically recommend (if anything or if necessary) to prevent the recurrence of any such illegalities or irregularities—the media and political attention surrounding the Shepherdson inquiry has the potential to substantially erode public confidence in the electoral process.

3.2 OVERVIEW OF REMAINDER OF REPORT

In its issues paper the committee said that it welcomed the opportunity that the inquiry presented the committee to:

- address public concerns about electoral fraud; and
- make recommendations addressing those concerns and/or provide factual information to (where possible) allay those concerns.

Accordingly, in **chapter 4 (Existing checks and balances in the electoral process)** the committee provides extensive information about the existing checks and balances within the electoral system that are designed to ensure the system's integrity and prevent electoral fraud. The information in chapter 4 is mainly descriptive of existing arrangements.

In **chapter 5 (The electoral system generally—effectiveness)**, the committee examines the forms of electoral fraud and the capacity of the electoral system generally to prevent those forms of fraud. The committee also: outlines previously stated views of various electoral authorities about allegations of fraudulent electoral practices; and summarises the views expressed to the committee about the effectiveness of the electoral system generally.

In **chapter 6 ('Global' checks and balances—effectiveness and options)**, the committee summarises comments made to the committee (in submissions and at the hearing) about the effectiveness of certain 'global' checks and balances; namely, an independent electoral commission, the Court of Disputed Returns and electoral offence provisions. The committee also summarises views expressed to it about reform options that relate to those global checks.

In **chapter 7 (Voting procedures—effectiveness and options)**, the committee outlines:

- comments made to the committee about the effectiveness of existing polling procedures in preventing voting fraud; and
- reform options pertaining to voting arrangements, and the comments made to the committee about such options.

As indicated above, the committee does not make definitive conclusions about whether reform is necessary in relation to voting processes or about the desirability of particular reform options (eg requiring proof of voter identity on election day). The committee instead leaves *all* reform options open for its reconsideration at a later time (ie after Hon Shepherdson reports).

In **chapter 8 (Enrolment procedures—effectiveness and options)**, the committee outlines:

- comments made to the committee about the effectiveness of existing enrolment procedures in preventing enrolment fraud; and
- reform options pertaining to enrolment arrangements, and the comments made to the committee about such options.

Again, the committee does not make definitive conclusions, except that it leaves open the way for certain recommendations it makes later in chapter 9. Otherwise, the committee again leaves *all* reform options open for its reconsideration at a later time.

Finally, in **chapter 9 (The way forward—a separate state-based enrolment verification system)** the committee recommends that Queensland create a State-based enrolment verification system capable of processing and interrogating a range of name and address data from State databases in order to greatly enhance the capacity of electoral authorities to prevent electoral fraud.

4. EXISTING CHECKS AND BALANCES IN THE ELECTORAL PROCESS

4.1 INTRODUCTION—QUEENSLAND’S ELECTORAL SYSTEM

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

The Fitzgerald report⁴³ 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 confidentiality of individual voters, particularly in the case of absentee and postal voters.

*... the inquiry [by EARC] must be totally open with public access to the evidence and submissions received by it ...*⁴⁴

The former Electoral and Administrative Review Commission (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 included 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;
- *Review of the Elections Act 1983-1991 and related matters*, vols 1 & 2, December 1991; and
- *Report on investigation of public registration of political donations, public funding of election campaigns and related issues*, June 1992.

It is from the thorough research and extensive public input reflected in EARC’s comprehensive reports that Queensland obtained its current electoral system. Queensland’s *Electoral Act 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*. Queensland’s *Electoral Act* also incorporated comments made by the former Parliamentary Committee for Electoral and Administrative Review, which had the task of reviewing all EARC reports.

Queensland’s *Electoral Act* sets out the arrangements for State elections and establishes an independent statutory authority, the ECQ.

⁴³ Fitzgerald GE, *Report of the commission of inquiry into possible illegal activities and associated police misconduct*, GoPrint, Brisbane, 1989.

⁴⁴ Fitzgerald report, n 43 at 127.

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.⁴⁵ It is fair to describe Queensland's electoral system as not only a system of trust but also as 'elector-friendly'. At the same time, there exist important safeguards that are aimed at ensuring the integrity of the electoral system, largely by providing transparency to the electoral process—for example: a publicly accessible electoral roll, the entries on which can be objected to; the right of scrutineers to be present during polling and vote counting.

The checks and balances that make up the electoral system arise from the following principles, which EARC laid down as the proper basis for an electoral system and the ECQ subsequently adopted as its on-going charter.⁴⁶

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.*

⁴⁵ In this regard, EARC considered but rejected certain electoral proposals that had been made to it that EARC considered as too restrictive a barrier to electors optimally effecting their franchise. Proposals that were rejected by EARC are among the various options for reform listed in chapters 7 and 8 of this report.

⁴⁶ EARC, *Report on review of the Elections Act 1983-1991 and related matters*, GoPrint, Brisbane, December 1991 at 7-10, as paraphrased in ECQ, *Annual Report 1999-2000*, GoPrint, Brisbane, October 2000 at 4.

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. In addition, certain reform proposals that are directed at principle 12 (eliminating electoral fraud) can also undesirably displace principles 15 (procedures at polling booths must be straightforward), 17 (administrative procedures must be efficient and cost-effective) and 18 (election results must be made available without delay).

In the remainder of this chapter, the committee describes the various checks and balances that exist within Queensland's electoral system to ensure its freedom, fairness and honesty. The checks and balances in place are aimed at guaranteeing the integrity of the electoral process generally and, specifically, are aimed at deterring, detecting and responding to electoral fraud. The comments below are descriptive; views about the effectiveness of the checks and balances that have been presented to the committee during the course of this inquiry are presented in chapters 5 – 8.

4.2 'GLOBAL' CHECKS AND BALANCES

It is useful to first outline the various checks and balances that exist in a 'global' sense in Queensland's electoral system. In some regards, they are the most important safeguards because they protect the entire system and act as ultimate insurance against electoral irregularities. These global electoral checks and balances are as follows.

4.2.1 An independent electoral commission

The *Electoral Act 1992* establishes the ECQ as an independent statutory authority, headed by an independent electoral commissioner. This is a fundamental safeguard in the system—an electoral body independent from government, political parties and dominant political forces. 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 party registration, 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;*
- (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; and*
- (j) *Conducting elections for local governments as authorised by legislation.*⁴⁷

The ECQ's mission statement⁴⁸ is to maintain the integrity of Queensland's electoral system.

4.2.2 Disputing electoral results—The Court of Disputed Returns

A further fundamental safeguard in Queensland's electoral system is the capacity of the ECQ (or of unsuccessful candidates and persons qualified to vote in the relevant election) to dispute an election by challenging the result in the Court of Disputed Returns if the commission (or candidate or elector) considers that instances of fraudulent or irregular enrolment or voting have been 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.

In relation to local government electoral arrangements, the Department of Communication and Information, Local Government, Planning and Sport (Local Government Services; hereafter 'LGS') in its response to the committee's request for information stated:

Local Government 1993, Section 223- Provides for a review under the Judicial Review Act 1991 of the lawfulness of an election or appointment of a councillor, or the continued eligibility of a person to act as a councillor.

*Subsection (2) provides that any "elector" of the local government may make an application under the section. However, subsection (3) provides that subsection (2) does not limit the persons who can make the application.*⁴⁹

4.2.3 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

⁴⁷ *Electoral Act 1992 (Qld)*, s 8, as paraphrased in ECQ, *Annual Report 1999-2000*, n 46 at 3.

⁴⁸ ECQ annual report, n 46 at 5.

⁴⁹ LGS response, n 36.

Attorney-General containing recommendations for amendments to Queensland's *Electoral Act* that the ECQ considers warranted in light of the conduct of the election. This committee has previously reported on such recommendations made by the ECQ and/or amendments to the *Electoral Act* consequently proposed by the Attorney-General.⁵⁰

The ECQ considers its review processes as important, not only for addressing 'nuts and bolts' procedural difficulties that might arise during the conduct of elections but also for addressing concerns that are raised about alleged irregularities and electoral integrity issues.

The Electoral Commissioner commented on the review undertaken after every election. The Electoral Commissioner informed the committee:

We do our own review after every election—a very detailed review. We engage a management consultant and a Treasury official. We have no part in it ourselves. Independently of the commission, they contact all the candidates, all the political parties, all the players, all the media and ask, "What were the problems?" I have never had a problem presented to me in relation to voting fraud or technical problems with voting.

After each *federal election*, there is a formal process whereby the incoming government establishes a Joint Standing Committee on Electoral Matters of the Commonwealth Parliament (see section 2.2 above) and provides it with a reference to inquire into and report on that election.⁵¹ Subsequently, the JSCEM publishes a comprehensive report following public consultation by way of submissions and public hearings. The reports include discussion of the AEC's roll-keeping and also contain various recommendations for the amendment of the *Commonwealth Electoral Act*. The ECQ monitors JSCEM recommendations (and any changes to the *Commonwealth Electoral Act*) to assess the appropriateness of those changes for Queensland.

This committee also continues to monitor electoral matters (in line with one of its key responsibilities, namely, electoral reform including monitoring generally the conduct of elections under Queensland's *Electoral Act*). This committee has published reports on a variety of electoral issues.⁵²

⁵⁰ See: LCARC reports no 2, *Report on matters pertaining to the Electoral Commission of Queensland*, GoPrint, Brisbane, August 1996; report no 5, *Report on the Electoral Amendment Bill 1996*, GoPrint, Brisbane, March 1997; report no 19, n 18; and 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, n 3 at 7-10. That report describes an ECQ proposal to address past allegations that persons in charge of declared institutions (nursing homes, hospitals etc) have previously selectively distributed how-to-vote material to residents.

⁵¹ There is no such formal process, or legislation, in Queensland that refers each election to a parliamentary committee such as LCARC.

⁵² See LCARC reports no 2, n 50; report no 3, *Review of the Referendums Bill 1996*, GoPrint, Brisbane, November 1996; report no 4, n 5; report no 5, n 50, report no 18, n 4; report no 19, n 18; report no 20, n 5 and report no 23, n 3; as available at the committee's website provided at the front of this report.

4.2.4 Enrolment and voting offences and their enforcement

Offences covering fraudulent electoral activity are contained in the *Commonwealth Electoral Act* (Part XXI), Queensland's *Electoral Act* (Part 9), the *Commonwealth Crimes Act 1914* (Part V) and the *Queensland Criminal Code* (Chapter 46). Electoral offences serve to deter and punish enrolment and voting fraud (as well as other types of behaviour concerning elections not discussed in this report).⁵³ Offence provisions relating to voting and enrolment fraud include:

Voting

- voting more than once;
- voting when not entitled;
- personation; and
- making a false declaration.

Enrolment

- forging or uttering electoral papers, in particular the AEC enrolment card;
- entering a false name on the electoral roll;
- making the signature of another person; and
- falsely witnessing documents.

The process for prosecution of an electoral offence usually involves initial detection of an irregularity by the ECQ (for voting offences) or the AEC (for enrolment offences) through routine checks (discussed below) or from a complaint to either of these bodies from another source. The matter is then referred to the police (Australian Federal Police for enrolment irregularities; Queensland Police Service for voting irregularities) for investigation and possible prosecution.⁵⁴

During the committee's hearing for this inquiry, the AEC outlined various investigative and prosecutorial matters that have previously been referred by it to the federal police, including the Ehrmann, Kehoe and Foster matters in Townsville.⁵⁵

In relation to local government electoral arrangements, LGS informed the committee that:

Section 407 provides that an application may be made to the Supreme Court for an injunction if a person has, is or proposes to engage in conduct that would constitute a contravention or an offence under Chapter 5 of the Act. An application may be made by a returning officer or a candidate or nominee as candidate for an election. A returning officer may also make an application under the section if he/she decides a person is not properly nominated for an election.

...

Any person who becomes aware of electoral fraud and has evidence to that effect, may lodge a complaint with the Magistrates Court. The Magistrate would proceed to hear the complaint pursuant to the procedures laid down by the Justices Act 1886.⁵⁶

⁵³ For example, bribery, misleading voters, offences relating to advertising.

⁵⁴ See ECQ submission (no 11), n 10 at 2 and 56-57. As to the demarcation between the Australian Federal Police investigating federal (enrolment) offences and the Queensland Police Service investigating State (voting and other) offences, see the transcript of the committee's hearing of 24 October 2000 (hereafter 'Transcript') at 20.

⁵⁵ See, for example, Transcript, n 54 at 10, 13 and 16.

In relation to aboriginal and island council electoral arrangements, the Department of Aboriginal and Torres Strait Islander Policy and Development (hereafter 'DATSIPD') informed to the committee:

*Returning officers are advised to inform the Electoral Commission of Queensland of any allegations or instances of enrolment fraud as alleged/detected by the public or themselves. The Department does not investigate any complaints itself. Voting fraud has not been an identified issue.*⁵⁷

4.3 ENROLMENT CHECKS AND BALANCES

Whilst it is voting safeguards (outlined in section 4.4) that people first think of when considering the issue of electoral fraud, it is accurate and true electoral rolls that provide the foundation for honest and fair elections, and the highest standards should exist in their preparation and maintenance.⁵⁸

As the Electoral and Administrative Review Commission (EARC) stated in its *Report on the review of the Elections Act 1983-1991 and related matters*:

*Electoral rolls are a fundamental component of any voting system. Rolls constitute the official list of electors and are prima facie evidence of electors' right to vote. Enrolment procedures therefore need to strike the right balance between the need to be rigorous to ensure integrity of the rolls, and the need for flexibility to ensure that peoples' rights to enrol and vote are protected.*⁵⁹

Inaccurate rolls reflect adversely on the legitimacy of any election founded on those rolls. As the Liberal Party of Australia stated in its submission to the Commonwealth Joint Standing Committee on Electoral Matters' inquiry into resource sharing in the conduct of elections:

The greatest concern the Liberal Party has regarding the administration of elections in Australia is the maintenance and integrity of the Commonwealth, State, Territory and Local Government electoral rolls.

*It is essential that the highest standards are maintained to ensure the integrity of electoral rolls. Accurate electoral rolls are necessary to safeguard public confidence in the democratic process and importantly, given the recent trends for state and federal elections to be determined by close margins in a small number of seats, they are essential for ensuring that the democratic wishes of the voters are not corrupted.*⁶⁰

⁵⁶ LGS response, n 36.

⁵⁷ Department of Aboriginal and Torres Strait Islander Policy and Development (DATSIPD) response dated 6 October 2000 to LCARC's request for information.

⁵⁸ As previously expressed by the Queensland Electoral Commissioner, Mr Des O'Shea, in a letter to LCARC dated 25 October 1999, as cited in LCARC, report no 23, n 3 at 40.

⁵⁹ EARC report, n 46 at 46.

⁶⁰ Submission by the Liberal Party of Australia to the JSCEM's Inquiry into resource sharing in the conduct of elections, December 1991 at 4.1-4.2, as cited in the ECQ's submission to the LCARC 1997 privacy inquiry: ECQ, July 1997 at 2.

As outlined in section 5.1 of this report, perhaps the most critical evidence provided by the Electoral Commissioner to the committee during the inquiry was as follows. Whilst multiple voting (dual or multiple voting in one person's name) can be adequately detected through the post-election scanning of multiple marks on the certified lists,⁶¹ there is little that can be done at election time to detect other potent forms of electoral fraud:

- personation (real people voting in others'/fictitious names); and
- people deceitfully enrolling at an address for which they are not entitled and subsequently voting in the poll for the electorate containing that address.

These forms of potential fraudulent activity must be addressed at enrolment, an issue revisited later in this report.

4.3.1 Overview of Queensland's enrolment arrangements

Whilst Queensland's *Electoral Act* requires the ECQ to keep an electoral roll for each of Queensland's electoral districts,⁶² Queensland does not maintain its own electoral roll. Rather, the Commonwealth electoral authority, the Australian Electoral Commission (AEC), maintains—with ECQ input—the Queensland state roll (which is also used for local government elections and jury districts). This is in accordance with a joint roll arrangement between the Commonwealth and Queensland, such an arrangement being permitted by the *Electoral Act 1992*, s 62.

Pursuant to this joint roll arrangement, completed joint enrolment cards are processed into the AEC's Roll Management System (RMANS) by AEC divisional staff. State roll data is then extracted from RMANS and provided to the ECQ. The joint roll procedure is based on almost identical eligibility criteria, a common enrolment form and the single entry into RMANS of enrolments. However, the Queensland and Commonwealth rolls are separate documents.

While RMANS is a national enrolment system, its operation for Queensland purposes is subject to monitoring by a Joint Roll Management Committee constituted by the Queensland Electoral Commissioner (or nominee) and the Australian Electoral Officer (or nominee).⁶³ Day to day issues are handled by AEC and ECQ liaison officers.

These 'joint roll' arrangements have existed since 1992 following a recommendation of the former Electoral and Administrative Review Commission (EARC) which was endorsed by EARC's parliamentary committee, the Parliamentary Committee for Administrative and Electoral Review.

After considering the arguments for and against adopting a joint electoral roll, EARC concluded that a joint electoral roll (based on the recommendations in its report) was superior to retention of the then roll because it would provide:

- *greater integrity of the roll database*, and therefore greater public confidence in the legitimacy of electoral outcomes;
- significantly lower cost to the State (even allowing for Queensland's financial contribution to the maintenance of a joint electoral roll), with savings estimated to be about \$1 million per annum;

⁶¹ The certified lists is the copy of the electoral roll used by polling officials on election day.

⁶² *Electoral Act 1992*, s 58.

⁶³ The Joint Roll Management Committee is established pursuant to clause 16 of the joint roll arrangement.

- greater convenience to electors through uniform eligibility criteria; and
- capacity to support all state systems then provided by the state electoral roll as well as the retention of state input into the management of the roll through: (a) the joint roll management committee; (b) state on-line access to the database and capacity to raise objections to names on the roll; and (c) the state retaining responsibility for the updating of fields for state purposes.⁶⁴

All other Australian states and territories also have joint roll arrangements with the AEC although the nature of these arrangements differs among the jurisdictions.⁶⁵ For example, both Victoria and Western Australia maintain their own state roll but exchange enrolment data with the Commonwealth.

During this inquiry, Mr Bob Longland, AEC, Australian Electoral Officer (Queensland) informed the committee about the respective responsibilities of the AEC and the ECQ in relation to the keeping of the electoral roll:

There are two components to the joint roll arrangement, characterised as management of the roll and maintenance of the roll. Between Mr O'Shea [Queensland's Electoral Commissioner] and myself, I believe that we have absolutely no doubts about what those limits are. In terms of the management of the roll, we meet and discuss regularly issues related to how we proceed. Much of that discussion is informed by the work that we perform within the Electoral Council of Australia, which is a body consisting of the AEC and all the State and Territory commissioners or equivalents, where we look at the strategic management activities related to roll management and, of course, consequential issues that relate to election management.

*In terms of maintenance, however, the arrangement is very clear: the AEC collects all of the material that makes up the roll, processes it, and provides a range of products to the ECQ for the discharge of their responsibilities. In its simplest form, that is rolls for elections ... But the maintenance task is purely ours ...*⁶⁶

The fundamental checks that exist to protect the integrity of the electoral roll are outlined below.⁶⁷

4.3.2 Public availability of the electoral roll and the objection process

The transparency that results from the public availability of the electoral roll is a fundamental reason for its integrity. Section 60 of the *Electoral Act* provides that the Commission must make available for inspection, to any person, without fee, a copy of the most recent printed version of the publicly available part of the roll at the office of the Commission and the office of each returning officer. Similar provisions exist in section 90 of the *Commonwealth Electoral Act*.

⁶⁴ EARC report, *Report on Queensland Joint Electoral Review*, GoPrint, Brisbane, October 1990 at 7.4.

⁶⁵ For further background and information regarding the various Commonwealth/state joint roll arrangements see the JSCEM report, *The conduct of elections: New boundaries for cooperation*, AGPS, Canberra, September 1992 at chapter 5 and EARC report, n 64 at 4.1-4.5.

⁶⁶ Transcript, n 54 at 2.

⁶⁷ The committee acknowledges that there have been other processes in place in the past which may have provided further integrity to the roll, but which, for various reasons, have been abandoned. The Aboriginal and Torres Strait Island Electoral Information Service (ATSIEIS) was discussed as one now abandoned measure, the absence of which, it is argued, has led to a 'fall-off in indigenous enrolment': see Madigan, M, 'Black voting rights in turmoil', *The Courier-Mail*, 6 November 2000 at 2. Also see AEC supplementary submission to the JSCEM, 'Further AEC responses to other submissions and to hearings', 23 July 1999 at 49.2-49.5.

The objection mechanism referred to below, and consequential deletions from the roll, add a further layer of integrity to the roll.

As the ECQ submitted to the committee:

The objection process is the means by which persons are removed from the electoral roll. In practice, most objection action is generated from a wide variety of information, which comes to the attention of the AEC. (For example, Members “return to sender mail”; mail returned unclaimed from non voter processing; acknowledgment cards or any other mail out to electors which is returned unclaimed.)

The Queensland Electoral Act 1992 also provides electors with the power to object to an enrolment (Section 67(1)). This provision is included in the Queensland legislation to provide a means of removing persons from the roll who are State electors only (i.e. certain British subjects who are eligible to be on the State roll but not the Federal roll).

Section 67(8) of the Electoral Act 1992 also gives the Commissioner power to lodge objections under the Commonwealth Electoral Act. It has not been necessary to take this course of action, as all issues involving a person’s eligibility to be enrolled have been resolved at Joint Management Meetings.⁶⁸

At the committee hearing, Mr Longland outlined the three objection procedures:

The first of them is a very important one but is very little understood and very rarely used. That is a citizen who lives within the same division ... and who believes that an individual is on the roll for that division but ought not to be can come to us ... and object to that person being on the roll. When that happens—and, as I say, it is rare but it does happen—we will write to the person and say that they have been objected to and ask them for an explanation. In most cases when we send out a private objection of that nature, we do get back a fairly vehement denial ... If we do not get anything back from them—and that does happen from time to time—then we will add them to the RMANS system as a name to be objected from the roll and we will advise the private objector that is what has happened and ultimately that name will come off the roll ...

The second one is a difficult situation as well and it is also a little rare. That is where a person is deemed to be of unsound mind and not able to understand the significance of enrolment or voting. ...

... The big [third] way to get people off the roll is the DRO's objection. The Divisional Returning Officer has a statutory responsibility for removal of people from the roll under a range of circumstances, and the major circumstances are non-voting processes both at the Federal and the State level and roll review activities embodied, as they are now, in continuous roll update methods. I will not list them there separately but returned unclaimed mail that we receive from members of Parliament is an important source of information for the DRO.

... we actually write now to those individuals. We batch them carefully, write to them and look for a response. We do get responses ... Others we do not get, the same as the acknowledgment cards, and we list those people for objection. The objection process requires us to write to the person at their enrolled address telling them that we are intending to remove them from the roll and they have 20 days to respond. At the end of that 20 days a [reviewable] determination is issued, which again goes to that address in writing and the person is removed from the roll.⁶⁹

⁶⁸ ECQ submission (no 11) , n 10 at 4.

⁶⁹ Transcript, n 54 at 3-4.

The AEC's employment of continuous roll updating activities comprises another fundamental check on the integrity of the roll, as discussed below.

4.3.3 The AEC's maintenance of the electoral roll—the move to continuous roll updating

Mr Longland informed the committee at its hearing about how people get on the electoral roll:

The roll is a dynamic document, to say the least. Individuals, when they turn 18, acquire Australian citizenship, or move, are required to tell us [those things] in the form of an enrolment card ... People get those cards from a variety of sources. The official sources, of course, are the electoral commissions, and the post office, which operates on an agency arrangement to have those cards. But significantly, the most common source of a person acquiring a card these days is through the CRU [continuous roll updating] process, where we mail to hundreds and thousands of homes every week. We are not quite flooding the State with mail, but we are doing a pretty good job of it.⁷⁰

In its reports nos 19 and 23, this committee described the roll maintenance activities undertaken by the AEC in the form of continuous roll updating (CRU). CRU is one of the important checks and balances of Queensland's electoral process because its purpose is to ensure the accuracy and integrity of the roll.

Until recently, the primary method used by the AEC to update the roll—apart from processing enrolment cards received from electors—had been periodic habitation roll reviews (essentially, two-yearly door-knocking). There had been disquiet expressed from various sources about the effectiveness of the biennial habitation reviews in ensuring the accuracy of the roll. For example, the ECQ in its submission to the 1997/98 privacy inquiry of this committee's predecessor stated '*there has been growing concern, particularly by State and Territory electoral authorities, with the perceived inadequacy of existing roll-keeping methods. Such concerns date back to at least 1974 and were expressed at length to the Commonwealth Joint Standing Committee on Electoral Matters when it was holding its inquiry into resource sharing in the conduct of elections*'.

In 1995, the then-named Australian Joint Roll Council (now the Electoral Council of Australia⁷¹) engaged consultants to conduct a study of alternative methods of updating the electoral roll through the application of new processes and information technology. The consultants' key recommendation was that the AEC and state electoral commissions implement a system of CRU to replace the existing method of updating the roll by periodic electoral roll reviews.

The CRU concept, used in other countries such as Canada and New Zealand, involves continuous roll maintenance using a variety of mechanisms such as marketing of enrolment at times other than electoral events, direct enrolment approaches including citizenship ceremonies, school and community visits etc, and matching roll records with information (particularly change of address information) recorded in databases of other government agencies ('data matching').⁷²

⁷⁰ Transcript, n 54 at 3.

⁷¹ This council comprises of electoral commissioners and chief electoral officers from the Commonwealth, state and territory electoral authorities.

⁷² For further information on CRU see the AEC's submission dated 30 November 1999 to LCARC's inquiry into issues of Queensland electoral reform at 11.7-11.11.

Information gained from external sources using data matching techniques can be used either to: (i) automatically update an electoral roll (as occurs at the federal level in Canada); or (ii) trigger an electoral authority to make further inquiries as to the accuracy of details recorded for a particular elector. (The latter is the only option in Australia as the *Commonwealth Electoral Act* requires the AEC to receive an enrolment form before it can update the roll.⁷³)

The AEC—with the guidance of the Electoral Council of Australia—has, since March 1999, been in the process of implementing CRU nationally. On 14 February 2000, the CRU Implementation Steering Committee (CISCO) of the Electoral Council of Australia released a report on the CRU program for 1999. In its report, the Council recommended that ‘CRU activities in 1999 implement the following operations’: undertake follow up activities to improve responses to mailing; investigate differences in response rates between states and territories; further develop youth enrolment strategies; access other external national data sources; expand recording of responses to be more comprehensive; and coordinate mailing, recording of statistics and reporting of CRU costs between the Commonwealth, states and territories.⁷⁴ CISCO recently released a progress report for 2000⁷⁵ and a final report for 2000 is to be released in early 2001.

The 1999 CRU report states:

The major national activities were:

1. *Mailing of letters to persons who changed addresses by completing an Australia Post (AP) Change of Address (COA) form and where RMANS did not show an enrolment change had occurred.*
2. *Vacant Address Mailing (VAM) where letters were mailed to addresses on the RMANS address registries with no current enrolment with the aim of contacting eligible electors who may live at those addresses.*

*The State and Territory activities included receiving data from energy authorities, motor registers and mailing to people who have changed their address or became eligible to enrol and incorporating enrolment forms into all of government change of address forms.*⁷⁶

The recent 2000 CRU progress report outlines:

- on-going use of Australia Post change of address data and vacant address mailings for CRU purposes; and
- new use of the Centrelink change of address data and of South Australian Motor Registry, Western Australian land registry and Queensland Residential Tenancies Authority data for CRU purposes.⁷⁷

The statistics in the 2000 CRU progress report indicate:

⁷³ *Commonwealth Electoral Act 1918* (Cth), s 98.

⁷⁴ Electoral Council of Australia (CRU Implementation Steering Committee), *Report of the 1999 continuous roll update activities to update the electoral roll for the Commonwealth, States, Territories and local government*, December 1999 at 5-6.

⁷⁵ Electoral Council of Australia (CRU Implementation Steering Committee), *CRU 2000 Enrolment Statistics Report*, October 2000.

⁷⁶ Note 74.

⁷⁷ Electoral Council of Australia (CRU Implementation Steering Committee), n 75. At the committee hearing, Mr Longland informed the committee that the AEC has also now received the Department of Immigration’s citizenship records. See Transcript, n 54 at 8.

- that, despite its relatively short history, CRU is generating more changes to the roll per annum than the system of biennial doorknock review, which was relied upon in the past to update the roll;
- the success of CRU to date, and of the potential for significant improvement in roll accuracy in the future; and
- that the response rate of CRU correspondence nationally is only 28%, that is, 72% of such correspondence is being ignored.⁷⁸

At the committee's hearing for this inquiry, Mr Longland outlined the following five elements of CRU and how they are being implemented:

- data matching techniques (described in chapter 9 of this report);
- data mining of databases (described in chapter 9 of this report);
- the introduction of geographic information system (GIS) technologies, whereby in the future the AEC's roll management system, RMANS, will hopefully be redesigned so that it is based on state 'spot on the earth'/cadastral data;⁷⁹
- marketing of enrolment at times other than electoral events; and
- direct enrolment approaches including citizenship ceremonies, school and community visits etc.⁸⁰

The committee refers readers to the transcript of the committee's hearing for more detailed information about the AEC's current CRU activities.⁸¹

CRU therefore not only acts to target people to enrol for the first time, it also concurrently:

- targets existing enrolments that the AEC suspects might require updating because of information (eg change of address data) that the AEC gets from other sources; and
- is a potential source of information for the AEC to check the veracity of people's enrolment details.

As indicated above, much of the cleansing of the electoral roll is now generated by continuous roll updating (CRU), which is discussed more fully in the next section.

4.3.4 Ensuring the integrity, timeliness and accuracy of the roll through continuous roll updating

The ECQ summarised in its submission how enrolment details are checked and indicated how CRU operates in that regard:

To enrol or change details of enrolment an elector must complete an Electoral Enrolment Form. In doing so, persons completing the forms make declarations that they are eligible to enrol for Federal and Queensland elections and the information provided is true and complete. These forms are witnessed by persons who are eligible to be on the

⁷⁸ Electoral Council of Australia (CRU Implementation Steering Committee), n 75.

⁷⁹ Mr Longland informed the committee at the hearing that the AEC is using the Department of Natural Resources' digital cadastral database as a source in a pilot study that is currently underway using the geographic information system to provide updates to address information. See Transcript, n 54 at 10.

⁸⁰ Transcript, n 54 at 8.

⁸¹ The AEC submission to the current JSCem inquiry into the integrity of the electoral roll (at part 11) also provides detailed information about current CRU activities.

electoral roll and who certify that they are satisfied that all the statements in the form are true.

The prosecutions of Ms Ehrmann and Messrs Foster and Kehoe resulted from detection of irregularities by staff of the AEC when routinely processing enrolment forms. The matters were then referred to the Australian Federal Police. In these cases, the irregularities were detected in the preliminary examination of the enrolment cards.

Enrolment application forms are, for the most part, sent directly to the AEC for processing. Forms received by ECQ are dispatched to AEC with only the most basic checks being made, namely, that the form had been fully completed, signed, and witnessed.

After receipt by the AEC, enrolment forms are checked against the file of valid street number ranges held on the AEC's Roll Management System (RMANS) and where the address claimed is outside number ranges currently recognised by RMANS, further checks are made on the address's validity.

Further checks are also made automatically by the RMANS system of the validity on the data being inputted. However, to list these checks in this submission would only assist persons with fraudulent intent to avoid detection. **The continuous roll updating methods now employed whereby enrolments can be matched against other sources of information increases enormously the chances of fraud being detected.**

Acknowledgment cards are sent to all persons completing enrolment cards. Should the acknowledgment mail be returned unclaimed, further inquiries are made, and if not satisfactorily resolved by contact with the elector or his or her witness objection action is taken to remove the entry from the roll. [Emphasis added]⁸²

At the hearing, Mr Longland described in detail the rationale for CRU and its increasing effectiveness in improving the integrity, timeliness and accuracy of the roll:

When we get [an enrolment card] ... a staff member within a divisional office ... will take that card and they will do the basic checks: is it complete, has it been signed, has it been witnessed and then they will enter that into the RMANS process, which is our enrolment database.

Now, RMANS is a fairly sophisticated database package that has been developed over several years and continues to be developed. It contains within it quite a range of sophisticated edits so that, for example, addresses have to be on there and have to be active. We attempt to have every habitable address in the country on the roll. So a person can only enrol for a habitable address, not a cemetery or a service station or whatever, and that address can only be used if it is active—that is, if we have decided, for whatever reason—through local observation or information provided to us that a house has been knocked down ...

So edits like that are undertaken. We do a whole range of sophisticated fuzzy matching techniques ... and we send an acknowledgment card to the individual to their postal address, if they have given us one, or to their enrolled address if they haven't and that advises the person that they are now enrolled ...

Oftentimes we get those cards back. They will come back "Return to Sender". Some would see that as sinister, but, as I said before, the roll is a very dynamic document that reflects the mobility of the Australian population and the fact that those cards come back generally means that the individual has just moved on.

⁸² ECQ submission (no 11), n 10 at 2-3.

*But nevertheless, when we get one of those cards back, it triggers one of the situations under which we take people off the roll. [That is, via objection action.]*⁸³

Mr Longland outlined flaws that had existed in the former system where door knocking was the main roll updating process, and continued:

*... which is why we moved to this process of continual roll update. In that process, we have all sorts of avenues of information coming to us that help us to understand whether there is something peculiar happening at a household. We still only write to those people in CRU, but we do not take no for an answer. If we get no answer in the CRU mail-outs, we write again. It is the most economical thing to do. If we get no answer then, we knock on the door. In June and July of this year we visited 130,000 households in Queensland. It is no small effort to do that. In November of this year we will be doing a further doorknock as a result of non-responses to mail-outs. We are continuing that as a cycle throughout the CRU schedule of activities. So it is no longer a hit and miss situation; it is now a targeted situation where, by virtue of the receipt of other information suggesting that some change may have occurred at an address, we make contact. We write; we visit ...*⁸⁴

Mr Longland also detailed how the technique of data mining in particular is used by the AEC to check the veracity of certain enrolments:

We have acquired an enormous amount of information—historical information as well as present information—that we need to exploit to make sure that we have got this enrolment process under control as far as possible. The biggest task in data mining is the vacant house management. We continually try to keep that address register fresh—knowing whether an address is eligible for habitation or not so that we do not enrol people for places where they ought not to be. We are also doing work on a range of topics such as multiple enrolments at a household. We have triggers that alert us to situations where there are multiple enrolments at a particular address and we inquire on those either directly, by visit, by phone call or by visits from the Federal Police, as the case might be. We also do multiple surnames at an individual address. While that is a more difficult thing to do these days because of the large numbers of mixed households that exist, we are very careful to ensure that if we have got two Smiths living there and have been for some time and then two Joneses enrol there. That probably means that the Smiths have moved but have not re-enrolled. So we would write to those people and find out what has occurred.

⁸³ Transcript, n 54 at 3. Section 114(2) of the *Commonwealth Electoral Act 1918* provides that the Divisional Returning Officer shall object to the enrolment of a person for a subdivision of that Division if there are reasonable grounds for believing that the person is not entitled to be enrolled for that subdivision.

⁸⁴ Transcript, n 54 at 6.

We are also doing work with postal addresses, where we look for postal addresses that have multiple enrolled addresses. I call that the Kehoe effect, because it was the situation that a device was used in the case of Andrew Kehoe, which led to his prosecution. We do that report as well and that gives us information that suggests maybe that there is something that is not quite right there.

Of course, the vast majority [of people with common postal addresses] ... are enrolled at retirement villages and nursing homes, hospitals, hotels, guesthouses, caravan parks and the like. Quite a significant number of people who live in situations like that quite genuinely have common postal addresses. That does not mean necessarily post office boxes, but postal addresses.

So data mining enables us to look at those sorts of situations and ask, "On the balance of probabilities, is this right or wrong and should we do something about it?", and we continue to expand the activities that we look at within the data mining suite of our programs.⁸⁵

4.3.5 CRU—The way forward

In its report no 23 (in recommendation 10),⁸⁶ this committee gave its in-principle support for CRU as a means of ensuring the accuracy and integrity of the roll and recommended that 'data matching' as a form of CRU be facilitated by the further opening up of State name and address databases, subject to certain privacy provisos. Those previous comments are reproduced in chapter 9 of this report, where the committee:

- concludes that the results achieved by the AEC through CRU so far (the system has been in place since March 1999) are very promising and can only improve as time passes;
- concludes, though, that it is nevertheless imperative for CRU activities to be optimised in the short term to further enhance the integrity, timeliness and accuracy of the electoral roll;
- affirms its recent recommendation (in report 23) that the Queensland government amend the *Electoral Act* to make (more) State name and address databases accessible to electoral authorities for use in CRU; and
- subsequently recommends the creation of a State computer-based enrolment verification to concurrently, and thereby more thoroughly, process the (newly available) State name and address data and to perform other State CRU activities in order to prevent electoral fraud.

4.4 VOTING CHECKS AND BALANCES

Various safeguards surrounding enrolment have been outlined above. There is, of course, also a myriad of checks and balances employed during the actual election to ensure the integrity of the electoral process.

Voting arrangements for State elections are set out in the *Electoral Act* and the ECQ is responsible for the conduct of State elections. Local government electoral arrangements are set out in the *Local Government Act* (and, in the case of the Brisbane City Council, the *City of Brisbane Act*), and mostly mirror the provisions of the *Electoral Act*, except for some important matters that are specific to local government (for example, elections for certain local government divisions are conducted using the first-past-the-post method of voting).

⁸⁵ Transcript, n 54 at 10.

⁸⁶ LCARC report no 23, n 3 at 47-48.

Local government elections are conducted by the local government's chief executive officer or, if delegated, another returning officer (or the ECQ in the case of the Brisbane City Council if the Council enters into such an agreement with the ECQ).

Aboriginal and island council elections are conducted under the *Community Services (Aborigines) Act* and the *Community Services (Torres Strait) Act*.

Voting checks and balances are either set out in the governing legislation or employed administratively to prevent and detect possible instances of electoral fraud on, before and after polling day. Some of the more significant polling integrity checks are set out below.

4.4.1 Detection of multiple voting—post-election scanning of dual and multiple marks on the certified lists

In relation to State elections, the Electoral Commissioner submitted:

For each election, certified lists of electors for each electoral district are produced containing the names and addresses of every enrolled elector in the district. When electors are issued with ballot papers their names are marked off the certified list held at the issuing point.

If the elector then goes to another issuing point to cast another ordinary vote or casts a declaration vote on or before polling day, the elector's name will be marked off more than one certified list.

Immediately following polling day, each certified list of each electoral district is scanned by a computer system which produces a number of reports including one (called a multiple voter report) showing persons who appear to have voted more than once.

At this point, ECQ is able to assess whether the number of reported multiple voters was able to effect the outcome of the election for any electoral district. Should this be the case, ECQ considers that it has a responsibility to lodge a petition to the Court of Disputed Returns to determine the validity or otherwise of the result of that election.

Where the result of a ballot would not be affected, ECQ, after manual examination, writes to each elector against whose name more than one mark is recorded. The response to these letters and non-voter notices eliminate most electors from the multiple voter report.

Those remaining from the original report are referred to the Queensland Police Service for investigation and prosecution if evidence is obtained.

Following the 1993, 1995 and 1998 State elections 27, 6 and 5 cases respectively were referred for Police investigation. Three persons were successfully prosecuted following the 1992 election. There were no prosecutions following the 1995 and 1998 election.⁸⁷

Computerised scanning of the certified lists for dual and multiple markings are a critical, but often ignored, integrity check.

4.4.2 Detection of 'cemetery voting'

Allegations of 'cemetery voting' (people voting in the name of recently deceased persons whose names have not yet been cleansed from the roll) arise from time to time. The following extract from the JSCEM December 1990 report describes how the names of deceased persons are removed from the roll:

⁸⁷ ECQ submission (no 11), n 10 at 56-57.

*Under legislation the names of deceased electors are removed from the electoral roll on the advice of the Registrar of Births, Deaths and Marriages for each State, although the AEC may not remove names after the roll has closed. It is not unusual for the names of people who have died between the close of rolls and polling day still to be on the roll on election day. With the AEC's new RMANS, however, information such as the lists of deceased persons received from the Registrar of Births, Deaths and Marriages for that period and later; other lists of advice on deaths; the names of ineligible voters; and computer errors are included in an alert list and run against the electoral roll following polling day to identify any occurrences of voting in the name of a deceased person or ineligible voter.*⁸⁸

The Electoral Commissioner submitted that the ECQ has reviewed the matter:

There have been numerous claims throughout Australia that persons have voted in the names of recently deceased persons. ECQ is unaware of any case where such a claim has been proven. To the contrary, every examination in recent times has proven the claims to be false.

*Two reviews have been conducted by ECQ over the past five years, one relying on notices in regional newspapers issued during an election period and one using the Registrar-General's records of death. ECQ found two persons who died during an election period were recorded as having voted. Further inquiries proved that both had cast votes before their death, one being postal and the other an electoral visitor vote.*⁸⁹

The incidence of (or, indeed, lack of evidence of) cemetery voting, as well as multiple voting and personation (and the effectiveness of existing measures to prevent and detect such fraud), is discussed further in chapter 7 (Voting procedures—effectiveness and options).

4.4.3 Scrutineers

Provision for scrutineers to be present during polling and at the counting of the vote operates as a major safeguard in relation to the integrity of the poll and the prevention of electoral fraud. Whilst Australian, and Queensland, elections can be accurately described as 'elector easy', it is the presence of scrutineers that ensures elections are transparent. The Electoral Commissioner submitted:

The Electoral Act 1992 (Section 99) affords appointed scrutineers the right and opportunity to be present at all times during polling and subsequent examination of voting papers and counting of votes. Candidates may appoint one (1) scrutineer for each issuing officer at all locations where votes are being taken, and one (1) scrutineer for each member of the Commission's staff employed at the examination of declaration votes and the counting of votes.

The Act permits scrutineers to be present –

- *at polling booths and other polling places to inspect ballot boxes*
- *at a polling place during times when electors are allowed to vote*
- *at polling places and elsewhere to observe declaration voting and the counting/recounting of votes.*

In carrying out their duties, scrutineers may –

- *inspect all ballot boxes before they are sealed*
- *observe the operation of polling within the polling booth and its surrounds*

⁸⁸ JSCEM, *The 1990 Federal Election*, AGPS, Canberra, December 1990, 57 at 6.56.

⁸⁹ ECQ submission (no 11), n 10 at 59.

- observe the examination of declaration envelopes and the counting of votes
- object to the entitlement of a person to vote at the election
- record details of electors who vote at the election, and take the record out of the polling place
- observe a polling official assisting an elector who needs help
- challenge the formality of a ballot paper at a count.

However, scrutineers may NOT

- touch ballot papers or declaration envelopes
- canvass for votes within 6 metres of an entrance to a polling booth
- wear or display party badges or emblems in a polling booth
- communicate with any person in a polling booth except in the performance of their duties

In practice ECQ encourages and promotes the presence of scrutineers wherever votes are being cast and particularly where votes are being counted.⁹⁰

Local Government Services outlined the following relevant sections of the *Local Government Act* pertaining to the right of candidates to have scrutineers present at local government elections:

Section 330- A candidate for election is entitled to have 1 scrutineer present for each issuing officer at a polling booth or at a place of examination of declaration envelopes or counting of votes.

Section 365- The returning officer must inform all candidates of the time and place where the scrutiny of declaration envelopes and votes will be undertaken.

Section 333- Scrutineers may attend the following places before, during or after the poll:

- polling booth;
- any place where an Electoral Visitor Vote is being cast;
- any declared institution;
- any mobile polling place;
- polling places elsewhere to observe the examination of declaration envelopes (postal votes) and the counting of votes;
- any other place where further count or recount of ballot papers and re-examination of declaration votes occurs.

Scrutineers may also:

- inspect ballot boxes used for voting, before they are locked/sealed;
- observe the operation of polling at a polling booth, a mobile polling booth, a declared institution, the place of an electoral visit or an office operated by the returning officer;
- observe the transfer of votes from electoral visits, declared institutions and mobile polling booths to master ballot boxes for those categories;
- object to the entitlement of a person to vote;
- record details of electors who vote at the election, and take the record out of the polling place;
- challenge the formality of a ballot paper at a count or recount; and

⁹⁰ ECQ submission (no 11), n 10 at 5-6.

- *object to the count of a vote for a particular candidate.*⁹¹

In its submission, the DATSIPD informed the committee that it viewed the existing arrangements concerning scrutineers as adequate.⁹²

4.4.4 Security of ballot papers

In response to questions forwarded to them about the security of ballot papers, the ECQ, Local Government Services (LGS) and DATSIPD made the following comments to the committee about measures undertaken during (respectively) State, local government and aboriginal and island council elections.

4.4.4.1 Printing of ballot papers

The Electoral Commissioner submitted:

Ballot papers are printed by Goprint on specialised ECQ security paper. In addition to the paper itself, the following security measures are taken: -

- *each ballot paper has a distinctive colour stripe along the right-hand side. The colour used is specifically mixed by Goprint following consultation with ECQ.*
- *The opaquing on the reverse of each ballot paper is applied using patterned printing plate designed and held by Goprint. The opaquing also prevents any person ascertaining how a person has voted when the ballot paper is face down or folded.*
- *Ballot papers are bound in books of 50 with every ballot paper butt having a unique number.*

At booth level on election night, anomalies are able to be detected, other than visually, by comparing the number of ballot papers issued with the voting results for the booth. Any suspicious ballot papers can be checked by the Commission using special equipment. To date there have been no reported instances of bogus ballot papers being detected by polling staff or ECQ centrally.

*Should ballot papers be lost or go missing under suspicious circumstances, ECQ has the capability to reprint ballot papers for a particular district, or for that matter, all districts with different characteristics, thus rendering the bogus ballot papers worthless.*⁹³

DATSIPD informed the committee that the Department advises returning officers to have ballot papers professionally printed and referred the committee to sections 324, 325 and 328 of the regulations.⁹⁴

4.4.4.2 Tampering with ballot papers

The Electoral Commissioner submitted:

Scrutineers are able to be present during all times when ballot papers are being examined and counted. During the scrutiny process, ballot papers are placed into sealed ballot boxes for counting. Numbered seals are used and recorded by polling officials and are witnessed by scrutineers. Before counting commences, the seal numbers are verified, by those present, as the same as those previously applied. Once counted, ballot papers are placed in sealed envelopes and are further secured by affixing a paper security seal

⁹¹ LGS response, n 36.

⁹² DATSIPD submission (no 27) dated 12 October 2000.

⁹³ ECQ submission (no 11), n 10 at 6-7.

⁹⁴ DATSIPD response, n 57.

across the opening of the envelope. This seal is then signed by polling staff and/or scrutineers in a way that each signature extends beyond both sides of the seal. This process begins at polling booths on election night once the count is finalised and is repeated each time a parcel or envelope containing ballot papers is re-opened to carry out subsequent counts.⁹⁵

4.4.4.3 Supply and transport of ballot papers

The Electoral Commissioner submitted:

All ballot papers for Queensland State electoral events are printed in a secure environment at Goprint. Once printed, all ballot papers are delivered on a same day/overnight basis to ECQ and returning officers by the Commission's courier contractor. There is an 'Acknowledgment of Ballot Papers' system in place whereby each recipient must acknowledge the receipt of the exact quantity of ballot papers received. This system applies in respect of each delivery transaction from the printing up to and including the use of ballot papers on election day and the ultimate return of ballot papers to ECQ following the electoral event. Further, courier deliveries of ballot papers to ECQ and returning officers must be signed for before the courier will release the material. Each person accepting delivery of ballot papers is required to have a second person verify any discrepancy, which is then resolved with the supplying party. All returning officers and polling officials who receive ballot papers are required to fully account for the ballot papers supplied and to sign statements to that effect.⁹⁶

Local Government Services outlined for the committee:

Section 328 (Local Government Act) - The returning officer has the responsibility to arrange for the secured storage of all election material and the subsequent distribution and return of ballot papers, stationery, ballot boxes, voting screens, etc.

The returning officer is required to prepare a delivery note in the approved form in triplicate for each parcel of ballot papers supplied to presiding officers at polling booths.

The security features of the official count by the returning officer include:

- inform candidates and scrutineers of when and where the count will take place;
- assemble the preliminary count of returns from presiding officers;
- reconcile the numbers of ballot papers issued with those returned, admitted to the count, rejected etc;
- open sealed parcels and examine both formal and informal votes to arrive for the official count in respect of votes cast for each candidate;
- process declaration votes. This may require checking with the Electoral Commission of Queensland for enrolment status, establishing whether a duplicate vote has been cast or awaiting return of ballots issued for return by post;
- deal with any objections from scrutineers or candidates over the formality of ballot papers;
- carry out the official count according to the rules applying to the particular system of voting for the area;
- having ascertained the result, seal the various parcels and secure the material.⁹⁷

⁹⁵ ECQ submission (no 11), n 10 at 7.

⁹⁶ ECQ submission (no 11), n 10 at 7.

⁹⁷ LGS response, n 36.

4.4.4.4 Storage of ballot papers

The Electoral Commissioner submitted:

From the time of delivery to returning officers, ballot papers are stored in locked cabinets, rooms or safes at the place of operation of each returning officer.

They remain stored in this manner until the week before polling day when returning officers conduct training of their polling day staff.

Generally, at this point, ballot material is handed to polling booth supervisors who, once having accounted for the ballot papers, take them into their safe custody until polling day. They are instructed not to leave them overnight at the polling booth or in an unattended motor vehicle. Similar procedures and instructions apply to electoral visitors and declared institution issuing officers who are further instructed to carry the ballot papers in a locked attache case or the like.⁹⁸

4.4.5 Issuing officers' questioning of voters

Whilst there are no requirements for proof of identity or address to be produced by electors when they vote in Queensland or elsewhere in Australia, there are arrangements for issuing officers to ask certain questions of electors. The Electoral Commissioner submitted:

The Electoral Act 1992 does not impose mandatory questions to electors who are seeking an ordinary vote at a booth on polling day. The issue was canvassed by EARC in its "Report on the Review of the Elections Act 1983-1991 and Related matters".

EARC was of the view that "No evidence has been put to the Commission to suggest that the incidence of malpractice was higher in Queensland than in other jurisdictions where questions are mandatory". They went on to recommend that "the provisions in the current Act relating to questions which may be put to persons claiming a vote to determine their identity are adequate and should be retained in the new legislation".

In the absence of prescribed questions for ordinary voting, the Issuing Officer's Handbook requires issuing officers to greet an elector and ask them their surname and given names.

The Electoral Act 1992 (Section 102) requires an elector, who is not a declaration voter, to enter a polling booth for the electoral district for which the elector is enrolled and request a ballot paper. The Act requires an issuing officer to issue a ballot paper only if he/she is satisfied that the person is entitled to vote at the election for the electoral district. Under subsection (6), the issuing officer may ask questions of the person for the purpose of deciding whether the person is entitled to vote at the election for the electoral district. No specific questions are prescribed other than for a case where the issuing officer suspects that a person claiming to be a particular elector is not the elector. In this instance, the legislation (Section 112) requires the issuing officer to give the person a declaration envelope containing the following questions:

- (a) Are you the same person whose name appears as [here the issuing officer must write the name of the particular elector and the number appearing on the electoral roll in relation to the name]?*
- (b) Have you already voted, either here or elsewhere, at the present election for this electoral district or any other electoral district?*

If an elector enters a polling booth in an electoral district and requests a ballot paper and a declaration envelope, the issuing officer must (Section 108) comply with the

⁹⁸ ECQ submission (no 11), n 10 at 8.

request unless he/she is satisfied that the elector is enrolled for the electoral district in which the polling booth is located.

Once again, in the absence of any particular questions being prescribed in the Electoral Act, the Declaration Vote Issuing Officer's Handbook requires issuing officers to ask the elector their reason for requiring a declaration vote. Depending upon the answer given, the issuing officer then either asks the elector's surname and given name or asks the elector for his/her enrolled address.⁹⁹

In relation to local government elections, LGS informed the committee:

... Prior to giving an elector a ballot paper, the issuing officer may ask for the person's details to assist in determining whether or not the person is entitled to vote.

If the Issuing Officer is uncertain of the person's identity or entitlement to vote, the person must vote by declaration ... The procedures for voting at a polling booth are set out in Section 336 of the Act.

Upon entering a polling booth the elector must give his/her full name and address to an issuing officer. If an elector has a ballot paper and declaration envelope for the election and does not intend to cast a declaration vote, the elector must return the ballot paper and declaration envelope to the issuing officer. The issuing officer must ensure that the ballot paper in the declaration envelope does not get admitted to the count. The issuing officer may ask a person questions to decide whether the person is entitled to vote.

The Department's manual includes a checklist for issuing officers to assist in determining whether or not a person is entitled to vote ...¹⁰⁰

The *Returning Officer's Reference Manual* for local government elections lists questioning and operational procedures for ordinary voting or where: the voter is not on the roll; the voter's name has already been marked off; there is a spoiled ballot paper; and where the issuing officer suspects the voter is not entitled to vote.¹⁰¹

DATSIPD informed the committee that questioning is not widely practiced at aboriginal and island council elections, stating:

As the communities are small and voters are well known to the issuing officers, this has not been an issue. Refer to Section 336 of the Regulations for legislative provisions.¹⁰²

4.4.6 Extra-ordinary voting

For a variety of reasons it is not possible for all electors to vote on polling day at a polling booth within the electoral district for which they are enrolled. At the 1998 State general election, 287,288 or 14.62% of electors voted by means other than as an ordinary voter at a polling booth in their own electorate.¹⁰³ The committee therefore also asked the ECQ, Local Government Services and DATSIPD about integrity measures undertaken in relation to extra-ordinary voting.

⁹⁹ ECQ submission (no 11), n 10 at 4-5.

¹⁰⁰ LGS response, n 36.

¹⁰¹ The ECQ also provides a manual to returning officers for state elections.

¹⁰² DATSIPD response, n 57.

¹⁰³ ECQ submission (no 11), n 10 at 8.

Sections 105-112 of the *Electoral Act*¹⁰⁴ provide a system of declaration voting to ensure that the maximum number of electors can cast their vote even though they are unable to attend a polling booth in their electoral district on polling day.

Vote types include:-

- postal voting;
- special postal voting;
- pre-poll (in person);
- absent voting;
- unenrolled voting;
- voting at declared institutions;
- voting in remote areas; and
- electoral visitor voting.¹⁰⁵

In its submission, the DATSIPD expressed concern about the high level of declaration voting generally in aboriginal and council elections:

... in respect to the last Boigu Island Council election, 63 declaration votes were cast out of the electoral roll of 180 voters. Although figures are not immediately available, this situation is not uncommon for other Torres Strait Islander Councils.

It appears that significant numbers of Torres Strait Islander people who have moved to the mainland permanently are either maintaining their electoral address at their island of origin address or changing their electoral enrolment to influence the outcome of Council elections.

These actions would not only impact on the local council rolls but also State and Commonwealth rolls.¹⁰⁶

4.4.6.1 Postal voting

The Electoral Commissioner's submission outlined the various circumstances an elector must face to be eligible for a postal vote and outlined the following security measures:

A person seeking a postal vote must apply in writing. Before issuing a ballot paper, a returning officer satisfies himself or herself that the applicant is enrolled for the district for which the person seeks to vote. The returning officer then sends to the applicant, generally by post, a ballot paper and declaration envelope. The elector completes the declaration before an authorised witness, and marks the ballot paper and returns both to the returning officer. For the purposes of postal voting, an authorised witness is:-

- *An elector of any State or Territory of Australia or of the Commonwealth of Australia.*
- *An officer of an Australian Embassy or Consulate.*
- *A Government official of any overseas country.*
- *A minister of religion in any country.*

In witnessing the declaration, he/she is verifying that the elector made the voter's declaration in their presence before 6.00 pm on polling day.

¹⁰⁴ See sections 338-341 and 343-353 of the *Local Government Act 1993* (Qld).

¹⁰⁵ ECQ submission (no 11), n 10 at 8.

¹⁰⁶ DATSIPD submission (no 27), n 92.

*In the presence of scrutineers, declarations are examined by the returning officer to ensure compliance with the Act and the signatures of electors are verified by comparison with the electors signature on the application form before ballot papers are accepted for counting.*¹⁰⁷

Local Government Services explained that:

*The Act provides that completed ballot papers and declaration envelopes must be posted or delivered to the returning officer by 6.00 pm on polling day. However, if posted, a declaration vote may be received by the returning officer within 10 days after polling day (Section 359).*¹⁰⁸

4.4.6.2 Special postal voting

The Electoral Commissioner submitted:

Rather than applying for a postal vote at each election, eligible persons (electors living more than 15 km from polling booth etc) can register by application as special postal voters and they are automatically sent ballot papers and declaration envelopes when an election is called. This process ensures that persons living in remote areas of the State are not disenfranchised as a consequence of the short time span between nomination day and polling day. Postal services in remote areas of the State would in many cases not allow an elector to apply in writing for a ballot paper and receive and cast the vote within the time prescribed if this special category of postal voting did not exist.

The examination of the declaration envelopes occurs in a similar manner to other postal voting and the signature of the elector is compared by the Returning Officer to signature data provided to him/her by the Commission before the ballot paper is accepted and admitted to the count.

*Section 105(5) of the Act imposes the obligation on the Commissioner, not later than two years after the return of the writ for an election, to review the continuing eligibility to make a declaration vote of electors who are special postal voters.*¹⁰⁹

The register of special postal voters is reviewed every two years after the return of the writ from the previous election. During each review, the ECQ writes to special postal voters to ascertain their current status. At the hearing, the ECQ's Mr Wiltshire outlined that during the last review 437 special postal voters were removed from the register and that some 8,791 electors remain on the register. Signatures of special postal voters are held by the ECQ and checked against the signature on the declaration when a vote is cast. The ECQ told the committee that it has never uncovered any anomalies, and perceives no problems or issues with special postal voting.¹¹⁰

4.4.6.3 Pre-poll in person and absent voting

The Electoral Commissioner submitted:

The qualification criteria for pre-poll in person voting is identical to that of postal voting and allows electors to vote at an appointed location (within Queensland, interstate, and overseas) in the period approximately 2 weeks prior to polling day.

Absent voting is available at every booth in Queensland on polling day as a service to electors who are unable to attend a polling booth in their own electoral district.

¹⁰⁷ ECQ submission (no 11), n 10 at 9.

¹⁰⁸ LGS response, n 36.

¹⁰⁹ ECQ submission (no 11), n 10 at 10.

¹¹⁰ Transcript, n 54 at 29.

*In the case of both pre-poll in person and absent voting, electors are required to make a declaration vote, the declaration being witnessed by either the returning officer or a polling official. The electors vote is counted once the returning officer for the electors “home” or enrolled electorate is satisfied that the applicant is enrolled for that district and the declaration is otherwise in order.*¹¹¹

4.4.6.4 Unenrolled voting

The Electoral Commissioner submitted:

Unenrolled voting is a service provided to persons whose name cannot be located on the roll and who believe that the omission has occurred due to official error.

*Counterfoils (copies) of unenrolled votes taken by polling staff are forwarded to ECQ by each returning officer for comprehensive data searches in an endeavour to verify or otherwise the claim made by the elector. Should the Commission agree that there has in fact been an official error in the roll, the returning officer is advised that the relevant vote can be admitted into the count.*¹¹²

Local Government Services provided to the committee the issuing officer’s checklist, which provides that ‘where the voter’s name does not appear on the roll the issuing officer requires the voter to complete a declaration vote or refers voter to an issuing officer appointed by the presiding officer to handle such cases’. The ballot paper is issued only after the declaration is completed and claimants must place their ballot paper in the declaration envelope before it is placed in the ballot box.¹¹³

4.4.6.5 Declared institution voting and voting in remote areas

The Electoral Commissioner submitted:

*Polling officials visit these locations at pre-determined times to take the votes of residents, inmates etc. Candidates are advised of the voting times so as to allow scrutineers to be present. Votes for Declared Institutions and Remote Communities (to date, Cape York and Torres Strait regions only) are ordinary votes if electors are on the local electoral roll or are treated as Absent (declaration) voters if enrolled for other districts.*¹¹⁴

4.4.6.6 Electoral visitor voting

The Electoral Commissioner submitted:

*... Electors claiming such a vote must make application in writing to the Returning Officer for the electoral district for which they are enrolled. All electoral visit votes are taken as ordinary votes by the electoral officer visiting the elector at their residence once the Returning Officer is satisfied that the applicant is enrolled for that particular electorate. Scrutineers are entitled to accompany electoral officials to observe the taking of all electoral visit votes.*¹¹⁵

¹¹¹ ECQ submission (no 11), n 10 at 10.

¹¹² ECQ submission (no 11), n 10 at 10-11.

¹¹³ LGS response, n 36.

¹¹⁴ ECQ submission (no 11), n 10 at 11.

¹¹⁵ ECQ submission (no 11), n 10 at 11.

4.5 SUMMARY

In this chapter, the committee has described various checks and balances that exist to ensure electoral (enrolment and voting) integrity. The existence of such measures is not always fully appreciated in public discussions and criticisms of the electoral process.

In the following four chapters, the committee refers in detail to comments made to it or that have been previously published about the effectiveness of such measures in preventing and detecting electoral fraud.

5. THE ELECTORAL SYSTEM GENERALLY—EFFECTIVENESS

In the preceding chapter, the committee described various checks and balances in Queensland’s electoral system—in terms of enrolment procedures, voting procedures and ‘global’ checks and balances—that are in place in order to ensure the integrity of the electoral process and, in particular, prevent electoral fraud.

In this and the following three chapters, the committee extracts or refers to commentary that has been made to it (in submissions and at the hearing), or commentary that has been previously published, about the effectiveness of the various checks and balances in ensuring the integrity of the electoral process. The committee itself does not (at this stage of its inquiry) come to conclusions about the effectiveness of those measures or of the electoral system generally, for the reasons described in chapter 3 above.

5.1 FORMS OF ELECTORAL FRAUD AND THE CAPACITY OF THE ELECTORAL SYSTEM GENERALLY TO PREVENT THEM

At times, following the conduct of elections, allegations are made that people voted more than once or otherwise voted fraudulently. These allegations include allegations of:

- so called ‘cemetery voting’—that people voted in the names of recently deceased people, whose names have not yet been cleansed from the electoral roll;
- multiple voting—that people have voted twice or more, for example, by visiting different polling booths on the election day, or pre-poll voting and voting again on election day; and
- personation—that people voted in the names of real people they know will not be voting or in the names of fictitious people.

The critical thrust of the Electoral Commissioner’s evidence presented during this inquiry appears to the committee to be:

- that cemetery voting as a general rule does not occur, and is detectable should it occur;
- that multiple voting does not occur to any extent to be a concern and that it is nevertheless detectable; and
- that personation poses the greatest potential for electoral fraud, and that it is fundamentally in relation to enrolment fraud that opportunities for personation arise. Accordingly, it is only at enrolment (ie not the voting stage of the electoral process) that personation will be detected through the appropriate auditing of enrolments.

The Electoral Commissioner did put a caveat on these conclusions, in light of the current inquiry into certain allegations of the electoral fraud currently being conducted by Hon Shepherdson on behalf of the CJC:

*The current enquiry by the Criminal Justice Commission may uncover fraudulent electoral activities on a scale which would need to be addressed by substantial changes to enrolment and/or voting procedures. However, the costs and/or disadvantages of potential changes outlined in this submission cannot, in ECQ’s view, be justified, based upon the findings of all inquiries and investigations conducted to this point in time.*¹¹⁶

¹¹⁶ ECQ submission (no 11), n 10 at 68.

In relation to allegations of **cemetery voting**, the Electoral Commissioner submitted that:

*There have been numerous claims throughout Australia that persons have voted in the names of recently deceased persons. ECQ is unaware of any case where such a claim has been proven. To the contrary, every examination in recent times has proven the claims to be false.*¹¹⁷

In its issues paper¹¹⁸ on this inquiry, the committee commented:

In relation to allegations of so-called ‘cemetery voting’ ... 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 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.”*¹¹⁹

*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.*¹²⁰

The committee notes that the JSCEM’s report on the 1993 Federal election states:

A peculiar variant of multiple voting is “cemetery” or “graveyard” voting, involving votes allegedly cast in the names of deceased electors not removed from the electoral roll.

¹¹⁷ ECQ submission (no 11), n 10 at 59, as cited in section 4.4.2 above.

¹¹⁸ LCARC, issues paper, n 8.

¹¹⁹ South Australia State Electoral Office, *Report of the Electoral Commissioner: Parliamentary elections*, 11 December 1993 at 61-62.

¹²⁰ LCARC, report no 2, n 50 at 5.

*The Committee is satisfied that cemetery voting is not a problem in contemporary Australian elections. ...*¹²¹

In relation to **multiple voting** and **personation**, the ECQ submitted:

The scanning system [discussed in section 4.4.1 above in this report] is effective in detecting cases of multiple voting. It does not, of course, detect offenders who, multiple vote in different names, either through fictitious enrolments or in the names of persons on the roll who the offender knows will not be voting at the election. The scanning system identified 21 persons in the Mundingburra Electorate at the 1995 State election who had been marked as having voted twice. Each case was examined by the Court of Disputed Returns. His Honour Judge Ambrose found that 7 of 21 votes were invalid. In 3 of those 7 cases, persons, who believed they were enrolled, voted but were not entitled to vote as their names had been removed from the roll. In each case, the offenders had similar or identical names to validly enrolled electors.

In relation to the remaining four cases, no explanation satisfactory to the court could be offered and accordingly the Judge ruled the votes invalid. However, no case of multiple voting was proven.

At the same hearing, it was alleged that there were 39 cases of personation. The Judge was not persuaded that any personation had occurred.

Scanning picks up multiple voting after it has occurred.

*Multiple voting in the same name can be prevented through a computerised voter validation system or through “precinct voting”. [Emphasis added.]*¹²²

The following excerpt from the transcript of the committee’s hearing confirms the above information:

Mrs GAMIN: *Mr O’Shea, in your submission to us you seem to indicate that multiple voting in one person’s name is not really a problem, because it is picked up through multiple voter reports and that personation ... is really the problem and that the solution lies in procedures surrounding the enrolment. Is this interpretation correct? Would you care to expand on those?*

Mr O’Shea: *What I am saying there is that people who vote in their own name more than once are found out after the event and are dealt with after the event, but if a person puts fictitious names on the roll and votes under those names, apart from the normal checks and balances in the enrolment system that may pick them up before the polling date, if that name remains on the roll they can vote under that name and you will never know that they are a multiple voter.*¹²³

Professor Colin Hughes (former Australian Electoral Commissioner) pointed out the potential shortcomings in the current system of checks made on the electoral roll. He wrote:

If the purpose of a false enrolment is to permit a false vote, then the enrolment would have been used, a vote cast, and so no subsequent non-voter action would have been initiated. Had the falsity of such an enrolment been brought into issue by a habitation review, then the mechanisms for validating the false enrolment being talked about presently would presumably have been activated by the notice sent to the address in point, and confirmation of the enrolment would have been returned to the Divisional

¹²¹ JSCEM, *The 1993 Federal Election: Report of the inquiry into the conduct of the 1993 federal election and matters related thereto*, AGPS, Canberra, November 1994, 33 at 4.2.11-4.2.12.

¹²² An options which the ECQ does not endorse: Transcript, n 54 at 36; ECQ submission (no 11), n 10 at 56-57.

¹²³ Transcript, n 54 at 19.

*Office. In other words, the assumptions for there being a false enrolment ensure that it will continue, except for mischance.*¹²⁴

The Northern Territory Department of Local Government stated their roll scanning activities uncover very few cases of multiple voting and almost all are attributed to administrative error.¹²⁵ Toowoomba City Council commented that the current action taken to detect multiple voting is adequate.¹²⁶

In their submission to the committee the Liberal Party of Australia (Queensland Division) (hereafter ‘the Liberal Party’) outlined the shortcoming of current detection methods in that the problem is detected after the offence has occurred and that preventative measures would be preferable.¹²⁷

The above information about the potential problem of personation and that it can only be addressed through auditing the enrolment process provided one of the fundamental reasons why the committee feels compelled at this stage to make its recommendation in chapter 9 below for enhanced continuous roll updating (CRU) safeguards, despite the fact that otherwise in this report the committee is reticent to come to conclusions, or make recommendations in relation to, other areas.

5.2 PAST ANALYSES BY AUTHORITIES OF ALLEGATIONS OF ELECTORAL FRAUD

Allegations of a wide variety of fraudulent electoral practices are also frequently made following *federal* elections. A document published by the AEC called *Electoral backgrounder no. 9—Multiple voting* outlines the AEC’s summary of what it and the JSCEM (the Parliamentary committee established after every federal election to inquire into the conduct of that election) has said about allegations of multiple voting. While the document discusses federal elections, it is informative to cite extensively from it for the purposes of the current debate in Queensland.

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.

...

The focus of many complaints relating to fraudulent enrolment and voting is the alleged prevalence of multiple voting for the House of Representatives in the 148 federal Divisions across Australia. Over the past decade, procedures implemented by the AEC for detecting multiple voting have been gradually improved by reforms to administrative processes and the introduction of computer technology. These improved procedures provide one important, but not generally appreciated, explanation for the gradual increase in multiple voting statistics over the same period. The overall increase in the voting population over a decade is also an important consideration.

...

¹²⁴ Professor Colin Hughes submission (no 17) dated 5 October 2000 at 5.

¹²⁵ The Northern Territory Department of Local Government submission (no 6) dated 25 September 2000.

¹²⁶ Toowoomba City Council submission (no 15) dated 8 October 2000.

¹²⁷ Liberal Party of Australia (Queensland Division) submission (no 18) dated 5 October 2000.

Because of the secrecy of the ballot, any multiple votes that may have been cast must stay in the count. To remove multiple votes from the count, which might be possible with declaration votes, for example, before the envelopes are opened and the ballot papers removed, would risk disenfranchising innocent voters. Instead, the AEC examines all detected cases of multiple voting in each Division after the election, and where it appears that the level of multiple voting might have exceeded the winning margin for the elected candidate, the AEC will consider disputing the election result by petition to the Court of Disputed Returns under section 357 of the Act. Electors and candidates are also entitled under the Act to petition against the election for which they were entitled to vote. In relation to multiple voting, under section 362 of the Act, the Court can only void the election if it is satisfied that the result of the election was likely to have been affected by such an illegal practice, and where the Court considers it just to do so.

Since the major reforms instituted by Parliament in 1983 to amend the Act, no federal election has been voided by the Court of Disputed Returns on the grounds that fraudulent enrolment and voting occurred, sufficient to affect the result of the election in any Division.

...

The federal electoral system in Australia has been characterised as 'user-friendly'. In fact, it has been deliberately shaped that way over the past decade by the recommendations of parliamentary committees, and consequent amending legislation, and citizens generally appear to appreciate a system that can service some 11 million voters, in a very restricted time frame, with the minimum of fuss. However, following every federal election, allegations are made that fraudulent enrolment and voting has compromised the integrity of the election result.

In response to such allegations, every JSCEM inquiry into the conduct of federal elections, since the AEC was established in 1984, has concluded 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 House of Representatives Division, marginal or otherwise, and that the level of fraud is not sufficient to have overturned the result in any Division in Australia.

In investigating the conduct of the 1987 federal election, the JSCEM noted that allegations of fraudulent enrolment and voting, such as cemetery voting, were characteristically supported only by insubstantial anecdotal information, and no compelling evidence of widespread and organised fraud was available. ...

...

In investigating the conduct of the 1990 federal election the JSCEM again noted 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.

...

Following a change of government at the 1996 federal election¹²⁸, the JSCEM again received allegations of fraudulent enrolment and voting, and concluded:

¹²⁸ The JSCEM's report on the 1996 Federal election is discussed further in section 2.4.2 above.

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.

The JSCEM went on to recommend an array of electoral integrity measures including more stringent enrolment witnessing requirements, documentary proof of identity for enrolment, expanded matching of enrolment data, cross-checking of citizenship through naturalisation, close of rolls for new enrolments at the issue of the writ, and for transfer of enrolment on the third day after the issue of the writ, re-introduction of subdivisinal voting, and amendment of the multiple voting offence.

The ALP members of this JSCEM dissented from the majority recommendations on fraudulent enrolment and voting in the following way:

The Committee has not been presented with any substantive evidence indicating the existence of electoral fraud. It has been limited to anecdote and hearsay....

Despite a dearth of evidence that alleged loopholes are being abused, there are, in the Majority Report, serious new moves to complicate enrolment. The outcome will be discouragement of prospective and past re-enrolling voters.¹²⁹

...

Conclusion

Fraudulent enrolment and voting is taken very seriously by the AEC, if only because any concentration of such activity in a single House of Representatives Division, sufficient to affect the result of the election, could well result in that election being voided by the Court of Disputed Returns, and could conceivably result in a change of government. There are comprehensive checks and balances built into AEC administrative procedures that ensure that instances of multiple voting are detectable. Individual cases of multiple voting are prosecuted after every federal election, but there has been no evidence uncovered that indicates that the result in any federal election since the establishment of the AEC in 1984 has been compromised by widespread and organised fraudulent enrolment and voting.¹³⁰

Since this backgrounder was published, the JSCEM has come to further conclusions on allegations of electoral fraud, ie, in relation to the 1998 federal election:

During the 1998 federal election:

... the AEC detected no widespread and organised electoral fraud that could have affected the result in any Division, particularly any marginal Division ... [citation from an AEC submission]

¹²⁹ The Commonwealth Government responded to the recommendations of the 1996 JSCEM with the electoral amendment legislation referred to in section 2.4 above

¹³⁰ AEC, *Electoral Backgrounder No 9*, n 6.

Overall, the AEC is concerned about the threat to the integrity of the electoral system posed by false claims of electoral fraud that remain unchallenged and unquestioned:

Since 1984, a parliamentary inquiry has been held into the conduct of every federal election. At each of these inquiries the possibility of fraudulent enrolment and voting has been investigated, and each time it has been concluded that no evidence was available to support allegations that widespread and organised electoral fraud had occurred to such an extent that the result of any of those elections was in doubt.[citation from an AEC submission]

While the Committee understands the AEC's concerns about the integrity of the electoral system being threatened by false claims of fraud, the Committee points out that criticism of the electoral system should be welcomed as one method of ensuring the ongoing integrity of the system.

*The Committee has seen no evidence of widespread and organised electoral fraud having occurred at the 1998 federal election. All examples of electoral fraud provided to the Committee as part of this inquiry appear to be either based on hearsay or have a reasonable explanation.*¹³¹

5.3 SUBMISSIONS TO THIS COMMITTEE ON THE EFFECTIVENESS OF THE ELECTORAL SYSTEM GENERALLY

How did submitters to this inquiry perceive the effectiveness of Queensland's electoral system in ensuring integrity/preventing electoral fraud? Some submitters expressed general satisfaction with the electoral system overall but pointed to areas that they suggested required attention. Other submitters commented only on specific checks that currently exist and expressed their view that these are adequate. Other submitters made a general comment to the effect that current checks and balances in the electoral system are inadequate to prevent and detect fraud.¹³²

Many submitters recognised the inherent conflict between ensuring the electoral system maximises the franchise (and is variously described as a 'system of trust' or 'elector-friendly' while maintaining a system that is secure against enrolment and voting fraud.¹³³

The Australian Labor Party (Queensland Branch) (hereafter 'the ALP') expressed the view that one case of electoral fraud is too many and is, 'enough reason to improve the electoral legislation and procedures in Queensland.'¹³⁴ The National Party of Australia (Queensland Division) (hereafter 'the National Party') and the City Country Alliance Queensland (hereafter 'the CCAQ') indicated in their submissions to the committee their disquiet about various aspects of Queensland's electoral system. The Liberal Party submitted that, 'No longer can Queenslanders accept the easygoing approach currently taken with regard to enrolments and procedures'.¹³⁵

In a similar vein, Professor John Wanna submitted to the committee that:

¹³¹ JSCEM, *The 1998 Federal Election: Report of the inquiry into the Conduct of the 1998 Federal Election and matters related thereto*, CanPrint Communications, Canberra, June 2000 at 98.

¹³² For example, submissions from Boonah Shire Council (no 7) dated 29 September 2000, Logan City Council (no 24) dated 6 October 2000, City Country Alliance Queensland submission (no 25) dated 11 October 2000 and the Australian Labor Party (Queensland Branch) submission (no 28) dated 13 October 2000.

¹³³ Submission nos 7, 10, 16, 19, 21 and 28.

¹³⁴ ALP submission (no 28), n 132.

¹³⁵ Liberal Party submission (no 18), n 127.

*Improvements can be made to the present relatively lax registration and voting procedures by tightening the procedures for citizens to comply with the Electoral Act.*¹³⁶

In his submission to the committee, Associate Professor Paul Reynolds stated:

The LCARC 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.

...

*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.*¹³⁷

More specific comments received by the committee about the integrity of the two major components of the electoral system—the voting process and the enrolment process—are contained in chapters 7 and 8 below, following a discussion of submissions on the effectiveness of 'global' electoral safeguards in chapter 6.

¹³⁶ Professor John Wanna submission (no 19) dated 6 October 2000.

¹³⁷ Associate Professor Paul Reynolds submission (no 4) dated 27 September 2000 at 1 and 6.

6. 'GLOBAL' CHECKS AND BALANCES—EFFECTIVENESS AND OPTIONS

The committee in chapter 4 above outlined three 'global' checks and balances that are integral to ensuring the integrity of the entire electoral (voting and enrolment) system; namely, an independent electoral commission (the ECQ), the right of the commission (and candidates and electors) to place a suspect result for a district before the Court of Disputed Returns for further and thorough scrutiny; and the existence generally of electoral offences pertaining to fraudulent enrolment and electoral behaviour. In this chapter the committee outlines comments received about the effectiveness of these global protections and about options for their reform.

6.1 AN INDEPENDENT ELECTORAL COMMISSION

As a check on the integrity of the electoral system, the role of Queensland's independent electoral commission (the ECQ) in ensuring honest and fair elections did not go unrecognised in some submissions. Associate Professor Paul Reynolds submitted:

On the evidence the ECQ performs in an exemplary fashion to maintain, update and cleanse the rolls.

*... confidence in the electoral and political processes ... 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 officers. It is significant that none of the matters raised in this Inquiry are directed at the ECQ or derive from the criticism of its performance.*¹³⁸

The Liberal Party submitted:

*The work of the Australian Electoral Commission and Electoral Commission of Queensland is not in question. Our submission will ask for reforms to allow the two electoral entities to ensure the integrity of the electoral roll and the voting system.*¹³⁹

Noting the recent events surrounding the (de)registration of Pauline Hanson's One Nation Party in Queensland, the National Party acknowledged the extremely high reputation of the ECQ but suggested that:

... 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.

...

*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.*¹⁴⁰

In terms of reform options pertaining to the ECQ, a few submissions suggested that the ECQ be given new or increased functions and capacities including:

- the function of monitoring and reviewing late enrolments to identify if there is evidence of last minute roll stacking;¹⁴¹ and

¹³⁸ Associate Professor Paul Reynolds submission (no 4), n 137 at 3 and 6.

¹³⁹ Liberal Party submission (no 18), n 127 at 1.

¹⁴⁰ National Party of Australia (Queensland Division) submission (no 20) dated 6 October 2000.

¹⁴¹ Associate Professor Paul Reynolds submission (no 4), n 137 at 4.

- the capacity to investigate fraudulent activity, either through its own unit or a combined police/ECQ squad to utilise each other's expertise.¹⁴²

6.2 COURT OF DISPUTED RETURNS

Submitters did not generally make any reference to the Court of Disputed Returns.¹⁴³ However, it was identified as an appropriate and effective check on the electoral process by the ALP, who stated in their submission:

*The QLD Branch of the ALP would also like to highlight the role of the Court of Disputed Returns, as set out in the Queensland Electoral Act 1992. We would continue to endorse the Court of Disputed Returns as the supreme body in terms of hearing disputes regarding elections. If ever there was a situation in which an election result was in doubt because of fraudulent voting, the Court of Disputed Returns would be best placed to investigate all forms of voting in a thorough and appropriate manner.*¹⁴⁴

Limitations to the potential corrective effect of the Court of Disputed Returns were suggested by the committee in some of its questioning at the hearing, in terms of the limited timeframe within which an action can be brought to the Court after an election.¹⁴⁵

No reform options were suggested for the Court of Disputed Returns.

6.3 OFFENCES

Submitters did not generally comment on the effectiveness of the current enforcement and investigation of electoral offences. However, Mr Graeme Orr submitted that there is a perception that the number of prosecutions (let alone the number of convictions) for multiple voting is 'surprisingly low'.¹⁴⁶ Though, Mr Orr advised against 'cranking up penalties' merely to achieve a higher level of deterrence.¹⁴⁷

Submissions did not address the issue of drafting of existing electoral offence provisions.

The following reform options relating to electoral offences were raised during this inquiry.

- **That penalties for the breach of electoral offences be increased.**

Various submissions identified a scope to increase penalties in general.¹⁴⁸ Information received by the committee indicated two arguments for increasing penalties for electoral offences. The first argument is that increased penalties would mean an increased deterrent effect.

The National Party (Queensland Division) submitted that: '*It is obvious from recent convictions that the existing laws relating to electoral fraud have failed as a deterrent*'¹⁴⁹

¹⁴² ALP submission (no 28), n 132.

¹⁴³ The committee had stipulated in its issues paper that it did not intend to revisit the powers of the Court of Disputed Returns: See section 1.1.2 of this report.

¹⁴⁴ ALP submission (no 28), n 132.

¹⁴⁵ Transcript, n 54 at 40-41.

¹⁴⁶ Submission from Mr Graeme Orr (no 21) dated 6 October 2000. However, there is also extensive commentary by the AEC and the ECQ suggesting that levels of multiple voting are actually low, after polling officials' error when marking off the roll is taken account of.

¹⁴⁷ Note 146.

¹⁴⁸ Submission nos 7, 10, 13, 18 and 25.

¹⁴⁹ National Party submission (no 20), n 140.

and suggested that minimum penalties be introduced, including mandatory terms of imprisonment.

The second argument is that an increase in penalties would raise the priority that police services give to the investigation of electoral offences.¹⁵⁰

In their report on the 1998 federal election, the JSCEM acknowledged the claim of the AEC that there was a problem in obtaining prosecutions for dual or multiple voting.¹⁵¹ The JSCEM stated that the Australian Federal Police (AFP) rejected 33 of the 45 cases of suspected multiple voting that were referred to it after the 1998 federal election on the basis that the AFP did not have the resources to pursue the cases. The AEC, in their submission to the JSCEM at that time, suggested that the AFP had failed to act because the penalty for breach of the offences was too low (6 months imprisonment or a pecuniary penalty averaging \$500 prior to 1998 and a pecuniary penalty of \$1100 after 1998) to justify investigation in a climate of limited resources.¹⁵² The JSCEM emphasised that multiple voting is a serious offence that needs to be taken seriously by authorities.¹⁵³

In terms of facilitating future investigations into allegations of electoral fraud, the National Party identified a need to reassess the effectiveness of current provisions that require certified rolls and other material to be held for only one term after the last state election.¹⁵⁴

- **That the consequences for members, candidates and political parties who breach electoral offences be revisited.**

In its reports on consolidation of the Queensland Constitution (report nos 10, 13 and 24) LCARC examined offences under the *Electoral Act* which disqualify a person from candidacy for or membership of the Legislative Assembly.

Under section 83(2) of the *Electoral Act* a candidate is disqualified from nomination and election to the Legislative Assembly if, among other things, the person is not entitled to be elected as a member under section 176 or under another law. Section 176 reads:

*176. If a person is convicted of an offence against section 154, 168 or 170(a) or (b)*¹⁵⁵

*(a) if the person is a member of the Legislative Assembly- the person's seat is vacated in accordance with the Legislative Assembly Act 1867, section 7(2);*¹⁵⁶ *and*

(b) in any case- the person is not entitled to be elected, or to sit, as a member of the Legislative Assembly for 3 years after the conviction.

LCARC consolidated these disqualification provisions with other disqualifying provisions in sections 64(2)(a)(iii) and 72(1)(i)(ii)¹⁵⁷ of its draft Parliament of Queensland Bill 1999.

¹⁵⁰ This argument was discussed by the AEC's Mr Bob Longland at the hearing: Transcript, n 54 at 16.

¹⁵¹ JSCEM report on the 1998 Federal election, n 131 at 95.

¹⁵² JSCEM report on the 1998 Federal election, n 131 at 95.

¹⁵³ JSCEM report on the 1998 Federal election, n 131 at 96.

¹⁵⁴ National Party submission (no 20), n 140.

¹⁵⁵ Sections 154 (False, misleading or incomplete documents), 168 (Influencing voting) or 170 (Voting if not entitled etc).

¹⁵⁶ Section 7 (Vacating seats of members of Assembly in certain cases).

The Queensland Constitutional Review Commission (QCRC) commented on this aspect of the draft bill in its *Report on the possible reform of and changes to the Acts and Laws that relate to the Queensland Constitution*.¹⁵⁸ The QCRC noted that the listed offence provisions in the *Electoral Act* did not include any enrolment offences but that conviction for such offences warrants disqualification, ‘...both because such a person ought not to sit in Parliament, and because the attendant publicity of such a conviction would discourage other potential offenders.’ The Commission thereby recommended that two additional sections of the *Electoral Act* [section 151 (wilfully inserting a false or fictitious name on a roll), and section 159 (forging or uttering an electoral paper)] be included, with section 159 qualified to apply only to an enrolment application.

The QCRC also noted that the joint roll arrangement, as the commission understood it, means that an enrolment offence would be dealt with under Commonwealth law. The QCRC therefore recommended adding the relevant Commonwealth provisions to the draft bill, namely sections 336(3) and 337(1)(d) of the *Commonwealth Electoral Act 1918*.¹⁵⁹

In its report no 24 *Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution*, LCARC stated:

*The committee accepts that the seriousness of other electoral offences which involve falsification of names on the electoral roll or forging an enrolment application should also disqualify any person convicted of these offences from being elected or from remaining as a member. Accordingly, the committee has adopted the provisions recommended...*¹⁶⁰

The QCRC and LCARC viewed those offences as sufficiently serious to render a person disqualified from candidacy to the Legislative Assembly for three years or to immediately vacate a sitting member’s seat.

LCARC now notes however, that the convictions of Ms Ehrmann and Mr Foster in Queensland were made under the provisions of the *Crimes Act 1914* (Cth).

The committee considers that it is appropriate that a disqualification penalty be incorporated into the *Electoral Act* that more broadly covers the range of possible offence provisions for which disqualification is deemed to be an appropriate penalty, but makes no firm conclusions at this stage of this inquiry.

The National Party submitted to this inquiry that:

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

¹⁵⁷ Sections 64 (Qualifications to be a candidate and be elected a member) and 72 (Vacating seats of members in particular circumstances).

¹⁵⁸ Queensland Constitutional Review Commission, *Report on the possible reform of and changes to the Acts and laws that relate to the Queensland Constitution*, GoPrint, Brisbane, February 2000 at 84-85, R16.6.

¹⁵⁹ Sections 336 (Signature to electoral paper) and 337 (Witnessing electoral papers).

¹⁶⁰ LCARC, report no 24, *Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution*, Part III, GoPrint, Brisbane, July 2000, Part III at 17.

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.*¹⁶¹

The National Party also propounded the introduction of a new penalty for political parties in relation to certain electoral offences, submitting:

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

...

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.

...

*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.*¹⁶²

6.4 CONCLUSION

As this is an interim report (for the reasons outlined in chapter 3 above), the committee makes no comment about the necessity for, or desirability of, the proposals listed above.

The committee looks forward to considering the above comments and options in a subsequent final report.

¹⁶¹ National Party submission (no 20), n 140.

¹⁶² National Party submission (no 20), n 140.

7. VOTING PROCEDURES—EFFECTIVENESS AND OPTIONS

7.1 EFFECTIVENESS OF EXISTING VOTING PROCEDURES TO PREVENT AND DETECT VOTING FRAUD

In section 4.4 above, the committee outlined the checks and balances in place in relation to polling procedures; namely, the safeguards in place surrounding the casting and counting of votes. In this section, the committee presents specific comments made in submissions and at the hearing about the effectiveness of those polling safeguards in ensuring the integrity of the ballot and in preventing and detecting voting fraud.

7.1.1 Scanning of the certified lists

Submissions on the effectiveness of scanning certified lists in the detection of multiple voting are outlined in section 5.1 above.

7.1.2 Scrutineers

The value of scrutineers in safeguarding the polling and vote counting process through making it transparent was endorsed by the ECQ and was generally regarded as an effective check to the electoral process by those submitters who commented on it. At the hearing, the Electoral Commissioner stated:

*... we appreciate the work done by scrutineers where counting is taking place. We encourage our returning officers to do no counting unless there are scrutineers there ... Where a result is close, there is a very keen interest and the scrutineers play a very important role. I think that, when the election is close, the parties have a tendency to send experienced and capable people but where it is not close, scrutineers have a tendency to be ill trained and not really understand formality rules and things of that nature. That can present some problems. But by and large, the scrutineer system works very well.*¹⁶³

The National Party (Queensland Division) submitted:

*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.*¹⁶⁴

Toowoomba City Council expressed the view that existing arrangements for scrutineers are considered adequate, as did DATSIPD.¹⁶⁵ The CCAQ submitted that they would not propose any alteration to the existing scrutineer arrangements.¹⁶⁶

One submitter did indicate a problem relating to scrutineers. Boonah Shire Council identified a potential shortcoming in the *Local Government Act*, submitting:

*The different roles of scrutineer and candidate need to be clearly defined in the Local Government Act so as to preclude candidates being their own scrutineers.*¹⁶⁷

¹⁶³ Transcript, n 54 at 32.

¹⁶⁴ National Party submission (no 20), n 140.

¹⁶⁵ Toowoomba City Council submission (no 15), n 126 and DATSIPD submission (no 27), n 92.

¹⁶⁶ CCAQ submission (no 25), n 132.

¹⁶⁷ Boonah Shire Council submission (no 7), n 132.

7.1.3 Questioning of voters

The ECQ pointed out at the committee's hearing that questioning of voters is rarely invoked, largely because the issuing officer would first need to know that the person in front of them was not who they were claiming to be or if their claimed identity was challenged by a scrutineer. When asked if there were any instances of this occurring, Mr Wiltshire, the ECQ's Operations Manager responded:

*Very few – I would suggest probably almost none in the past few elections.*¹⁶⁸

At the hearing, Mr Terry Tibbits also informed the committee:

*With the state elections, we do not give formal instructions to all the issuing officers; it is all done through a training manual. So they are asked to check the name and address of these people. It is only if they had some suspicion that they were not that person that they would then check with the presiding officer in charge to check further and they might then give that person the vote but place that in the special envelope required so it could be considered later.*¹⁶⁹

Toowoomba City Council submitted:

*Whilst polling booth staff currently have this power, it is suggested that it would be rarely invoked. Staff have to accept, at face value, that the person standing in front of them at the polling booth is the person they claim to be unless, of course, they have personal knowledge that this is not the case. To do otherwise would severely impact on the ability of the staff to efficiently deal with the number of voters attending that booth.*¹⁷⁰

7.1.4 Security of ballot papers—printing, tampering, supply and transport

Evidence presented to the committee at the hearing suggested that security of ballot papers is currently at such a level that there is no need to increase security measures. The Electoral Commissioner outlined procedures for the committee and informed the committee that, in this regard, he considered '*our system is the tightest in Australia*'.¹⁷¹

The Electoral Commissioner also stated that he had never seen evidence of ballot tampering and had received no allegations to that effect.¹⁷² Mr Tibbits outlined processes undertaken when receiving and securing ballot papers, and commented that he had never experienced interference or tampering with ballot papers.¹⁷³

The CCAQ stated in its submission that there is a need for greater security, including the reintroduction of secure ballot boxes with padlocks and a specially prepared ballot paper which can only be marked or used with a specialised implement.¹⁷⁴

¹⁶⁸ Transcript, n 54 at 32.

¹⁶⁹ Transcript, n 54 at 45.

¹⁷⁰ Toowoomba City Council submission (no 15), n 126.

¹⁷¹ Transcript, n 54 at 33.

¹⁷² Transcript, n 54 at 34.

¹⁷³ Transcript, n 54 at 44.

¹⁷⁴ CCAQ submission (no 25), n 132.

7.1.5 Extraordinary voting

The committee notes that there appears to be a general perception that declaration voting in particular is open to fraudulent activity, despite current checks that are made on declaration votes. There appears to be a mistrust of procedures which do not require a voter to present themselves to officials. The declaration process in itself is a check on votes cast in this manner, as such votes are subject to scrutiny and verification measures before being admitted to the count.

Below, the committee summarises the comments made to it regarding the effectiveness of existing procedures surrounding the various forms of extraordinary voting.

Postal voting: At the hearing, the Electoral Commissioner stated that there had been some occasions when postal votes had been disallowed because the ECQ was not satisfied that the signature on the declaration and the signature on the application for the postal vote were made by the same person.¹⁷⁵ The Electoral Commissioner acknowledged that the postal voting system could be used for fraudulent purposes eg for a vote to be cast for a false enrolment. However, the ECQ's submission listed various checks that are in place to counter such attempts (see chapter 4 above).

Mr Terry Tibbits commented on one experience that he believed demonstrated the effectiveness of the current checks on postal voting and voting in general. He informed the committee:

*... Someone came in for a postal vote and we had to send it down south to them, but they had come back and they had not received it. So we were able to issue them with a pre-poll vote in Ipswich and [were able to] make sure that if anyone did use the postal vote it could never be counted.*¹⁷⁶

Concern about postal voting was expressed by Toowoomba City Council and DATSIPD in their submissions to the committee.¹⁷⁷ These submitters perceived that the current witnessing requirements are inadequate and suggested that more stringent requirements, such as having two witnesses, are necessary.

Mr Graeme Orr emphasised the danger in too much reliance on postal voting, submitting that in person voting, rather than postal voting, is a keystone of our electoral law that militates against vote fraud: *'any system that depends overly on postal balloting invites voting fraud, as numerous investigations into industrial ballots has revealed'*.¹⁷⁸

The 'ten day rule': Several local governments expressed concern in their submissions to the committee about postal voting and its potential for fraud.¹⁷⁹ In particular, those local governments commented that the 'ten day rule' for receipt of postal votes was problematic.

¹⁷⁵ Transcript, n 54 at 34.

¹⁷⁶ Transcript, n 54 at 43.

¹⁷⁷ Toowoomba City Council submission (no 15), n 126 and DATSIPD submission (no 27), n 92 respectively.

¹⁷⁸ Mr Graeme Orr submission (no 21), n 146.

¹⁷⁹ Bulloo Shire Council submission (no 5) dated 21 September 2000, Boonah Shire Council submission (no 7), n 132, Nebo Shire Council submission (no 8) dated 26 September 2000 and Rosalie Shire Council submission (no 9) dated 5 October 2000.

Rosalie Shire Council described the problem as follows:

*The problem as Council sees it is that preliminary results of the ballots counted on the polling day are released and made public at the close of counting on that night. However, ballot papers can virtually be cast and forwarded to the Returning Officer once this detail is known, therefore potentially having an effect on the result.*¹⁸⁰

Bulloo Shire Council noted:

*... that candidates or scrutineers present at the preliminary count by marking off the roll would know exactly who hasn't at that point in time voted .. the temptation may be there to knock on some doors.*¹⁸¹

It was suggested in those submissions that shortening the time period for the receipt of postal votes would decrease the potential for fraud. The Electoral Commissioner informed the committee that this period could not be shortened because of practical difficulties in obtaining legitimately cast postal votes (eg votes cast overseas) in any less than a period of 10 days.¹⁸²

Special postal voting: At the hearing, the committee discussed with the ECQ the procedure for obtaining and maintaining status as a special postal voter, and the measures in place to protect against fraud. The ECQ's Mr Wiltshire explained that in the periodic review of the register of special postal voters (as outlined in chapter 4), voters are sent a letter by the ECQ, part of which must be signed and returned. Mr Wiltshire explained that the signature is kept for checking against the postal vote at a later stage. The Electoral Commissioner added that while it is not checked at that stage, during an election the declaration is checked against the signature on file. Mr Wiltshire stated that he is unaware of any problems that have arisen.¹⁸³

The ALP (Queensland Branch) submitted that the process of special postal voting is unsatisfactory and provided statistics to support their claim that anomalies could be identified in special postal voting.¹⁸⁴

Pre-poll (in person) voting: Pre-poll voting was not addressed in submissions.

Absent voting: At the hearing, the committee asked the Electoral Commissioner if he had any comments in relation to the integrity of the absent voting process. He acknowledged the potential that exists for a fraudulent postal vote to be cast if there is a fraudulent enrolment, and stated that the checks on absent voting when the vote was processed and counted would not be able to detect such fraudulent behaviour.¹⁸⁵

Unenrolled voting: Unenrolled voting was not addressed in submissions.

Declared institution voting: The Electoral Commissioner commented on the integrity of declared institution voting at the hearing:

... we receive complaints from time to time from all sides of politics that the person running the organisation is biased and gives one side a better run at the electors than the other side of politics. I think the changes that we have recommended whereby our

¹⁸⁰ Rosalie Shire Council submission (no 9), n 179.

¹⁸¹ Bulloo Shire Council submission (no 5), n 179.

¹⁸² Transcript, n 54 at 30.

¹⁸³ Transcript, n 54 at 29.

¹⁸⁴ ALP submission (no 28), n 132. The Electoral Commissioner made certain preliminary comments about the statistics at the committee's hearing: See Transcript, n 54 at 34.

¹⁸⁵ Transcript, n 54 at 35.

*people carry Statewide how-to-vote cards to the institutions will reduce that problem somewhat.*¹⁸⁶

Voting in remote areas: At the hearing the Electoral Commissioner suggested remote area voting acted in the manner of a ‘security blanket’ for the franchise of people living in remote areas in ensuring ballots are cast and ballot papers returned:

*At places like the Torres Strait it is so hard to find people who will work there all day and so hard to find people you can train, whereas we can fly in trained people and recruit a local person who speaks the dialect and we can take the votes in two hours. We find it has a better turnout, because the person we engage knows who is on the island at the time and he will get them to the officials if he possibly can. And you have got security of ballot papers; they are not left on the island.*¹⁸⁷

Electoral visitor voting: The committee received only one submission referring to electoral visitor voting.¹⁸⁸

7.2 VOTING PROCEDURES—REFORM OPTIONS

Above, the committee outlined comments it received about the effectiveness of polling procedures in ensuring the integrity of the voting process. Below, the committee lists various reform options¹⁸⁹ that are available if polling procedures are ultimately found to be wanting.

Because the committee has decided generally not to come to any conclusions about the effectiveness of polling procedures (for the reasons set out in chapter 3), the committee simply lists below reform options that are available. The committee does not here endorse or reject any of the options. The committee also briefly lists various comments it received in submissions or at the hearing that relate to the options.

Reform options relevant to voting/polling procedures include at least the following.

- **That electors be required to provide proof of identity before being issued with a ballot paper.**¹⁹⁰ (There are variations on this proposal—from requiring proof of identity in a prescribed form to requiring a form of temporary or permanent ‘voter card’. Variations also arise as to the types of identification to be required, eg biometric, photographic or non-photographic.)

Several submitters endorsed the introduction of some form of identification requirement for voting.¹⁹¹ The following specific comments were made on possible variations and considerations:

- if identification were to be required the minimum identification would have to be a signature. This could lead to delays and difficulties at the booth and would need to be handled with extreme sensitivity by polling clerks;¹⁹²
- it can be argued that identification is required for many other commercial transactions so there is no reason it should not be required for the most ‘basic act of citizenship’ - voting;¹⁹³

¹⁸⁶ Transcript, n 54 at 35. The recommendation the Commissioner refers to was commented on by this committee in its report no 23, n 3 at 7-10.

¹⁸⁷ Transcript, n 54 at 35-36.

¹⁸⁸ Professor John Wanna submission (no 19), n 136.

¹⁸⁹ Many of the options were listed by the committee in its issues paper.

¹⁹⁰ As called for by Dr Watson MP in his motion in the Queensland Legislative Assembly on 5 September 2000, as discussed in section 2.3 above.

¹⁹¹ Submission nos 7, 10, 13, 18, 19, 20, 24, and 25.

¹⁹² Associate Professor Paul Reynolds submission (no 4), n 137 at 5.

- any identification system has to be uniform and simple;¹⁹⁴
- photographic identification is necessary to achieve the purpose;¹⁹⁵
- a ‘voting card’ issued specifically for a particular election would be the most effective process but difficulties arise if the elector cannot present the card at the booth, for various reasons;¹⁹⁶
- a ‘voting card’ would have to be subject to strict safeguards;¹⁹⁷
- identification requirements would have to take a national approach;¹⁹⁸
- if a voting card was to be issued it should be regularly updated, say every 5 years or for each election.¹⁹⁹

Some submitters expressed reservation about requiring proof of identity for voting for various reasons.²⁰⁰ Some comments made were:

- voting cards could be transferred or duplicated²⁰¹ and other forms of identification easily forged;²⁰²
- invasive identification checks offer no solution to the odd cases of personation or multiple voting in an enrolled name, without creating more significant problems of disenfranchisement for many innocent citizens seeking to do their duty;²⁰³
- any voting card system would be similar to the Australia Card concept and there would be the same opposition thereto;²⁰⁴
- the cost to some electors of acquiring appropriate identification is highly unsatisfactory;²⁰⁵
- proof of identification with a suitable form prescribed may prove difficult for remote Aboriginal and Torres Strait Islander communities as people may not have the usual forms of identification. If such a requirement is to be introduced consideration should be given to exempting remote indigenous communities.²⁰⁶

The Electoral Commissioner commented on proposals for voter identification at the hearing. He stated that it was problematic, especially in light of the fact that Australia does not have a form of national identification. He outlined the difficulties that would be experienced in that some people would not have appropriate identification and that people who do may have altered their appearance since the photograph on their identification was taken. He told the committee:

*It makes it a very difficult task for polling officials to make those judgments on polling day under the pressure of dealing with so many clients. At the end of the day, what does it mean? It is so easy to get a false identification. It is so easy.*²⁰⁷

¹⁹³ Associate Professor Paul Reynolds submission (no 4), n 137 at 4-5.

¹⁹⁴ Toowoomba City Council submission (no 15), n 126.

¹⁹⁵ Toowoomba City Council submission (no 15), n 126.

¹⁹⁶ Toowoomba City Council submission (no 15), n 126.

¹⁹⁷ National Party submission (no 20), n 140.

¹⁹⁸ Logan City Council submission (no 24), n 132.

¹⁹⁹ CCAQ submission (no 25), n 132.

²⁰⁰ Mr Graeme Orr submission (no 21), n 146, DATSIPD submission (no 27), n 92 and ALP submission (no 28), n 132.

²⁰¹ Mr R Sadler submission (no 10) dated 3 October 2000.

²⁰² Professor Colin Hughes submission (no 17), n 124.

²⁰³ Mr Graeme Orr submission (no 21), n 146.

²⁰⁴ Professor Colin Hughes submission (no 17), n 124.

²⁰⁵ ALP submission (no 28), n 132.

²⁰⁶ DATSIPD submission (no 27), n 92.

²⁰⁷ Transcript, n 54 at 32.

- **That voters be physically marked.**

Mr Graeme Orr outlined this proposal as follows:

*The common sense response to fears of multiple voting is that practised in so called 'less developed' countries: some form of marking (eg of indelible ink) on the person (usually hand) of anyone voting in person. Such simple ideas are often the best: but parliamentarians would be better placed than me to assess whether hand marking would cause undue affront to the typical voter's sense of privacy and physical autonomy.*²⁰⁸

- **That (all) electors be asked (more) stringent questions by issuing officers when they present themselves to vote.**

The Electoral Commissioner commented:

*... the volume of people coming through the polling booths on polling day is potentially 2.2 million clients in one day. I would not like to see too many questions asked at the table, particularly by the people who are engaged for one day's work. They are not highly skilled to make judgments anyway.*²⁰⁹

The CCAQ expressed the view that it did not support increasing the frequency of questioning, stating:

*This type of inquiry is more likely to engender disharmony and cause difficulty...*²¹⁰

Toowoomba City Council and the CCAQ submitted there were more effective means of ascertaining a voter's identity.²¹¹

Boonah Shire Council submitted that there is scope for improving issuing officer's questioning of voters, 'not only to determine that the person is entitled to vote but also to eliminate multiple voting, personation of other electors and "cemetery" voting.'²¹²

One suggestion that arose during the course of the inquiry was that electors' day, month and year of birth (though maybe not year of birth, if that question was considered to cause offence generally) be included on the certified lists and for issuing officers to ask electors for that information before issuing a ballot paper, as a quick verification check.²¹³ The committee considers that such an option might be worthy of further consideration at a later time.

- **That 'precinct voting' be introduced, whereby electors would be required to vote at pre-designated polling booths (ie usually those nearest to their residence).**

There was both support for and opposition to precinct voting in submissions. The following comments were made:

- surveys should be undertaken to determine voting patterns (ie if people do vote at the booth closest to their residence) before such a proposal is adopted;²¹⁴
- precinct voting is a 'ready alternative which would almost entirely eliminate the possibility of multiple voting for the one enrolment and reduce the likelihood of using false identity to create additional enrolments.' A pilot project should be conducted,²¹⁵

²⁰⁸ Mr Graeme Orr submission (no 21), n 146.

²⁰⁹ Transcript, n 54 at 30.

²¹⁰ CCAQ submission (no 25), n 132.

²¹¹ Toowoomba City Council submission (no 15), n 126 and CCAQ submission (no 25), n 132.

²¹² Boonah Shire Council submission (no 7), n 132.

²¹³ Transcript, n 54 at 30.

²¹⁴ Associate Professor Paul Reynolds submission (no 4), n 137 at 5.

²¹⁵ Professor Colin Hughes submission (no 17), n 124.

- precinct voting runs the risk of deterring people from voting, as many people do not vote at the nearest polling booth and inconvenience would result, particularly in rural areas;²¹⁶ and
- precinct voting is necessary if there are no other changes to the current system.²¹⁷

Mr Tibbits, in his evidence to the committee at the hearing indicated his support for precinct voting but acknowledged the potential problems it may cause.²¹⁸

When asked his views on precinct voting at the hearing, the Electoral Commissioner told the committee:

*I don't think it is possible to open up the number of polling booths in Queensland necessary to put the system into practice. At the end of the day, what does it achieve? It eliminates multiple voting, which we identify after the event now, anyway, and deal with. The end would not justify the means.*²¹⁹

- **That signature matching be introduced (whereby electors would be required to sign for ballot papers and the signatures matched with enrolment signatures at the booth).**

The Electoral Commissioner briefly commented on signature matching at the hearing:

*If you are looking at that sort of system where people do have to prove their identity and sign perhaps the roll or some similar documentation, you would need an updated signature before the election. Again, you are introducing some difficulties. From a practical sense, it would be very hard to deal with that efficiently. Certainly, you could not run an election in the current time span. With a fixed date and a long lead-in period, yes, we could do all of those things.*²²⁰

- **That a system of vote tracing be introduced (eg numbered ballot papers that are matched with elector registration numbers).**²²¹

This was not discussed in submissions or at the hearing.

- **That, on polling day, officials mark electors off an electronic roll linked to all polling places in Queensland.**

Mr P Schuback, Toowoomba City Council and Professor John Wanna expressed some support for such a system.²²²

- **That electronic voting be introduced.** (There are variations on this proposal²²³—‘touch-screen’ voting; internet voting; telephone voting; voting using TAB facilities.)

There is discussion and trials around the world of electronic voting in various forms. Submitters made the following comments:

- ‘The Council feels that the majority of issues/concerns raised in your Issues Paper would be able to be addressed using current day electronic technologies and accordingly this is the basis of Council’s suggestion to your Committee that electronic voting be investigated as a possible option for future voting arrangements’;²²⁴

²¹⁶ National Party submission (no 20), n 140.

²¹⁷ CCAQ submission (no 25), n 132.

²¹⁸ Transcript, n 54 at 43.

²¹⁹ Transcript, n 54 at 36.

²²⁰ Transcript, n 54 at 36.

²²¹ Transcript, n 54 at 36.

²²² Mr P Schuback submission (no 2) dated 19 September 2000, Toowoomba City Council submission (no 15), n 126 and Professor John Wanna submission (no 19), n 136.

²²³ The committee notes that the Legislative Assembly of the Australian Capital Territory introduced a bill on 18 October that would allow electronic voting to be trialed at its next election.

²²⁴ Cooloolool Shire Council submission (no 14) dated 6 October 2000.

- ‘A significant amount of research, planning and appropriate software development would be needed to ensure that it is not only ‘fail safe’ but is also perceived to be so’;²²⁵
- The National Party (Queensland Division) expressed its support for a trial of electronic voting but qualified their position as follows: ‘... 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’;²²⁶
- Logan City Council submitted that they would support electronic voting provided cost effective technology is available and adequate safeguards and controls can be developed;²²⁷
- CCAQ submitted that electronic voting should be introduced although it acknowledged the cost factor;²²⁸
- DATSIPD submitted that ‘electronic voting may not have application in remote communities.’²²⁹

Electronic voting was explored by the committee in its hearing. The Electoral Commissioner made the following remarks:

*There is nothing to stop the introduction of electronic voting in Queensland in some form now. It can be done. But there is a question of cost and security. Would you as politicians be happy to have a voting system where there is no hard copy? There is nothing to verify later; the computer just tells you who won. Would you be happy with that in view of the fact that a hacker with the Love Bug was able to penetrate the White House? In relation to electronic emailing or some sort of email voting or Internet voting in America, they were able to jam the site so no-one could get at it for a 24-hour period. There are practicalities that have to be dealt with. I do not think that the public network would handle the 2.2 million transactions in one day. So you would have to spread your voting over a couple of weeks leading to polling day, which would make you even more suspicious of the end result, I would think.*²³⁰

7.3 CONCLUSION

As this is an interim report (for the reasons outlined in chapter 3), the committee makes no comment about the necessity for, or desirability of, the proposals listed above.

The committee would look forward to considering the above comments and options in a subsequent, final report.

²²⁵ Toowoomba City Council submission (no 15), n 126.

²²⁶ National Party submission (no 20), n 140.

²²⁷ Logan City Council submission (no 24), n 132.

²²⁸ CCAQ submission (no 25), n 132.

²²⁹ DATSIPD submission (no 27), n 92.

²³⁰ Transcript, n 54 at 36.

8. ENROLMENT PROCEDURES—EFFECTIVENESS AND OPTIONS

8.1 EFFECTIVENESS OF EXISTING ENROLMENT PROCEDURES TO PREVENT AND DETECT ENROLMENT FRAUD

In section 4.3 above, the committee outlined the checks and balances in place in relation to enrolment procedures. In this section, the committee presents specific comments made in submissions and at the hearing about the effectiveness of those enrolment safeguards in ensuring the integrity of the electoral roll and in preventing and detecting enrolment fraud.

Submitters generally did not comment specifically on the effectiveness of the current checks and balances protecting the integrity of the electoral roll. However, a general perception that there is certainly room to improve the integrity of the electoral roll could be implied from the numerous suggestions that were made on methods to improve the integrity of the roll.²³¹ (Those suggestions are summarised in section 8.2 below.)

Some submitters expressed the view that the joint roll arrangement should be maintained, not only for convenience to electors in only having to complete one enrolment card, but because it was perceived that fraud would be minimised where the resources of the AEC and the ECQ were concentrated.²³² However, the National Party (Queensland Division) submitted:

*The National Party would not be opposed to moves for Queensland to maintain its own electoral roll in close consultation with the Commonwealth.*²³³

Many submitters recognised the value in CRU techniques for roll maintenance and cleansing. Many expressed that there is considerable value in its further development, in various forms.²³⁴ (Enhancing CRU is referred to as a reform option in section 8.2, and is the subject of chapter 9 of this report.)

Some submitters suggested a return to habitation reviews as a means of increasing the integrity of the system.²³⁵

Some submitters suggested there is scope for increasing education to encourage enrolment²³⁶ and to inform electors of the objection process.²³⁷ CCAQ submitted that the method for objecting to names appearing on the roll should be reviewed and updated regularly.²³⁸

At the hearing, the Electoral Commissioner noted some shortcomings in the current checks and balances on enrolment. He identified a weakness in the enrolment card system, stating:

*... I think that we need to take the next step and not rely on people filling in the enrolment cards, which to my mind is an era that is passing us quickly.*²³⁹

²³¹ See for example, submission nos 7, 10, 12, 13, 15, 18, 19, 20, 24, 25, 27, 28 and 29. Reform options suggested are discussed at 8.2.

²³² See for example, Associate Professor Paul Reynolds submission (no 4), n 137 at 3, Toowoomba City Council submission (no 15), n 126 and Liberal Party submission (no 18), n 127.

²³³ National Party submission (no 20), n 140.

²³⁴ Submission nos 4, 7, 13, 15, 18, 19, 21, 24, 25, 27 and 28.

²³⁵ Toowoomba City Council submission (no 15), n 126 and National Party submission (no 20), n 140.

²³⁶ Associate Professor Paul Reynolds submission (no 4), n 137 at 4 and Boonah Shire Council submission (no 7), n 132.

²³⁷ Mr R Sadler submission (no 10), n 201.

²³⁸ CCAQ submission (no 25), n 132.

²³⁹ Transcript, n 54 at 18. The matter of automatic or direct enrolment is discussed in chapter 9 of this report.

The Electoral Commissioner commented on public confidence in the integrity of the roll throughout his evidence to the committee at the hearing. In response to committee questioning, the Electoral Commissioner informed the committee:

*... The system of trust may be working. All indications are that it is working. The system was put in place by an independent commission after reviewing all alternatives around the world, not only just in Australia ... EARC came up with a balance between compulsory enrolment and compulsory voting. If you are going to force people to enrol and force people to vote, you cannot put barriers in front of them. For that reason, this balance has been put in place and largely it has worked ... it may be that at the end of the [CJC] inquiry public confidence will be re-established in the whole process ... Then again, if it goes the other way, there will be a different problem ... as electoral authorities and governments we have to find ways of dealing with it.*²⁴⁰

The committee notes that the House of Representatives Standing Committee on Economics, Finance and Public Administration, when reporting on its inquiry into the management of Tax File Numbers, has said the following about the quality of the AEC enrolment database:

AEC data is likely to be higher quality than TFN data for a number of reasons. This includes the fact that AEC has a continual turnover of data due to the range of elections that are conducted throughout the country using the electoral role (sic), as opposed to the ATO where clients are only required to provide a once a year update at the point of lodging a tax return.

*The AEC also has a range of quality assurance mechanisms in place to ensure the quality and veracity of electoral role (sic) applications and changes, such as monthly (and at times more frequent) matching against Fact of Death data received from the States, an Address Register 'against which all enrolment transactions are matched' and a range of Continuous Roll Update activities.*²⁴¹

8.2 ENROLMENT PROCEDURES—REFORM OPTIONS

The ECQ submitted:

Queensland entered into a joint electoral roll arrangement with the Commonwealth in 1991 which came into operation on 1 January 1992 at which time all roll keeping activity by the State ceased.

Whilst the ECQ can influence the strategic direction that roll maintenance may take at both a National and State level through the Electoral Council of Australia and the Queensland Joint Roll Management Committee, the AEC has total responsibility for additions and deletions to the roll and for day to day management.

ECQ has neither the source data nor the resources, (staff or technology) to contribute in any meaningful way to roll management. Accordingly as ECQ, has had only a minor role to play in the maintenance of the State electoral roll since 1991, it has very little expertise to draw upon at this time.

*The AEC has, however, produced two comprehensive submissions [to the JSCEM] in relation to preventive measures to address enrolment fraud. The relevant sections of the submissions are reproduced for your consideration.*²⁴²

²⁴⁰ Transcript, n 54 at 26-27.

²⁴¹ House of Representatives Standing Committee on Economics, Finance and Public Administration report, *Numbers on the Run: Review of the ANAO [Australian National Audit Office] audit report No. 37 1998-99 on the management of Tax File Numbers*, Canberra, August 2000 at 3.49.

²⁴² ECQ submission (no 11) at 11-12.

The excerpts of past AEC submissions to the JSCEM contained in the ECQ submission comprehensively canvass the major reform options in relation to enrolment procedures—eg requiring proof of identity at enrolment—and the implications of those options. (The ECQ submission is posted on the committee’s website, the address of which appears at the front of this report.)

The full versions of the past AEC submissions to the JSCEM appear on the AEC website at <http://www.aec.gov.au/committee/jscem.htm>. The committee notes that the AEC submission to the current JSCEM inquiry into the integrity of the electoral roll (this committee has only very recently received a copy of that submission) also contains information about enrolment reform options. (That submission presumably will also become available at the above-mentioned AEC website.)

The committee considers that, apart from the options canvassed in detail in chapter 9 of this report in relation to CRU/State database systems, there are at least the following other options:

- **That electors be required to produce certain proof of identification and address when enrolling.**²⁴³

Requiring proof of identification and/or address received some support in submissions, for example:

- general support for an identification requirement was expressed by Mr R Sadler, the Liberal Party, Logan City Council and CCAQ;²⁴⁴
- a system of requiring a certain number of ‘points’ of identification be provided, similar to the system used for opening bank accounts, on enrolment was supported by Toowoomba City Council, Professor John Wanna and Mr L Scott.²⁴⁵ The National Party supported requiring identification but submitted that the ‘100 points system’ would be too excessive;²⁴⁶
- the National Party also commented that if electors were to be required to attend an interview (similar to the process for obtaining a passport) that there would need to be some relaxation for people living in rural or remote areas.²⁴⁷

The requirement to provide identification when enrolling was opposed by the ALP, who submitted:

*In regards to providing proof of identity for enrolment and voting procedures, the ALP remains opposed to such measures. We don’t believe such a step would act as a deterrent towards electoral and voting fraud.*²⁴⁸

²⁴³ The subject of 1999 amendments to the *Commonwealth Electoral Act* referred to in section 2.4 above and as called for by Dr Watson MP in his motion in the Queensland Legislative Assembly on 5 September 2000, as discussed at section 2.3 above.

²⁴⁴ Submission nos 10, 18, 24 and 25.

²⁴⁵ Refer Toowoomba City Council submission (no 15), n 126, Professor John Wanna submission (no 19), n 136 and Mr L J Scott submission (no 29) dated 25 October 2000.

²⁴⁶ National Party submission (no 20), n 140.

²⁴⁷ National Party submission (no 20), n 140.

²⁴⁸ ALP submission (no 28), n 132.

At the hearing, the Electoral Commissioner pointed out the shortcomings of requiring identification to be presented for enrolment:

... They are real people who put themselves on the roll at incorrect addresses. All the identification in the world is not going to stop that sort of offence, because if you knock on the door, the person answering the door is the person who put them on fraudulently, or someone who can speak on their behalf.

...

... In terms of enrolment, I firmly believe that if you bring in stringent identification processes you are going to disenfranchise people, either deliberately or by giving them an option not to enrol. At the end of the day, I am not sure that it achieves very much because it is only one form of voting irregularity. You can still be a real person and be on the wrong roll, as we well know. I have come back to that for the third or fourth time today. In relation to identification at the polling booth, again you need two pieces of identification in a sense: you need something to prove who you are and something to prove where you live to make it meaningful. What sort of identification do you produce? I think it is very easy to obtain identification of some sort. Some people will simply not have identification that is satisfactory.²⁴⁹

- **That the rolls be closed simultaneously with the issue of the writ to prevent a ‘last minute rush’ of enrolments, the veracity of which cannot be checked before election day.**

This proposal was discussed in several submissions as follows:

- the ECQ should review late enrolments to see if there is any link between late surges in enrolment and fraud;²⁵⁰
- people seeking to defraud the roll would probably do so regardless of closing dates;²⁵¹
- there is no reason why rolls should not be closed on the day the writs are issued;²⁵²
- immediate closure of the roll would result in a significant number of people being deprived of the opportunity to enrol to vote because people give little thought to their obligation to enrol/update enrolment until the election is called;²⁵³
- the National Party indicated its support for early roll closure on the conditions that there are mechanisms to ensure that first-time enrollees are not discriminated against and that ongoing awareness campaigns were run;²⁵⁴
- the problem of ‘enrolment waves’ could be diluted by requiring that the Premier/Governor give advance notice of the issue of the writ, coupled with an administrative obligation on the ECQ to campaign for enrolments at that time and the roll monitoring body be fully resourced to enable adequate checking of applications;²⁵⁵ and
- Logan City Council, CCAQ and DATSIPD all expressed support for immediate closure of the rolls.²⁵⁶

²⁴⁹ Transcript, n 54 at 19, 25 and 40.

²⁵⁰ Associate Professor Paul Reynolds submission (no 4), n 137 at 4.

²⁵¹ Mr R Sadler submission (no 10), n 201.

²⁵² Mr Frank Carroll submission (no 13) dated 6 October 2000.

²⁵³ Toowoomba City Council submission (no 15), n 126.

²⁵⁴ National Party submission (no 20), n 140.

²⁵⁵ Mr Graeme Orr submission (no 21), n 146.

²⁵⁶ Logan City Council submission (no 24), n 132; CCAQ submission (no 25), n 132 and DATSIPD submission (no 27), n 92 respectively.

At this committee's hearing, Mr Longland of the AEC's Queensland office commented on the idea that rolls be closed on the issue of the writ. He stated:

... people do not see the need to re-enrol quickly as being a high priority ... I do not believe that there is any case to be made for changing the close-of-rolls process to, let us say, disadvantage those people because there is no proof then offered in many inquiries that the close-of-rolls period actually encourages or otherwise exacerbates enrolment fraud situations.

...

*... I would suggest to you that the rolls would be far less accurate if we closed them right at the time the writ was issued because it is important that we get people who change their address in that period in the right electorate or district so that they are voting for the right people.*²⁵⁷

At the hearing, Mr Tibbits indicated his general support for the proposal to close the rolls as soon as the writ is issued.²⁵⁸

- **That there should be a complete re-enrolment of the electors of the State or of a selected electorate.**

The following comments were made in submissions:

- Toowoomba City Council opined that re-enrolment on any scale would: be a major logistical exercise; inconvenience and confuse many electors; and be of doubtful benefit.²⁵⁹
- Complete re-enrolment was seen as unnecessary by DATSIPD if the appropriate CRU processes are in place.²⁶⁰
- Professor Colin Hughes recommended a 'pilot' of roll cleansing in, for example, the Townsville-based federal seat of Herbert.²⁶¹
- The CCAQ advocated a complete re-enrolment of electors to clean the roll and restore public confidence in its integrity.²⁶²
- Mr L Scott noted that complete re-enrolment would provide a clean roll but acknowledged that it would be an enormous exercise undertaken at considerable cost.²⁶³

The Electoral Commissioner commented on the option of re-enrolment at the committee's hearing:

*... You abandon the roll and start totally again is one option, but with that sort of enrolment you would be incapable of verifying the cards that have been enrolled. So a person fraudulently enrolled now who wanted to do it again, you would not have a chance to pick it up in the short time frame between now and the next State election, whenever it may be held.*²⁶⁴

²⁵⁷ Transcript, n 54 at 4-5 and 15.

²⁵⁸ Transcript, n 54 at 46.

²⁵⁹ Toowoomba City Council submission (no 15), n 126.

²⁶⁰ DATSIPD submission (no 27), n 92.

²⁶¹ Professor Colin Hughes submission (no 17), n 124.

²⁶² CCAQ submission (no 25), n 132.

²⁶³ Mr L J Scott submission (no 29), n 245.

²⁶⁴ Transcript, n 54 at 26.

- **That there be a return to habitation reviews by the AEC as a means of verifying people’s identity.**

Some submitters supported a return to habitation reviews in full or in part. Submissions addressed the following:

- Toowoomba City Council submitted ‘*Door knocking, whilst time consuming and expensive, appears to be the most efficient method of checking the enrolment status of electors*’.²⁶⁵
- Professor John Wanna argued for ‘*more house to house scrutiny to ensure the accuracy of the roll with the assumption that lack of verification removes the person from the roll*’.²⁶⁶
- The National Party suggested that random physical door knocks take place in seats identified by the ECQ as marginal, or where there is a high enrolment turnover.²⁶⁷

The CCAQ expressed opposition to ‘door knocking’ as it is ‘neither cost effective nor satisfactory’.²⁶⁸

Both Mr Longland and the Electoral Commissioner commented on periodic roll review methods during the hearing. Both identified it as a process which, on its own, is inefficient and largely ineffective,²⁶⁹ although both Mr Longland and the Electoral Commissioner emphasised that targeted door knocking is still being used to follow up CRU activity.²⁷⁰

- **That current continuous roll updating (CRU) initiatives be enhanced to further prevent electoral fraud.**

This proposal is the subject of chapter 9 (The way forward—a separate State-based enrolment verification system).

8.3 CONCLUSION

As this is an interim report (for the reasons outlined in chapter 3), the committee makes no comment about the necessity for, or desirability of, the proposals listed above, except for the last reform option: That current continuous roll updating (CRU) activities be enhanced to further prevent electoral fraud. This option is the subject of committee recommendations in chapter 9 (The way forward—A separate state-based enrolment verification system).

The committee would look forward to considering the comments made to the committee referred to above and the other options listed above in a subsequent, final report.

²⁶⁵ Toowoomba City Council submission (no 15), n 126.

²⁶⁶ Professor John Wanna submission (no 19), n 136.

²⁶⁷ National Party submission (no 20), n 140.

²⁶⁸ CCAQ submission (no 25), n 132.

²⁶⁹ See, for example, discussion by Mr Longland, Transcript, n 54 at 5-6.

²⁷⁰ For example, Transcript, n 54 at 5.

9. THE WAY FORWARD—A SEPARATE STATE-BASED ENROLMENT VERIFICATION SYSTEM

9.1 INTRODUCTION

In this report the committee has provided an overview of the various checks and balances that exist within the Queensland electoral system. These checks and balances include ‘global’ or systemic safeguards, and certain features of the enrolment and voting processes that are designed to ensure the integrity of the electoral system. The committee has also summarised the comments made to it during the course of this inquiry (in public submissions to the committee and during the committee’s hearing) about the effectiveness or otherwise of those safeguards and what more can or should be done in order to enhance the integrity of the electoral process.

The committee has noted the on-going investigation into certain allegations of electoral fraud being undertaken on behalf of the CJC by the Hon Tom Shepherdson QC and the on-going inquiry being conducted by the Commonwealth Parliament’s JSCEM into the integrity of the electoral roll, which has also been established to investigate past incidents of electoral fraud. The committee has noted that those inquiries are not yet finalised, and may shed considerable light on matters germane to the reference given by the Queensland Parliament to this committee on 22 August 2000.

Having taken account of those factors and the restrictive timeframe the committee was given to report on its reference from Parliament, the committee at the outset of this report (in chapter 3) stated that it was generally hesitant to make any comprehensive or definitive conclusions about the integrity of the enrolment process or of the polling process, or about the effectiveness of laws and practices pertaining to roll keeping or polling. In this regard, the committee emphasised that it was keeping open its consideration of all reform options. Accordingly, the committee stated that it intended this report to Parliament to be an interim report and that the committee looked forward to finalising its consideration of matters raised by this inquiry at a later time, when the committee would have the benefit of analysing the findings of the Shepherdson and JSCEM inquiries.

However, at the same time, the committee noted that Parliament had stipulated a reporting deadline for the committee of 14 November 2000 so that attempts could be made to introduce measures implementing any recommendations of the committee before the next general State election (due mid-2001). The committee also registered its concern about the many serious allegations made during the past few months about past instances of electoral fraud in Queensland. The committee stated that the ongoing media and political attention surrounding the Shepherdson and JSCEM inquiries has the potential to substantially erode public confidence in the integrity of the electoral process. Accordingly, the committee stated that it considered it appropriate to, in fact, suggest measures that would enhance the integrity of Queensland’s electoral system if it considered such measures warranted, despite the interim nature of this report.

This chapter discusses—and makes recommendations about—one of the options for electoral reform (outlined in chapters 6–8 above) that the committee has decided (even at this stage of the inquiry) is worthy of implementation. That option is to accelerate the development of the existing continuous roll updating (CRU) systems to enhance the systemic capabilities of electoral authorities to undertake ‘fraud audits’ to prevent electoral fraud. In this chapter, the committee proposes that Queensland introduce a separate State-based enrolment verification

computer system to improve, and accelerate the development of, existing continuous roll updating activities (concurrently with CRU activities undertaken by the AEC in relation to the AEC's roll management system, RMANS). The committee envisages that such a system would greatly enhance the capacity of electoral authorities to not only focus on and detect electoral fraud, but improve the integrity and completeness of the electoral roll generally.

9.2 THE INTEGRITY OF THE ELECTORAL ROLL

An accurate, timely and true electoral roll is vital to the conduct of free, honest and fair elections. As the official list of electors, rolls are prima facie evidence of a person's right to vote. It is therefore imperative that measures are in place to ensure that electoral rolls are of the highest integrity and accuracy. The importance of an accurate electoral roll is highlighted where the election result is close (as has been the case in the last two Queensland general state elections).

However, concerns have been expressed for a number of years about whether the electoral roll is as accurate as it could or should be. Concerns about the ability of the AEC's previous electoral roll review (ERR) process through national door-knocking at least every two years (or at least about that system's ability to retain accuracy as time passed after the door-knock) in part lead to the replacement of that system with the AEC's current continuous roll updating (CRU) accompanied by targeted door-knocks. Recent media reports have highlighted that concerns about the accuracy of the Queensland electoral roll remain.

Earlier this year in its report no 23,²⁷¹ this committee gave its in-principle support to the AEC's new CRU system as a means of ensuring the integrity of the roll (as indicated in the lengthy excerpt from LCARC's report no 23 reproduced in the following section). However, the committee in its report no 19, also said that '*it appears to the committee that more could be done to ensure the accuracy of the electoral roll used for state electoral purposes*'.²⁷²

As indicated by the CRU progress reports of the Electoral Council of Australia's CRU Implementation Steering Committee (CISCO) mentioned in section 4.3.3 of this report, the CRU system—despite its short history—has been successful so far, with it already generating more changes to the roll per annum than the previous biennial door-knock review of the roll. All indications are that CRU, as it continues to be further implemented, will continue to significantly improve the accuracy of the roll in the future.

In view of the potential of CRU to ensure an accurate roll, Mr Longland at the committee hearing indicated that the CRU system in light of its recency is only '*probably about halfway through in the implementation to what we could call a mature system*'.²⁷³ The AEC's CRU activities are earmarked for further development and the AEC is set to markedly improve its efficiency in enhancing the accuracy of the roll as new CRU activities are included and more process reviews of existing CRU activities are conducted.

The committee notes that the Queensland Government and, in particular, the ECQ, has already contributed to the development of CRU, both in guiding its direction generally (through the Queensland Electoral Commissioner's input via direct on-going liaison with the

²⁷¹ LCARC report no 23, n 3 at 47-48.

²⁷² LCARC report no 19, n 18 at 28.

²⁷³ Transcript, n 54 at 11.

AEC and through the Commissioner's membership of the Electoral Council of Australia²⁷⁴) and through, for example, the following developments:²⁷⁵

- providing the AEC access to the Queensland Residential Tenancies Authority's name and address database for enrolment purposes;
- including an AEC enrolment card in the Queensland Transport driver's licence change of address form;
- on-going negotiations surrounding the use of Queensland Transport driver's licence application and renewal information for enrolment purposes;
- on-going consultation between the AEC/ECQ and the Department of Natural Resources (DNR) for the possible use of DNR geographic information system (GIS) in the AEC's roll management system; and
- current consideration of an AEC proposal that an AEC acknowledgment card be made a compulsory prerequisite (along with other forms of identification) for Australian citizens applying for a Queensland CARD 18+, the photo identification card for young people.²⁷⁶

The committee commends the efforts of the Queensland Government, its agencies and the AEC for their efforts so far in relation to the implementation of CRU. However, as a result of the current inquiry, the committee considers that the State, in liaison with the AEC, can do more to expedite and progress the development of CRU.

In this regard, the committee has already previously recommended that, subject to provisos about important privacy concerns, legislation be introduced to expressly enable the AEC to access (more) State databases to facilitate the cross checking of enrolment data through data matching and data mining CRU activities.

The following section, section 9.3, outlines this committee's previous discussion of the benefits of CRU and its further development, and reproduces the committee's previous recommendation to make State name and address databases available for CRU purposes.

In section 9.5, the committee recommends a logical but major 'next step' to expedite and enhance the development of CRU for Queensland electoral roll purposes: a State-based computer system to (concurrently with the AEC's RMANS system) centralise and process State name, address and date of birth data for supplementing and verifying elector's details on the Queensland roll.

9.3 PREVIOUS COMMITTEE COMMENTS ENDORSING CRU ACTIVITIES

In its March 2000 report no 19, *Implications of the new Commonwealth enrolment requirements*, this committee made the following comments relevant to the current inquiry.²⁷⁷

- The committee would prefer to see efforts directed at increasing current enrolment levels rather than the implementation of measures, such as the new Commonwealth witnessing and proof of identity enrolment requirements, which have the real potential to reduce overall enrolment numbers.

²⁷⁴ Formerly Australian Joint Roll Council.

²⁷⁵ In fact, the AEC has conducted more trialing of CRU in Queensland than in other states.

²⁷⁶ In late October 2000, this committee informed the Queensland Electoral Commissioner and the Attorney-General that the majority of the committee supported the AEC's CARD 18+ proposal.

²⁷⁷ LCARC report no 19, n 18 at 26-28.

- If electoral fraud is considered to be a problem requiring attention then strategies more effective than the Commonwealth proposal for proof of identity at enrolment, such as CRU, can be implemented to combat such activities.
- Whether the Queensland electoral roll is kept pursuant to the current joint roll arrangement or whether Queensland establishes its own separate electoral roll (as the committee indicated might be the only option if the new Commonwealth requirements threaten the franchise of Queenslanders), it appeared to the committee that more could be done to ensure the accuracy of the electoral roll used for State electoral purposes.

Accordingly, the committee concluded:

...there is substantial scope for the Commonwealth and the states to enter into cooperative information sharing arrangements which could not only enhance the accuracy of the electoral roll and increase the level of enrolment but also minimise the prospect of any attempts at electoral fraud.

*The committee is still considering the form that laws and practices in this regard should take.*²⁷⁸

The committee followed up on that conclusion in its report no 23, *Issues of Queensland electoral reform arising from the 1998 State election and amendments to the Commonwealth Electoral Act 1918*²⁷⁹, where in chapter 11 (Maintenance of electoral rolls) the committee:

- stated its in-principle support for CRU as a means of ensuring the electoral rolls are of the highest integrity and accuracy; and
- recommended, subject to provisos about important privacy concerns, that the way be cleared for (more) State databases to be made accessible to the AEC—in order to facilitate data matching and data mining as forms of CRU.

The committee's comments about CRU in its report no 23 are worthy of full reproduction²⁸⁰ as they are directly related to this inquiry into the prevention of electoral fraud:

The committee maintains that all efforts should be made to ensure that the electoral roll used for state electoral purposes is of the highest accuracy and integrity (that is, regardless of whether it is kept pursuant to current arrangements or whether Queensland establishes its own separate state electoral roll). Modern technology offers the opportunity to ensure that this aim is achieved.

Various forms of CRU, including data matching, will assist in ensuring that the electoral roll used for state electoral purposes is of the highest accuracy and integrity and, as such, the committee supports the concept of CRU in principle.

*In terms of legislative reform necessary to implement CRU, the committee agrees with the commissioner's suggestion that **Queensland's Electoral Act be amended to allow the ECQ 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 the data'**.*

Providing a statutory basis to the exchange of data for CRU purposes is desirable not only from the ECQ's perspective but also from the perspective of departments and agencies which might, in the absence of any clear authority, be hesitant to provide

²⁷⁸ LCARC report no 19, n 18 at 32.

²⁷⁹ LCARC report no 23, n 3.

²⁸⁰ Excluding footnotes.

information (particularly if this is contrary to departmental policy regarding the privacy of personal information).

How CRU is to be implemented in Queensland is a matter to be determined at an administrative level between the AEC, the ECQ and relevant state government departments and agencies. The nature and extent of CRU processes used in Queensland will also depend on the direction the Commonwealth takes in implementing the new Commonwealth enrolment requirements and whether, as a result of that direction, Queensland decides to establish its own electoral roll. Although, the committee stresses that even if Queensland were to establish its own electoral roll, a cooperative approach between the AEC and the ECQ towards information sharing would be essential in the interests of both the state and federal rolls.

However, the committee's in-principle support for CRU and, in particular, data matching as a form of CRU, is subject to two provisos.

First, the committee recognises that where data is obtained from other departments and agencies appropriate privacy safeguards must be in place to ensure that public confidence in the electoral enrolment and roll-keeping system is maintained. The use of external databases for electoral roll maintenance purposes should be open and transparent and due regard must be given to individuals' privacy.

The principle of informed consent needs to be applied so that people are aware that when they provide their information to certain agencies, some of that information might be supplied to electoral authorities for roll maintenance purposes.

In recommending that the AEC conduct a study regarding a number of options for the expanded matching of enrolment data (including requirements for legislative amendment), the JSCEM majority [JSCEM report on the 1996 federal election] acknowledged that Commonwealth privacy legislation 'rightly places considerable restrictions on data-matching exercises'. The JSCEM minority report also highlighted privacy issues emanating from the recommendation.

As noted above, the AEC advises that it meets regularly with the federal Privacy Commissioner to discuss privacy concerns with data matching. The federal Privacy Commissioner has issued guidelines with respect to data matching by Commonwealth government agencies.

Queensland currently does not have a privacy regime equivalent to that at the Commonwealth level. However, this committee's predecessor made recommendations regarding a privacy regime for Queensland. In responding to those recommendations, the Attorney-General stated that the government is committed to introducing legislation to protect personal privacy.

How specifically due recognition would be given to privacy issues in the case of data matching for electoral roll maintenance purposes would depend on the scope and form of any final privacy legislation for Queensland. Until such time as privacy legislation is introduced, appropriate amendments would need to be made to the Electoral Act to ensure the protection of individuals' privacy. This should include privacy principles relating to the use, collection, storage and disclosure of data for electoral roll maintenance purposes.

Provision would also need to be made to protect the identity of 'silent' electors, that is, electors whose personal safety might be at risk if certain of their personal details are publicly available.

The committee's support for data matching as a form of CRU is dependent on the committee's satisfaction with the draft legislation providing for this privacy protection.

The second proviso on which the committee gives its in-principle support for CRU is that the committee believes that data obtained from CRU activities should only be used to trigger an electoral authority to make further inquiries as to the accuracy of details recorded for a particular elector and not to automatically change details on the electoral roll. (As noted above, this is currently the only option in Australia as the Commonwealth Electoral Act requires the AEC to receive an enrolment form before it can update the electoral roll.) There are many reasons why a telephone or electricity account might be in the name of a person who does not reside at the address to which the account relates. It would therefore be unacceptable to change details on the electoral roll simply because of information contained in such records.

Of course, data matching is only one of a number of forms of CRU which might be employed in Queensland to maintain the electoral roll. Noted ... above are a number of other CRU mechanisms used by the AEC and various state electoral authorities. Other suggestions were also made in submissions.

Arguably, many of these other CRU activities are potentially more cost effective and privacy unobtrusive than data matching. In accordance with the committee's comments above, the committee sees it as an administrative matter for the ECQ to determine what other forms of CRU might be usefully employed in Queensland. However, the committee does wish to comment on one particular suggestion made by the commissioner in his submission, namely, that: 'Perhaps, once a person establishes their bona fides for licence purposes, electoral enrolment should become an automatic consequential process with the person's consent'.

The committee expanded upon this suggestion in its background paper with the proposal that a number of additional/alternative mechanisms and inducements could be used to update the electoral roll, for example, applying for a driver's licence or an 18+ card could cause simultaneous enrolment.

The commissioner's suggestion is similar to that effected by the United States' National Voter Registration Act 1993, widely known as 'motor voter', which provides that an application for, or renewal of, a driver's licence serves as an application for voter registration unless the applicant does not sign the voter registration application portion of the form.

As noted above, the Speaker of the Legislative Assembly strongly supports the concept that information provided by applicants for a driver's licence should be automatically treated as an electoral enrolment. Mr Speaker further questioned why this should only occur with the person's consent given that enrolment is compulsory.

On the other hand, the Criminal Law Committee of the Queensland Law Society submitted that it would be opposed to 'the creation of electoral compliance as a prerequisite to participation in other aspects of society eg as a prerequisite to entitlement to a driver's licence'.

The committee believes that an appropriate middle ground is reached by the adoption of a system similar to the US motor voter scheme. That is, an application for, or renewal of, a driver's licence could serve as an application for enrolment (or transfer of enrolment or claim for age 17 enrolment), if the applicant signs and has duly witnessed a voter enrolment application portion of the form. This portion of the form would essentially replicate the current enrolment card. In other words, failure to enrol would not preclude a person from obtaining their driver's licence.

In this regard, the committee notes that the AEC has recently negotiated with Queensland Transport to print an enrolment form on Queensland Transport change of address forms. The committee believes that this concept could be expanded to applications for driver's licences as well as 18+ cards and other like cards.

Committee recommendation 10

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 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.

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. [Emphasis added.]²⁸¹

In a 'ministerial response' to that recommendation tabled in the Legislative Assembly on 5 September 2000, the Attorney-General and Minister for Justice and Minister for The Arts, the Hon Matt Foley MP, stated that this recommendation was '*supported*'. This followed a media statement released by the Attorney-General on 29 August 2000, which said:

Cabinet today adopted the unanimous all-party Legal Constitutional and Administrative Review Committee report into Issues of electoral reform arising from the 1998 State election.

'The Government has today endorsed electoral reforms recommended by an all party Parliamentary Committee', Attorney-General Matt Foley said today. 'These reforms include:

- *continuous electoral roll updating;*
- *enabling the electoral commission to use data on name, address and date of birth from government agencies subject to privacy safeguards;*
- *use of drivers license applications as enrolment applications subject to privacy safeguards", Mr Foley said.*

The all party report unanimously recommended that the Electoral Act be amended to provide for enhanced electoral roll updating by allowing the Electoral Commission of Queensland to obtain information from government agencies. These reforms would

²⁸¹ LCARC, report no 23, n 3 at 44-48.

*allow the Electoral Commission to collect name, address and date of birth data to trigger further enquiries to confirm the accuracy of the electoral roll.*²⁸²

In a subsequent response to a committee query directed to the Attorney-General as part of this inquiry, the Attorney-General in a letter dated 6 October 2000 informed the committee that:

*In accordance with the recommendation, it is intended that the Electoral Act 1992 will be amended to enable the Electoral Commission Queensland to obtain name, address and date of birth data from State Government Departments and agencies, subject to appropriate privacy safeguards. Work on this is progressing ...*²⁸³

For the purposes of this inquiry, the committee here affirms the comments made by it in its report no 23, with the following two qualifications. Firstly, the committee would wish to clarify its proviso quoted above that CRU should only be used to trigger an electoral authority to make further inquiries about the accuracy of details recorded for a particular elector. In this regard, the committee would consider future proposals for the automatic updating of the Queensland electoral roll where Queenslanders were provided the opportunity on specially marked segments of various government forms (eg application forms, change of address forms, etc) to provide their consent to their (updated) address details being forwarded to electoral authorities for direct and automatic updating of their details on the electoral roll.²⁸⁴ This is because the very latest information²⁸⁵ shows a disappointing response rate (for January – October 2000 a national response rate of 28%) to AEC mailings to people who had recently moved to new addresses, as indicated by Australia Post and Centrelink change of address databases. The Electoral Council of Australia's CRU Implementation Steering Committee itself considers that this is a weak link in the CRU process that needs to be further addressed.

(However, the committee's hesitation about automatic updating would remain where procedures were introduced whereby name and address information from third party entities such as utilities was being used to check the veracity of details on the electoral roll—that information should still only be used to trigger an electoral authority to make further inquiries in relation to the accuracy of electors' recorded details.)

Secondly, the committee would be willing to reconsider its stipulation quoted above that government forms such as CARD 18+ applications be only used as concurrent enrolment opportunities (by essentially replicating the enrolment card as part of the form) rather than requiring enrolment as a condition of the application.²⁸⁶

9.4 FURTHER INFORMATION ON THE DATA MATCHING, DATA MINING AND DIRECT ENROLMENT ELEMENTS OF CRU

The committee would like to expand on the potential benefits of making State databases accessible to electoral authorities for CRU purposes subject to appropriate safeguards for individuals' privacy. The AEC's submission to the current JSCEM inquiry—only just

²⁸² Attorney-General and Minister for Justice and Minister for The Arts, ministerial media statement, 29 August 2000, 'Cabinet adopts report designed to reduce electoral fraud'.

²⁸³ Letter from the Attorney-General and Minister for Justice and Minister for The Arts, Hon M Foley MP to LCARC dated 6 October 2000.

²⁸⁴ This would be followed up by a (change of) enrolment *acknowledgment* card being mailed to the elector, rather than by a form asking the elector to reply to the AEC with their (change of) enrolment details.

²⁸⁵ Electoral Council of Australia (CRU Implementation Steering Committee) October 2000 progress report, n 75.

²⁸⁶ See n 276.

received by this committee—is helpful in this regard. Consequently, in this section, the committee:

- cites information provided by the AEC in its submission to the current JSCEM inquiry about three elements of CRU—data matching, data mining and direct enrolment (that information supplements the information about CRU provided in section 4.3 above); and
- indicates the relevance of those comments to developing State-based CRU activities.

The AEC’s submission to the current JSCEM inquiry provides:

CRU and Data-Matching

In seeking to improve the effectiveness of CRU, and to make better usage of computer systems in maintaining the integrity of the Roll, the AEC recommended data-matching to the JSCEM in submission No 118 of 3 December 1996, as follows:

...that in cooperation with relevant Commonwealth, State and Territory departments and agencies, the AEC conduct a study identifying costs, benefits, methods of implementation, and requirements for legislative amendment of the following options for the expanded matching of enrolment data:

- (a) manual provision of data in response to requests for information relating to individual enrolments;*
- (b) bulk comparison of data held by the AEC and other departments and agencies;*
- (c) on-line connections between the AEC’s Roll Management System (RMANS) and the computer systems of other government departments and agencies, enabling validation of data as an enrolment form is entered onto the system; and*
- (d) such other options as may appear as a result of the study to appear viable.*

The JSCEM supported this approach in recommendation 4 of the June 1997 JSCEM Report, and it was subsequently endorsed by the Government Response. With oversight as necessary by the Privacy Commissioner, data-matching has now become an integral part of CRU, although the prohibitive costs and the security issues involved have prevented the adoption of on-line connections to other departments and agencies for “live” interrogation of other databases. However, CRU data-matching, at the level permitted by AEC resources, has yielded considerable benefits in improving roll accuracy.

...

CRU and Data-mining

The continuing technological enhancements to RMANS allows a range of CRU data-mining activities to be undertaken by the AEC at the “global” level to uncover aberrant data on the Roll, which can direct fieldwork in a more cost-efficient manner. As explained in part 4.3 of submission No 88 of 12 March 1999, a major enhancement to RMANS has been the development of the Address Register, commencing in 1997. Prior to the introduction of the Address Register, addresses claimed for enrolment needed only to fit known streets and localities. The confirmation of addresses by the AEC is now more strictly controlled, as each known address is now recorded separately on the Address Register, whether or not the address is occupied by electors.

As well as separately identifying each address, the Address Register lists a range of attributes for each address including a land use code, occupancy status, an enrolment limit, the last review date, and whether the address is ‘enrollable’ and ‘active’, that is, valid for enrolment. Provision has been made to store additional geographic data and related locality information against addresses and to include an enrolment turnover

indicator. In cases of 'inactivate' addresses, such as demolished or incomplete habitations in a new area, enrolment cannot take place until the address is 'activated'.

The RMANS Address Register, containing approximately 6.9 million addresses, is an increasingly powerful tool available to the AEC to detect and deter fraudulent enrolment, enabling staff to check the validity of addresses and to take follow-up action when claims on enrolment forms are at variance with the information on the Address Register, such as in cases of possible suspicious enrolment at any particular address.

The AEC can identify addresses that are incorrectly described or duplicated, those that have a high number of enrolments and/or an abnormally high turnover of electors, and those that have two or more groups of electors resident with different family names. The Address Register also makes it less likely that a person can apply for enrolment at a non-existent address or a non-residential address, and ensures that official correspondence, including postal ballot papers, is sent to the correct postal address.

...

An essential attribute of RMANS is the ability to undertake "global" data analysis so as to more effectively target resources in enrolment campaigns or roll-cleansing activities. For example, during 1999 almost 2.3 million enrolment forms were processed, and one million of these forms were received over the three month Referendum period. Analysis of this enrolment data has been complicated by State election activity in NSW and Victoria, but this level of activity compares favourably to years when there has been both a full national door-knock and a federal election. In the Close of Rolls week for the Referendum 315,104 forms were processed.

A particular feature of enrolment activity over the Referendum period was the high number of new enrolments from first time electors (155,000), and the relatively high number of transfers instead of re-enrolments. Of those that transferred, half were at an address which had been written to as part of CRU activities, which is a strong indication that if they had responded at the time of the CRU mail-out there could have been 100,000 less transfers at the Close of Rolls for the Referendum.

...

CRU data-matching and CRU data-mining procedures are undertaken in regular cycles, either monthly, or two to six monthly, depending on the particular process. In total, since CRU went national in 1999, contact has been made with over 3.35 million electors, through CRU data-matching, with Centrelink, Australia Post, the Western Australian Department of Land Administration, the Queensland Rental Tenancy Authority, and the South Australian Motor Registry, and, through CRU data-mining, from 'vacant' and multiple enrolments mailouts. As the procedures and data sources are further refined and expanded, this level of contact will increase.²⁸⁷

In terms of the data matching and data mining elements of CRU, (untapped) State databases are an extremely valuable source of information. This was identified in July 1997 by the ECQ when it submitted to the privacy inquiry being then undertaken by this committee's predecessor that:

The CRU process involves continuously identifying those persons who are not accurately recorded on the roll and concentrating roll maintenance activities on them. A key component of the CRU system is the use of outside sources of information (instead of [biennial door-knocking]) for the timely acquisition of possible enrolment changes.

ASPL [a consultant employed to investigate CRU] identified a number of events, recorded by various entities, which could trigger changes in roll data as:

²⁸⁷ AEC submission to the current JSCEM inquiry at 11.2.1-11.2.2, 11.3.1-11.3.4, 11.3.8-11.3.9 and 11.3.12.

- (a) an existing or potential (ie eligible but not enrolled) elector moves from a current address;
- (b) an existing or potential elector moves into a new address
- (c) an existing elector changes name;
- (d) an existing elector, by reason of being of unsound mind, is unable to understand the nature and significance of enrolment and voting;
- (e) an existing elector dies;
- (f) a potential elector becomes 18;
- (g) an existing elector becomes ineligible to vote, for example, the elector is convicted and under sentence for an offence punishable by imprisonment for 5 years or longer; and
- (h) an immigrant becomes an Australian citizen and consequently a potential elector.

A number of State Government departments and agencies are routinely advised of the matters listed [above] and are therefore invaluable though untapped sources of information for roll keeping purposes. Such bodies include:

- (a) Office of State Revenue. A reduction in stamp duty is granted on conveyancing transactions where the property is declared to be the purchaser's principal place of residence.
- (b) Department of Public Works and Housing (public housing records);
- (c) Residential Tenancies Authority (rental property information);
- (d) Electricity supply authorities;
- (e) Department of Transport (as regards 17-18 year olds who obtain a driver's licence or permit);
- (f) Corrective Services Commission (information on sentencing and imprisonment);
- (g) Department of Health and the Public Trustee Office, for information on persons who are no longer capable of managing their affairs; and
- (h) Registrar of Births, Deaths and Marriages for information regarding electors' deaths or change of name.

The supply by these bodies of relevant data would be extremely useful to the CRU process. It is proposed that information held by the above-mentioned bodies could be initially supplied to the Commission which would then pass it on to the AEC.²⁸⁸

The data supplied could be processed against RMANS to identify elector matches. "Please re-enrol" or "please enrol" forms, together with a letter encouraging enrolment/re-enrolment, could be sent to the elector or potential elector (for example, at the elector's new address) and the person would only have to fill in any missing details, sign the form and post it back.²⁸⁹

At the hearing for this inquiry, the committee asked the Electoral Commissioner about how CRU activities such as data matching would prevent or detect enrolment fraud as distinct from simply ensuring that the rolls are updated. The Commissioner responded:

... by matching a person against a State database—and if in doubt, perhaps more than one State database—you know that there is a question to be asked. In other words, if you are paying the electricity bill at a house at Holland Park, your driver's licence says that you live at Holland Park and your plumber's licence says that you live at Holland Park

²⁸⁸ ECQ, submission to LCARC in response to issues paper no 2, *Privacy in Queensland*, July 1999 at 14-15.

²⁸⁹ ECQ submission to LCARC's privacy inquiry, n 288.

and you are on the roll for Townsville, they might start saying that there is a need for some action.²⁹⁰

In relation to direct enrolment, the AEC's submission to the current JSCEM inquiry provides:

CRU and Direct enrolment

...

All of these CRU initiatives are providing excellent returns as people respond to the convenience of the enrolment facility being provided directly to them ...

...

An extension of the CRU program that is under consideration by the Electoral Council of Australia (ECA) is direct address change. This is a process whereby the address of a current elector could be changed without the completion of an enrolment card if the AEC received information from another agency that the elector has advised a change of address. Of course, a complete match of all necessary details would be necessary before the enrolment change was made to RMANS. The elector would then receive an enrolment acknowledgment card from the AEC advising them of their new enrolment details.

This direct enrolment proposal is modelled on the Canadian approach to CRU. In Canada, the previous enumeration system for every election had proven to be costly and inaccurate. There had been wide ranging consultation with Australian electoral authorities regarding these problems and a decision was taken by the Canadians to move to a continuous, but non-compulsory, roll. The Canadian electoral authorities now draw data from the Tax Office, BDM Registrars and Motor Vehicle Registries to populate the electoral roll. Direct address change has many benefits in the Australian context and detailed proposals for implementation are being developed. ...²⁹¹

During this inquiry, the Queensland Electoral Commissioner indicated that it might be now time for Queensland to introduce means whereby elector address information could be automatically updated on the electoral roll without the completion of an AEC enrolment card if, in appropriate circumstances, electoral authorities receive information from another agency that the elector has advised a change of address. The elector would subsequently be sent an enrolment acknowledgment card advising them of these new enrolment details. The committee considers that this option of direct enrolment warrants further consideration.

9.5 THE WAY FORWARD—A SEPARATE STATE-BASED ENROLMENT VERIFICATION COMPUTER SYSTEM TO ENHANCE CRU ACTIVITIES IN QUEENSLAND

The committee considers that the information above indicates that:

- CRU, especially data matching and data mining activities, has the potential to substantially enhance the accuracy, timeliness and integrity of the electoral roll, and to deter and detect fraudulent enrolment activity; and
- the provision of name, address and date of birth information from State Government databases to electoral authorities can substantially enhance CRU.

Accordingly, the committee has previously recommended, and the State Government is in the process of implementing, amendments to Queensland's *Electoral Act* to explicitly enable the

²⁹⁰ Transcript, n 54 at 19.

²⁹¹ AEC submission to the current JSCEM inquiry at 11.4.4-11.4.6. The Canadian system is discussed further in Attachment 27 to the AEC submission.

ECQ to obtain name, address and date of birth data from State agencies, subject to appropriate privacy safeguards.

However, as a result of the current inquiry, the committee considers that more can and should be done in Queensland to enhance the integrity of the State electoral roll as that name and address data from the State databases becomes accessible to electoral authorities. The committee considers that, as such State data becomes available, it should not be simply forwarded to the AEC in raw form for use in CRU activities. Instead, the data from Queensland databases should first be centralised and processed by or on behalf of the ECQ as part of a new State-based roll verification system.

Accordingly, the committee proposes that a separate, State-based computer system be created to capture and interrogate name and address data obtained from a variety of third-party sources in order to update and verify electors' enrolment details listed on the AEC's RMANS roll management system. As such, the system would:

- provide a state-focussed information 'boost' to the AEC's ongoing and expanding CRU activities; and
- act as a 'bridge' between Queensland name and address data and Commonwealth name and address data and enrolment details.

Information about such a proposal is presented below.

9.5.1 Comments received by the committee about the development of a State enrolment verification computer system

In its submission to this inquiry, the ECQ submitted:

Continuous Roll Update

In its Report No 23 ... your Committee inter alia recommended that the Electoral Act 1992 be amended to enable ECQ to obtain name, address and date of birth information from government departments and agencies for a price that reasonably reflects the cost of producing a copy of that data.

Both AEC and ECQ look forward to this recommendation becoming law and will enthusiastically pursue access to new sources of information for the maintenance of the electoral roll.

As soon as possible after the proposed amendment is proclaimed, approaches will be made to key sources under the umbrella of the State government to make the relevant information available to the AEC.

The Queensland electoral roll changes at the rate of approximately 10,000 entries per week. With this level of activity, datamatching is fundamental for the detection of fraud.

If the Queensland Government wants ECQ to play a positive and proactive role in the prevention of electoral fraud in the enrolment process, a computer system will have to be developed to centralise and monitor the data collected from state departments and agencies. Such a system would be expensive. Whilst a feasibility study would be necessary to determine costs, functionality and interaction with the AEC and its RMANS roll keeping system, an estimated cost of \$7 million over three years to develop a State roll keeping system can be taken as a guide.

The enrolment process is, of course, the means of preventing personation when persons vote in the names of persons falsely enrolled or fictitious enrolments.
[Emphasis added.]²⁹²

It is useful to note that the ECQ obtained the \$7 million cost estimate referred to above during the course of this committee's inquiry into the implications of the new Commonwealth enrolment requirements. The committee had suggested that the ECQ make preliminary inquiries about the possibility of establishing a separate Queensland roll keeping system—a potentiality that the committee considered undesirable in principle but perhaps necessary if the new Commonwealth enrolment requirements discussed in that report were proclaimed. In report no 19, the committee stated:

On 9 December 1999, the committee met with the Queensland Electoral Commissioner and discussed the possibility of establishing mechanisms to ensure that any potential voters disenfranchised by the new Commonwealth arrangements from 1 July 2000 (the then anticipated date of introduction of the new regulations) are captured on a Queensland electoral roll prior to the next state election. Subsequent to that meeting, and at the committee's request, the commissioner opened discussions with CITEC²⁹³ regarding the development of a state based roll-keeping system. CITEC has reported that it is capable of establishing a state managed roll-keeping system should the Queensland Government decide to take this course of action.

...

*Because of other implications for government—such as, the potential use of the electoral roll to enhance the provision of other government services such as fire and ambulance—the committee believes that CITEC would be the appropriate body to develop and maintain any state based roll-keeping system.*²⁹⁴

The committee at its hearing explored further the possibility of a separate State-based computer system to centralise and monitor data for enrolment purposes:

Mr PITT: *Mr O'Shea, in your opening remarks you talked about the recommendation regarding the opening up of State databases for data matching and perhaps creating a comprehensive computerised system that would allow you to do those things and then interact in a positive way with the AEC. Who do you see as setting this up, or creating it? Who would actually run the program?*

Mr O'Shea: *I think that the ideal people to set up such a system and to manage such a system, from an electronics point of view at least, is an organisation like CITEC that is high-tech. They have the people there who can deal with issues electronically, and upgrade computerisation, with advances that are made almost on a yearly basis. But I think that it also provides some opportunity to use that database, if it is set up correctly with the right sort of information, for other Government bodies—not so much in intruding on the privacy issue of names and addresses, but providing a basis where police can pinpoint an address at any given point in time, the fire brigade can pinpoint an address at any point in time, electronically.*

I think that there should be benefits down the track for the State having a comprehensively addressed, properly cross-referenced description within one database that is dynamic, where if the person is living there, the information in relation to him or her has been upgraded from two sources: one that people have changed their enrolment by way of filing a card or by way of some transfer of data; also by way of information

²⁹² ECQ submission (no 11), n 10 at 3.

²⁹³ CITEC is a Queensland Government information technology services provider.

²⁹⁴ LCARC report no 19, n 18 at 25–26.

relating to the plot of land, which contains a lot of information across a number of departments that can be used for roll-keeping purposes, and also providing a fringe benefit to other departments using that data.

Mr PITT: Do you have any examples of anything similar across Australia? Is there anywhere else in Australia where this might be either considered or implemented in part or in whole?

Mr O'Shea: No. I think that Mr Longland has identified some difficulties where there are duplicate rolls, as in Victoria and Western Australia. But they are stand-alone systems developed by Electoral Commissions for their own purposes. What I am suggesting is that a high-tech body like CITEC develop a comprehensive system for switching data, managing communications and upgrading with developments in electronics and communication networks, which would be well placed to serve the Government well over a period of time.

Mr PITT: You say CITEC is probably the appropriate body to create this and run this. How would you see the relationship developing between CITEC as creators and the people overseeing it and the ECQ to make sure that you are getting the most out of what you want and perhaps even maintaining privacy? You are using it for a specific purpose. It could be used for a whole range of other things, which opens up enormous responsibilities, doesn't it?

Mr O'Shea: It does, and they are the sorts of issues that have to be managed carefully. Clearly, there would have to be a very strong management input into the operation by electoral officials. For example, by changing a drivers licence, that might change your name on the roll, but by checking the roll, if you have a wife and kids there, what happened to them? There will be a lot of management going beyond the mere one source of information and there would be electoral officials responsible for that. Probably, in managing the whole project, you would need a person with an electoral slant rather than an electronic slant. To buy a computer and put it up in the Electoral Commission, I think that would be a retrograde step as far as the State as a whole goes. I think that you would be much better off having a body providing them electronic services, or computerised services, however you may describe them.

...

Dr PRENZLER: ... Mr O'Shea, what sources would you envisage that the State could look at? ... what sources in the State itself are unique that you think could be useful in cross-matching and even mining, if you wish?

Mr O'Shea: I think that there are some very obvious ones within the State that could provide very, very good data. The first one, of course, is the stamp duties declaration that people fill out when they claim a reduction in stamp duty because the place that they are buying is going to be their principal place of residence. Clearly, that should be the basis of their enrolment. Where the Government issues houses to people, that should be a source of information. That would pick up the whole family, not just a person, or presumably so. The Rental Bond Authority would be another source of information. I think that it is used now, but probably not as comprehensively as it could be if you had the ability to switch data and match data and had the cooperation of everybody when collecting information—you collect the information that you need for roll purposes. That may not be a burdensome task; it really maybe just identifying who else is in that residence when they accept a bond. The drivers licence is an excellent source of information, and probably registration of motor vehicles is an excellent source of information in relation to the changing of enrolment detail.

Lastly, there are a lot of addresses—in fact, they run to hundreds of thousands, and perhaps a million—recognised by the RMANS system but at which there are no electors. No-one sits in the dark. So as a source of information, who is paying the electricity

account? That is not a bad source of information. Who is paying the rates would be a good source of information to follow up—not to change anything, but merely as a way of accelerating the CRU process in a positive way with new sources of information that are currently not available.

...

The CHAIRMAN: Can I just follow up on that in terms of whether you have any ballpark figures of costing and resourcing requirements for such a system and indeed whether there are any potentials for offsetting costs by obtaining a benefit from that system by other agencies involved in the contribution and use of that system?

Mr O'Shea: I think you would need to do a study on precisely what you want to achieve to get any realistic figures. The only guide that I can give is the very quick survey by the CITEC organisation when we looked at creating a roll, and I think that if you can massage the data, you get at least that sort of facility.

The CHAIRMAN: It is a similar principle.

Mr O'Shea: A similar principle and they were talking \$7m over three years to develop a fully comprehensive data switching, data matching, data dredging system, and they said the ongoing cost would be approximately what we pay now in joint roll costs, which is about \$1.5m, \$1.4m. But they are ballpark figures.

...

The CHAIRMAN: ... Mr O'Shea, those CITEC estimates that you referred to before were in relation to a new roll proposal.

Mr O'Shea: Roll keeping system, yes.

The CHAIRMAN: Is the system slightly different from that, or how different is it in establishing such a computer system? Is it really tantamount to establishing a concurrent Queensland roll?

Mr O'Shea: What I am suggesting now is to harness the CRU information. Basically, to do it, I guess you would have to conduct a study and look at options. One option may be that you simply collect the data, match, switch, pass on. Another system may be that you develop the ultimate system where your plot of earth is the basis of your system. Addresses change, people change; the plot of earth might change its description but it is still there. It might be a lot on a plan today, it might be a lot on a different plan tomorrow, but it does have an absolute definition that is recognised across State Government databases. If you are going to build from that then you are back into a full-blown roll keeping system, regardless of how you used it.

The CHAIRMAN: Would this necessitate new data sharing arrangements to be entered into with the Commonwealth—new arrangements in terms of the exchange of information?

Mr O'Shea: The only difficulty may be if we were to accept changes to the roll based on people ticking a form or indicating they want their address changed across the Government as a whole or use the information to change the roll without an enrolment card under any circumstances. Currently, the Federal legislation demands that an enrolment card be used or be the basis of any change to the roll. Other than that, I think the system could be put into place very effectively and very quickly. I do not think that there are any legislative or any administrative problems. We currently have a joint roll arrangement. The Commonwealth is responsible for keeping that roll. There are provisions for there to be flagged State only electors on that roll. If there is a time lag between the way the State may move people and the way the Commonwealth moves people, they could easily be flagged temporarily as State enrollees only. I think it could

be managed. I cannot envisage any major hurdles other than the reliance on the enrolment card by the Commonwealth—if the State were to move away from that.

...

Mr O'Shea: ... Quite clearly, there are privacy issues and principles to be considered. But the focus with this sort of system is on changing addresses, not focusing on the individual. We are only using the other sources of information as a way of changing that name and address. We are creating a databank. There is no question about it. I think it can be done, certainly initially, without any infringement of any privacy principles by having the person use the one-stop shop approach that the Government has been promoting here and nationally, in that if people change their address and tick a box their address will be changed across a whole range of other organisations they are currently registered with, but certainly with enrolment because it is compulsory.²⁹⁵

Mr Longland disagreed with the suggestion of a concurrent State-based computer system to verify enrolments and undertake CRU activities concurrently with the AEC. During the course of the committee's hearing, Mr Longland said:

I am afraid to say that I can see only disadvantages to doing that. ... What happens in those States [Victoria and Western Australia] is that all enrolment cards, irrespective of how they are generated—via State activity or Federal activity—go to the AEC for processing and on a regular basis the information about those cards is downloaded electronically to the State database where they, in a sense, duplicate all of that work. I do not want to sound abnormally critical of those situations, but I think that it remains a duplication that is not warranted either in terms of accuracy or timeliness, or indeed of cost. That duplication, as we saw here prior to 1992, led only to divergence in that the rolls were inevitably different, and that creates its own implications of whether the rolls are correct or otherwise.

In terms of the situation here, if we were to acquire, for example, a good range of State-based data—and I would fervently hope that in due course we could do that, because it is rich data, it is data that arises because of someone doing something that really gives us a target that says, "These people are moving and, therefore, we need to offer them enrolment services and remind them of their obligations at the same time"—for that data to be processed in a way station, if you like, and then passed on as a net product to us, would both complicate it in terms of timing, it would add costs because the software already exists for us to process that information and match it, and it would also give rise to the need for us to have other arrangements in place that would get this very significant by-product, and that is the address information, on a continuous basis. There just does not seem to be a need to spend money to do that, provided that the State Legislature is comfortable with the provisions of the joint roll arrangements, which protects all of the information that comes our way as well as provides the products that you require in return. So I see no advantage.²⁹⁶

Mr Longland's concern is perhaps echoed in the AEC submission to the current JSCEM inquiry, where the AEC describes the roll arrangements in Victoria and Western Australia:

CRU is also being extended to include data-matching with a range of State and Territory agencies such as Motor and Licence Registries and Rental Tenancy Authorities. In each case, arrangements for the provision of this data are negotiated separately with the agencies either directly by the AEC or through the relevant State/Territory electoral authority. However, the Victorian State Electoral Commission (VEC), which manages its own rolls, undertakes direct mail-outs using data from driver's licence records and some

²⁹⁵ Transcript, n 54 at 20-23, 25 and 28.

²⁹⁶ Transcript, n 54 at 11-12.

power utilities. The resulting enrolments are processed by the AEC, but this is a less satisfactory model in that much of the benefit of data-matching comes from the continuous update of the RMANS Address Register.²⁹⁷

The committee notes, however, that the level of enrolment in Victoria exceeds the national average in all age groups as the following table shows.

Enrolment by age as a percentage of population as at 30 September 2000²⁹⁸

Age	17	18	19	20	21-25	26-30	31+
Queensland	2%	38%	76%	79%	82%	84%	94%
Victoria	30%	53%	84%	86%	84%	89%	95%
National	12%	37%	78%	83%	82%	86%	94%

(In light of the disturbingly low youth enrolment levels indicated in the table, this committee in late October 2000 informed the Queensland Electoral Commissioner and the Attorney-General that the majority of the committee supported an AEC proposal that an AEC acknowledgment card be made a compulsory prerequisite—along with other forms of identification—for people applying for a CARD 18+, a photo identification card for Queensland youth.²⁹⁹)

9.5.2 Committee conclusions about a State enrolment verification computer system

The committee considers that the excerpts contained in the preceding sections indicate that it is extremely desirable to create a State-based computer system to centralise and monitor (change of) name and address data from various State databases (which will be progressively made available to electoral authorities). A State-based enrolment verification system will greatly assist electoral authorities' ability to target potential enrolment fraud.

²⁹⁷ AEC submission to JSCEM, n 287 at 11.2.6.

²⁹⁸ Extrapolated from information contained in Electoral Council of Australia (CRU Implementation Steering Committee), October 2000 progress report, n 75.

²⁹⁹ See n 276.

A State-based enrolment verification system will enable electoral authorities to:

- increase overall enrolment levels in Queensland by facilitating the targeting of new enrolments and changes in enrolment details indicated by other data sources;
- verify the accuracy of the details contained on Queensland's electoral roll; and
- specifically deter and detect potential fraudulent enrolment activity in Queensland by enhancing electoral authorities' capacity to conduct 'fraud audits' to check:
 - aberrant enrolment data that is flagged by indicators internal to the system, such as:
 - ◆ enrolments on lots that are otherwise indicated as vacant or non-residential premises;
 - ◆ addresses with high numbers of enrolments;
 - ◆ addresses with an abnormally high turnover of electors; and
 - ◆ addresses that have two or more groups of electors resident with different family names; and
 - randomly selected electors' enrolment details.

The committee acknowledges that such a State-based computer system would be costly and would, to some degree, duplicate CRU work already being undertaken or being developed by the AEC in relation to the AEC's RMANS system. However, the committee considers that the cost of a State-based enrolment verification computer system:

- is justified by the system's potential to increase enrolment levels, verify the accuracy of the roll and combat potential electoral fraud through fraud audits;
- could in the future be somewhat offset by consequent reductions in Queensland's ongoing joint roll costs paid to the Commonwealth; and
- could in the future be further offset by developing the new electronic system with other clients in mind (eg police, fire brigade and ambulance services, who could use the system as the basis for call-out services). The system could be subsequently made available to those other clients, who could be charged accordingly.

In terms of 'duplication', it is because the new system would itself be performing further and enhanced CRU functions additional to the CRU work undertaken by the AEC that it will be effective. Moreover, the new State-based system is an attractive alternative because it can be established afresh, incorporating latest technological capacities, for example:

- utilising 'spot on the earth' technologies as the new system's basis, rather than elector name or address as its basis; and
- if possible, the capacity to *instantaneously* check elector details that are being inputted, by being 'online' to various separate State name and address databases (rather than CRU data matching and CRU data mining being delayed by being '*undertaken in regular cycles, either monthly or two to six monthly...*'³⁰⁰).

The committee envisages that such a State computer system would otherwise act as a 'bridge' between State data and Commonwealth data and enrolment details. The committee envisages that the State computer system and the subsequent State CRU activities it would trigger, would operate concurrently with the AEC RMANS system and AEC CRU activities.

³⁰⁰ As is the case with CRU activities currently undertaken by the AEC: AEC submission to the current JSCEM inquiry at 11.3.12, cited on page 86 of this report (n 291).

In this regard, the committee considers it vital that the AEC be closely consulted in relation to all stages of the State system's development and implementation. It is imperative that the State system optimally interface with the AEC system and that the considerable AEC expertise in data management and CRU be utilised.

In addition, the new State-based enrolment verification computer system would enable Queensland to be more responsive to Queensland electoral events, rather than being solely reliant on Commonwealth AEC roll cleansing.

At this stage, the committee considers that the entity best placed to establish the new enrolment verification computer system is CITEC, a Queensland Government information technology service provider. CITEC has the electronic and data management expertise to develop and run the system. (Queensland's electoral roll is already supplied by the AEC to CITEC on the ECQ's behalf: on a monthly basis; and when the rolls close for Queensland elections so that CITEC can prepare the certified lists for election day on behalf of the ECQ.) CITEC, as an independent State technology expert, is also well placed to monitor and incorporate technological developments. Whilst CITEC would run the system, the ECQ would be the system's manager for electoral purposes.

The committee envisages that the system would operate along the following lines. The initial State computer system would be structured on a 'spot on the earth' system, basically a geographic information system similar to which the committee understands is being developed by the Queensland Department of Natural Resources. CITEC, on behalf of the ECQ, would then match the land information and information accessed from State name and address databases with the information contained on the electoral roll name and address fields. The State system would also be 'mined' internally for aberrant data or enrolment trends. These data matching and data mining processes would provide a sound audit of existing elector name and address data, with any anomalies subject to further investigation, for example, through targeted mailouts and, if deemed necessary, subsequent visits to anomalous addresses by electoral authorities/the police.

The State computer system would therefore be capable of centralising, monitoring and processing data from State databases in order to verify electoral roll data or provide grounds for further audit and investigation.

Before such a system is established, the committee suggests that a preliminary study (including consultation with the AEC) be first conducted by CITEC in conjunction with the ECQ to:

- identify the information which is available on State databases and determine cost effective means of using the information to update and verify enrolment details;
- determine the most effective ways to audit the accuracy and integrity of enrolment details as a means of preventing and detecting electoral fraud; and
- estimate the cost of establishing and managing an elector details verification system and whether such a system is useful to other Government services and whether there is potential to offset operating costs against such services.

Specifically, this preliminary study should consider and report on the advantages and disadvantages of:

- (i) continuing to forward the change of address data to electoral authorities to trigger the mailing out of AEC enrolment cards (to effect possible subsequent changes to enrolment details); and/or
- (ii) introducing a system of automatic enrolment whereby electors filling out government forms (eg application and renewal forms; change of address forms) are given the option on that form to authorise the direct/automatic updating of their enrolment details.

The committee also suggests that, once the State government chooses to support option (i) and/or (ii), the new system be created to accommodate that option or combination of options accordingly.

In terms of the ECQ's role as manager of the proposed State enrolment verification system, the committee also believes that:

- the functions and powers of the ECQ contained in s 8 of the *Electoral Act* should be amended to provide for corresponding ECQ duties and responsibilities in this regard; and
- once the system is in place, funding for the ECQ should be increased to specifically support its role as manager of the system.

As a final point for this report, the committee further believes that, in addition to the actions suggested by the committee above, the Premier and the Attorney-General, in conjunction with the ECQ, should initiate immediate discussions with the AEC to explore options to escalate fraud audit procedures prior to the next State election.

9.6 CONCLUSION

An accurate, timely and true electoral roll is vital to the conduct of free, honest and fair elections. As the official list of electors, rolls are prima facie evidence of a person's right to vote. It is therefore imperative that measures are in place to ensure that electoral rolls are of the highest integrity and accuracy.

The committee affirms its previous statements of support for continuous roll updating (CRU) activities as a means of ensuring the accuracy and the integrity of the electoral roll and, specifically, as a means of preventing electoral fraud.

The AEC's implementation of CRU is producing promising results despite the short history of CRU. All indications are that the efficiency of CRU in ensuring the integrity of the roll can only improve as new databases are sourced and new roll updating techniques are trialed, monitored and reviewed.

Consequently, the committee:

- **affirms its previous recommendation (recommendation 10, report no 23, May 2000) that the *Electoral Act 1992 (Qld)* be amended to enable electoral authorities to source name, address and date of birth data from State government agencies subject to important provisos concerning the protection of individuals' privacy; and**
- **notes that the State Government is currently working towards implementing that recommendation.**

The committee makes the following recommendations as a logical and desirable ‘next step’ to facilitate and expedite the development of CRU for State purposes.

The committee intends to provide a further report to Parliament on other matters raised during this inquiry at a later time.

9.7 RECOMMENDATIONS

1. To facilitate and expedite the development of CRU as a means of preventing electoral fraud in Queensland and to provide the State with an enhanced capacity to detect and deter enrolment fraud through conducting ‘fraud audits’, the committee recommends that:

- (a) the Premier (as the Minister responsible for the coordination of government administration) and the Attorney-General and Minister for Justice and Minister for The Arts (as the minister responsible for the *Electoral Act 1992*) authorise the development of a State-based enrolment verification computer system capable of capturing and interrogating a range of data from State Government departments and agencies for the purpose of verifying and providing the updated enrolment details to the Australian Electoral Commission;
- (b) such a system be developed and maintained by CITEC under the management and control of the Electoral Commission Queensland;
- (c) the system be developed with appropriate legislative safeguards ensuring the protection of individuals’ privacy and additionally, in the case of silent electors, their safety. Such safeguards should include privacy principles relating to the use, collection, storage and disclosure of data for electoral roll maintenance purposes;
- (d) the system be developed in close consultation with the Australian Electoral Commission and be subject to the overview of the Joint Roll Management Committee;
- (e) before the system is put in place, CITEC (in conjunction with the Electoral Commission Queensland) be funded to conduct a preliminary study to:
 - identify the information that is available on State databases and determine cost effective means of using the information to verify and update enrolment details;
 - determine the most effective ways to audit the accuracy and integrity of enrolment details as a means of preventing and detecting electoral fraud;
 - estimate the cost of establishing and managing a State enrolment verification computer system and whether such a system is useful to other Government services and whether there is potential to offset operating costs against such services;
- (f) the preliminary study also consider and report on the advantages and disadvantages of:

- (i) continuing to forward the change of address data to electoral authorities to trigger the mailing out of AEC enrolment cards (to effect possible subsequent changes to enrolment details); and/or
 - (ii) introducing a system of automatic enrolment whereby electors filling out government forms (eg application and renewal forms; change of address forms) are given the option on that form to authorise the direct/automatic updating of their enrolment details;
 - (g) once the State Government chooses to support option (i) and/or (ii) above, the system be accordingly created with the capacity to accommodate that option; and
 - (h) the system be developed with ‘spot on the earth’ as its basis rather than either elector name or address as its basis, if feasible to do so.
2. In terms of the Electoral Commission Queensland’s role as manager of the State enrolment verification system outlined above, the committee further recommends that:
- the Electoral Commission Queensland’s charter contained in the *Electoral Act 1992 (Qld)* be amended to provide for corresponding Electoral Commission Queensland duties and responsibilities in this regard; and
 - once the system is in place, the Electoral Commission Queensland’s funding be increased to specifically support its role as manager of the system.
3. The committee further recommends that in addition to the actions suggested by the committee above, the Premier and the Attorney-General and Minister for Justice and Minister for The Arts, in conjunction with the Electoral Commission Queensland, initiate immediate discussions with the Australian Electoral Commission to explore options to escalate fraud audit procedures prior to the next State election.

APPENDIX A: SUBMISSIONS RECEIVED

- 1 Mr H Sutton
- 2 Mr P Schuback
- 3 Mr W Tait
- 4 Associate Professor Paul Reynolds (University of Queensland)
- 5 Bulloo Shire Council
- 6 Department of Local Government, Northern Territory
- 7 Boonah Shire Council
- 8 Nebo Shire Council
- 9 Rosalie Shire Council
- 10 Mr R Sadler
- 11 Electoral Commission Queensland
- 12 Pine Rivers Shire Council
- 13 Mr Frank Carroll
- 14 Cooloola Shire Council
- 15 Toowoomba City Council
- 16 Brisbane City Council
- 17 Professor Colin A Hughes
- 18 Liberal Party of Australia (Queensland Division)
- 19 Professor John Wanna
- 20 National Party of Australia (Queensland Division)
- 21 Mr Graeme Orr
- 22 Confidential
- 23 Confidential
- 24 Logan City Council
- 25 City Country Alliance, Queensland
- 26 Belyando Shire Council
- 27 Department of Aboriginal and Torres Strait Islander Policy and Development
- 28 Australian Labor Party (Queensland Branch)
- 29 Mr L J Scott

APPENDIX B: RESPONSES TO REQUESTS FOR INFORMATION

- 1 Australian Capital Territory Electoral Office
- 2 South Australian State Electoral Office
- 3 Department of Aboriginal and Torres Strait Islander Policy and Development
- 4 Department of Communication and Information, Local Government, Planning and Sport (Local Government Services)

DISSENTING REPORT

(MRS J GAMIN MP, MR D BEANLAND MP & DR P PRENZLER MP)

This dissenting report is presented by non-government members of the Committee to give a proper balance to the matters considered.

As the Committee is required by Parliament to report, and the majority Committee insists on conforming to this reference by producing an Interim Report, then a firm commitment should have been given to issuing a Final Report with specific recommendations for legislative amendments to the *Electoral Act 1992*. It is imperative that these are dealt with by the Parliament prior to the next State election.

The majority Committee has chosen to whitewash issues surrounding the corruption of the electoral roll and elections without giving any such commitment. Moreover, the majority Committee has decided to whitewash issues surrounding important changes to the *Electoral Act* that need to be implemented by early next year if the people of Queensland are to have any confidence in the electoral rolls at the next State election.

The Premier is on record as saying that amendments will be made to the *Electoral Act* prior to the next election, but the majority Committee has shown a marked disinclination to make a commitment to this timetable.

Enrolment identification, witnessing provisions for new enrolments, identification of voters on polling day and closure of the rolls when an election is called are all matters that require legislative amendments. It is important to stress that the current electoral rolls have clearly been corrupted and will therefore require cleansing.

It is because of this corruption that the people of Queensland are demanding decisive action. Accordingly, non-government members are prepared to spell out these very serious issues, and to put forward recommendations which must be implemented by any government serious about electoral reform prior to the next State election, although subject to refinement or revision if the findings of the Shepherdson inquiry oblige us to do so. The Shepherdson report may or may not be received before the next State election is called, but the people of Queensland must be allowed to go into that process with the knowledge that electoral processes have been overhauled.

On the motion of the Member for Nicklin, the Committee was instructed by the Parliament to investigate and report back on the best ways to minimise electoral fraud at elections where the Queensland State electoral roll is used. The Committee was asked to consider ways of improving the conduct of State and Local Government elections, and was advised not to extend its inquiry into consideration of the conduct of Federal elections.

It must be emphasised at the outset that Federal considerations cannot be totally ignored, especially as the electoral roll is prepared and maintained by the Australian Electoral Commission (AEC) under the *Commonwealth Electoral Act 1918*, as authorised by the joint roll arrangement between the State and the Commonwealth. For instance, it is not practical for Queensland to differ from the Commonwealth in enrolment requirements.

On the motion of the Leader of the Liberal Party, Dr David Watson MP, as amended by the Attorney General Hon Matt Foley MP, the Committee was also instructed to consider and report upon proof of identity requirements for enrolment and for voting.

It is interesting to note that the Australian Labor Party was the only political party to make a submission to LCARC opposing identification when enrolling or voting.

The Shepherdson inquiry into electoral fraud is currently proceeding and evidence before this inquiry is far from complete. The Committee is therefore reporting to Parliament without the benefit of the

inquiry's final determination and recommendations. The Joint Standing Committee on Electoral Matters is also conducting an inquiry into electoral fraud.

Examples of electoral fraud and manipulation of electoral rolls have resulted in the conviction of three members of the Australian Labor Party in Townsville, together with a great deal of additional information being presented to the on-going Shepherdson inquiry. Although names have been suppressed from publication, a number of government (ALP) Members of Parliament have been named at the inquiry for a variety of reasons, including witnessing false applications for electoral enrolment.

Comments continue to be made by prominent ALP personnel that "rule changes have now prevented roll rorting". This is obviously a red herring, and it is pointed out that criminal manipulation of electoral rolls is not covered by party rules, or prevented in the future by party rules. There can be no comparison between disputes over internal Labor Party membership and the fraudulent enrolment of voters and the impersonation of voters for criminal purposes.

Quote from transcript of ABC Radio interview 2nd November 2000 with Marshall Cooke QC, who was appointed in 1989 to head a Commission of Inquiry into the illegal activities of a number of trade unions. The Goss Labor Government kept Mr Cooke's final report secret:

Interviewer: "Why did you agree to talk with us?"

Marshall Cooke: "Well because I think it's important for the public to realise what's happening. You see most, a very big majority of politicians on the Labor side have cut their teeth in the union movement and if there is this entrenched view in the union movement as we discovered from our inquiry that it's all right to rort the ballots to stay in power the prize for state governments and federal governments is much bigger and one needs to wonder whether the same sort of rorting goes on at state and federal elections as well."

The Shepherdson inquiry has concentrated on its specified terms of reference, and there is every probability that criminal behaviour is much more widespread across Queensland State and Federal electorates than has ever been imagined. In addition, this criminal behaviour may be widespread throughout the nation.

Proven cases of criminal electoral fraud and systemic manipulation of electoral rolls and voting procedures will make it necessary in the future to institute appropriate safeguards, such as enrolment identification and witnessing provisions for new enrolments, voting day identification, closure of rolls and roll cleansing.

It is now apparent that fraudulent enrolment procedures were not only undertaken for the purpose of internal Australian Labor Party pre-selections, but were also used by perpetrators of fraudulent enrolments in order to vote at State and Federal elections, and no doubt Local Government elections as well.

The Commonwealth and State Electoral Commissioners say that electoral fraud is not being perpetrated in any widespread fashion, but public allegations persist of widespread and organised vote rigging on a sophisticated and highly organised basis.

It is also disturbing to see allegations of establishment of a "slush fund" for the purpose of internal ALP rorting, but with the clear potential for a subsequent or flow-on effect of manipulation of electoral rolls, and elections.

The integrity of the electoral roll is fundamental to ensuring fair and democratic process. The destruction of this integrity strikes at the heart of democracy and the liberty of our citizens.

The AEC and the Electoral Commission Queensland (ECQ) can no longer bury their heads in the sand while sophisticated and highly organised corruption occurs.

It is of concern to non-government members that AEC simply does not have the ability, in terms of staff and resources, to check all of the applications for enrolment that flood in between calling of any State or Federal election and the date of closure of the rolls.

Detection of multiple voting can only occur post-election by scanning of dual and multiple marks on the certified lists. ECQ makes it clear that the scanning system is effective in detecting cases of multiple voting only after the event. It does not detect offenders who multiple vote in different names. This can be done by fictitious enrolments, or by impersonation when votes are cast in the names of persons on the roll who the offender believes will not be voting at the election.

TRUST IS A TWO-WAY STREET

In appearing before the Committee, both the Australian Electoral Commission (AEC) and Electoral Commission of Queensland (ECQ) made the point very strongly that Australia is a lucky country and elections are undertaken on trust.

However, there can be no doubt that electoral rolls in this State have been corrupted. With hindsight, we can now see that matters that were once taken as unexplained occurrences were in fact deliberate manipulations and have now become entrenched.

Trust is a two-way street. The people of Australia trust the electoral process and the sanctity of the ballot box. That is why we do not have coups in this country. We can change governments peacefully without candidates or bystanders getting shot. We can nominate for elections and vote at the polls without endangering others or ourselves. **As the electoral rolls are being fraudulently manipulated, then people can no longer trust the electoral process.**

It is noted that the Australian Electoral Commission is critical of those who are suspicious about electoral fraud because they threaten the “integrity of the electoral system”, but evidence clearly shows the integrity of the electoral system has been destroyed. If the electoral rolls can no longer be trusted, then the people of Australia have a right to feel cheated – and in fact have been cheated of their democratic right where these fraudulent votes have either changed the result of a seat or the final outcome of an election.

The majority Committee report is a whitewash document, which fails to address important issues, and does nothing to enhance the trust of the people of Queensland in the electoral process.

The majority Committee report refuses to make definite conclusions on a number of important matters such as pre-enrolment identification, voter identification at polling place or by postal vote, closure of electoral rolls when an election is called, and cleansing of the current rolls. The majority Committee has talked about beefing up penalties without dealing specifically with problems. In indicating that it will re-visit these serious issues, the majority Committee agrees that it will not do so before the Shepherdson report is finalised, and most probably will not do so in time for the next State election.

Forced enrolment linked to 18+ card (touched on in Chapter 9, committee decision)

Unfortunately the government majority members of the Committee have allowed their attention to be diverted to such unrelated matters as trying to increase the number of persons enrolling to vote. This is irrelevant in the context of instituting measures to prevent electoral fraud.

Government majority members of the Committee have supported the position that electoral enrolment should be a condition to being granted an 18+ Card, and have advised the Electoral Commissioner accordingly. Non government members voted against this proposal. This moves well away from the Committee's previously stated position that an 18+ Card application form should only provide an optional opportunity to concurrently enrol.

Non-government members of the Committee are strongly opposed to the compulsory aspects of applications for 18+ Cards. It is ludicrous that an 18 year old school leaver must be forced to enrol before he/she can go to a night-club. The 18+ card is currently even more unreliable than the electoral rolls, as there is already a flourishing trade in bogus 18+ Cards; this will only increase that trade.

The proposal also fails to address the issue of many 18+ persons who are not already Australian citizens and therefore not entitled to vote but who may seek an 18+ card as proof of age identification.

Enrolment is compulsory in this country, and voting is compulsory. However, prospective enrollees should not be forced onto the electoral rolls by being refused such rights as an identification (18+) card or driver's licence. This is real Big Brother government at its worst.

Non-government members did not support this proposal.

LCARC Report no. 19 Implications of the new Commonwealth enrolment requirements – tabled March 2000

The Minister for Justice and Attorney General has made several references in the House to the above report, and the unanimous concerns of all Committee members at the original proposals put forward by the Commonwealth. As well as identification requirements for persons wishing to enrol for the first time, there were only a limited number of persons qualified to witness new enrolments.

The Committee shared the view that these stringent regulations would only serve to deter prospective first time enrollees, rather than to encourage them to enrol.

Importantly there was no specific evidence brought to the Committee's attention of any widespread electoral fraud or manipulation of electoral rolls. It was unfortunate that no pertinent material was available to LCARC when Report No. 19 was issued in March 2000.

The Commonwealth has done more work on proposed regulations. In view of considerable evidence now available, non-government members believe that there must be a requirement for proof of identification of a person wishing to enrol for the first time, and a tightening up of witness requirements. The Committee now needs to re-visit Report 19, particularly as new Commonwealth regulations have been provided and must be considered. Non-government members are of the view that this latest round of proposed Commonwealth regulations have become too weak and need to be strengthened. As they presently stand, electoral corruption can still too easily occur.

- ❖ Non-government members of the Committee support the continuation of joint roll sharing arrangements with the Commonwealth.

ROLL CLEANSING AND ROLL MAINTENANCE

Non-government members are broadly supportive of a limited de-centralised data matching system, which has been in place since March 1999. However, non-government members do not believe that CRU (Continuous Roll Updating by means of data matching) will by itself de-contaminate or cleanse electoral rolls.

The majority Committee report goes over the top in promoting ECQ suggestions for a \$7 million super computer system. The ECQ suggestions need to be examined in more detail and not simply accepted on face value for a quick fix, as the majority Committee has expressed in Chapter 9. The super computer proposal will not stop electoral corruption.

CRU will assist in maintaining the roll, it will not cure existing ills. The majority Committee has declined to recommend definitive action to cleanse the electoral roll, but creation of a State multi-million dollar super computer system to process new State name and address data has all the hallmarks of *BIG BROTHER*. Details of all Queenslanders will be contained on this multi-million dollar super computer system, **which is simply another form of the discredited Australia Card without a card.**

Privacy issues are of the utmost importance and have not been addressed

It should be remembered that even *Microsoft* has been unable to make itself immune from hacking, nor has the *Pentagon*. Moreover, before any State data matching occurs, privacy safeguards need to be put in place to ensure that adequate privacy provisions cover access. Currently it would appear that no privacy provisions exist. If privacy provisions in a non-centralised system are hopelessly inadequate, it will be impossible to put privacy provisions in place for a centralised system.

- ❖ Suggestions have been made that, in order to thoroughly cleanse the electoral roll, the whole State should be re-enrolled. Accordingly, non-government members recommend consideration of the submission made by Emeritus Professor Colin Hughes, whose electoral experience cannot be questioned. Further consultation with Professor Hughes is recommended.
- ❖ Professor Hughes suggests a “pilot” of roll cleansing in one federal division, and non-government members recommend this be widened to cover the whole State. Professor Hughes suggests that once a decision is made as to what tighter enrolment procedures should be, current electors should be notified that new requirements are in place, and that with a prescribed period they should comply and effect a new enrolment. After the initial response, one reminder letter should be sent to the remainder. Precise habitation reviews should deal with those remaining on the existing roll that have not been verified under the new procedures. If there is confirmation of details on the old roll then transfer to a new roll could occur.
- ❖ Non-government members believe that an immediate start should be made on a statewide basis. If there are difficulties with the physical checks of precise habitation reviews, the process could be commenced with State electorates on margins of less than 5%, together with a comprehensive voter awareness program stressing that it is essential for people to re-enrol because the ALP has corrupted the current electoral rolls.

CONCLUSION AND RECOMMENDATIONS

The majority Committee decided to bring down an Interim Report with no guarantee that serious matters canvassed in that report would be the subject of future recommendations prior to the next State election.

Non-government members commend the background research and material gathered by the Committee Secretariat and presented in this report, but we are concerned that the majority Committee bases its inferences almost solely on presentations by the Australian Electoral Commission and the Electoral Commission of Queensland. Although the Shepherdson inquiry report is some time off, little weight appears to have been given to published material from that inquiry and other sources, which have been widely reported. In particular, no importance has been placed on the material from the conviction of three ALP members in Townsville for electoral corruption, and one of these persons is currently serving a sentence of imprisonment.

It is obvious that a very large degree of sophistication and a high level of organisation have become part of the fraudulent manipulation of electoral rolls. We disagree with the bland interpretation that “there’s nothing really wrong”, and we take exception to the majority Committee’s whitewash of the extremely serious situation where the Queensland and Commonwealth electoral rolls have been contaminated and corrupted.

With time for change running out, unless fundamental and basic changes to our electoral systems are made, it is apparent that Queenslanders will be going into a State election next year with an electoral roll that is not simply flawed but has been actively corrupted. Non-government members of the Committee accordingly recommend that the following matters should be included in amendments to the *Electoral Act 1992*. We take the view that very drastic action is now required firstly to clean up the current roll, and secondly to prevent fraudulent voting practices as far as possible.

Public confidence in fair elections is paramount in a fair and democratic society to ensure the liberty of the people.

RECOMMENDATIONS

❖ Recommendation 1: Joint roll with Commonwealth

Joint roll sharing arrangements with the Commonwealth should continue.

Non government members support the continuation of joint roll sharing arrangements with the Commonwealth.

❖ Recommendation 2: Provisions for new enrolments

Persons wishing to enrol for the first time must be adequately identified to the person who witnesses the enrolment application.

The Commonwealth has produced a number of draft enrolment requirements, the latest of which is dated October 2000. Non-government members believe these current regulations have now become too loose and are again open to corruption by the type of sophisticated and well-organised operations of which there is now evidence. Queensland should work closely with the Commonwealth to ensure an effective level of enrolment identification and witnessing requirements.

❖ **Recommendation 3:**

Witnesses to new enrolments should personally know the proposed enrollee for a period of time.

❖ **Recommendation 4:**

There should be extremely severe penalties for breaches of witnessing regulations.

❖ **Recommendation 5: Identification of voters at polling booths**

Voters should be required to produce a form of card identification at polling places before being issued with ballot papers. Some appropriate forms of card ID may be driver's licence, social security card, credit card, passport, university student ID card.

Non government members had initially expressed interest in the Queensland Electoral Commissioner's suggestion of date of birth as voter identification – full date of birth to be printed on roll used at the polling place, voter to state at least date and month of birth. Since then we have become aware of recent claims by Australian Labor Party campaign workers in respect of widespread vote rigging in certain electorates by use of the electronic roll sorted alphabetically into street addresses. We are of the view that *date of birth identification* (which appears on the electronic roll whether sorted alphabetically by name or street order) would be readily available to persons attempting to manipulate voting figures by impersonating voters.

❖ **Recommendation 6:**

Persons witnessing Postal Vote applications must indicate what ID has been sighted.

<p>It is interesting to note that, in submissions received by the Committee in connection with this inquiry and report, the Australian Labor Party was the only political party (and only submitter) opposed to voter ID when enrolling or voting.</p>

❖ **Recommendation 7:**

There should be more severe penalties for enrolment offences and impersonation.

❖ **Recommendation 8: Closure of electoral rolls**

Electoral rolls must close at the calling of an election.

Closure of electoral rolls at the time of calling an election will prevent a last minute rush to enrol with consequent inability of AEC staff to check the bona fides of literally thousands of persons wishing to enrol at the last minute, and the inability of AEC staff to ensure that accurate information is recorded at such pressure.

Non-government members of the Committee are well aware that there will be criticism that this recommendation will disenfranchise persons who wish to enrol or to change enrolment at the last minute. Our response is that it is the responsibility of each person to ensure that his/her enrolment is up to date, and it is not the responsibility of government to keep rolls open until well after an election has been called.

This recommendation will also allow the Electoral Commission to provide earlier printed rolls to candidates, as well as electronic up-dates. It will go a long way towards ensuring the accuracy of the rolls.

ECQ can commence an appropriate public awareness program to encourage voters to get onto the roll, or to correct existing enrolments.

This recommendation has been put forward several times in the past at a federal level, and has been strongly resisted by the Australian Electoral Commission, and by the Australian Labor Party.

❖ **Recommendation 9: Cleansing of Queensland State electoral roll**

A system of roll cleansing should be commenced immediately on a statewide basis.

As existing rolls are not only grossly inaccurate but certainly corrupt, and in view of recent claims by Australian Labor Party workers in respect of vote rigging in certain electorates, a general statewide cleansing process must be commenced as soon as possible as discussed on page V of this Dissenting Report. ECQ should make a start by writing to all persons asking them to re-enrol. Respondents should be immediately re-enrolled. Non-respondents could be given one reminder, then habitation checks.

Non-government members of the Committee are strenuously opposed to the creation of a super-computer system where all Queenslanders' names, addresses and other details are listed. This is a return to *Big Brother*, and a return to the discredited *Australia Card* without the card. We are concerned that the majority report supports this concept and that little or no attention has been given to its vast ramifications.

Mrs J Gamin MP
Member for Burleigh
(Deputy Chair)

Mr D Beanland MP
Member for Indooroopilly

Dr P Prenzler MP
Member for Lockyer