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Sent: Sunday, 30 June 2002 1:25 PM
To: JSCEM@aph.gov.au
Subject: Submission on 2001 federal election



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The Secretary

Joint Standing Committee on Electoral Matters
Parliament House
Canberra ACT 2600

Dear Sonia,

Please find attached our submission to the JSCEM Inquiry into the Conduct of the 2001 Federal Election.

Yours sincerely,

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Joint Standing Committee on Electoral Matters
Submission No.
Date Received
Secretary

Submission
to the
Joint Standing Committee on Electoral Matters
Inquiry into the 2001 Federal Election

by

Festival of Light

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Joint Standing Committee on Electoral Matters
Submission No. 71
Date Received ... 1/7/02
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29 June 2002

Introduction

This submission to the Joint Standing Committee on Electoral Matters of the Parliament of Australia concerns the Inquiry into the 2001 Federal Election initiated in May 2002 by the Special Minister of State, Senator the Hon Eric Abetz. The submission addresses the terms of reference namely:

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 2001 Federal Election and matters related thereto.

Community concern over the integrity of the Australian electoral process has grown in recent years driven by reports and circumstantial evidence of electoral fraud in various parts of Australia.

The Shepherdson Inquiry in 2001 into electoral fraud in Queensland uncovered evidence of fraudulent enrolment. The convenor of the inquiry, Hon Tom Shepherdson QC, warned that

*"...I do not consider that the small number of persons who engaged in this practice, as disclosed by the evidence at this Inquiry, should necessarily lead the Australian Electoral Commission (AEC) or the Electoral Commission Queensland to believe that such conduct is relatively uncommon... These unlawfully cast votes can prove decisive in polls where the margin between winning and losing is small."*¹

Submissions to previous inquiries into federal elections, notably by Dr Amy McGrath of the H. S. Chapman Society, have reported numerous alleged fraudulent practices. The response of the AEC to these allegations has been unsatisfactorily complacent. The AEC should be able to guarantee the integrity of every stage of the electoral process but they cannot, due to inadequate procedures for producing electoral rolls and for voting at the polling booths on election day.

With current procedures, the AEC cannot positively demonstrate the absence of significant electoral fraud. For a healthy democracy to function it is necessary that the electoral process be above board and be seen to be above board. This is not presently the case.

Above-the-line ('group ticket') voting was introduced by the then Federal government in 1984. This system, which has been hailed as great simplification to Senate and upper house voting, removes voter choice in the allocation of preferences for Senate and upper house seats. The system is open to abuse, since preference allocations are generally not known by voters. Voting integrity requires preference allocations to be returned to the voters - albeit in a simpler form than before 1984.

Electoral Roll Integrity

Central to the conduct of free and fair elections is the integrity of the electoral roll. It is therefore essential that the integrity of the roll is not compromised and that all Australians have confidence in the accuracy of the roll. In every area of life that is taken seriously, there are procedures and identity checks on individuals to prevent fraud. For example, to open a bank account or to receive public welfare payments identity checks are made on individuals. Even to hire a video requires the showing of some form of ID (usually a driver's licence). Almost everyone in our society accepts the need for this. Why then is there no legal requirement for personal identity checks and proof of residence checks for individuals applying to get on the electoral roll?

It has been suggested that such procedures would be unnecessarily cumbersome and costly and would discourage many people from enrolling. Some slight inconvenience may be caused to some individuals, but the people readily accept the need for identity checks for opening bank accounts and obtaining a driver's licence or passport. This is the price we willingly pay for protecting many institutions in our society from fraud. At present an individual wishing to enrol only has to fill out

the enrolment or re-enrolment card which can then be witnessed by anybody who claims to know the person. The cards are taken at face value by the AEC. No other organisation in our society would accept such a slack system of personal identification, which is open to all sorts of abuses.

The purpose of those who may wish to defraud the electoral process would be to change the outcome of an election particularly in a marginal seat. This could be done in a number of ways:

- electors in safe seats re-enrolling at addresses in the marginal seat;
- enrolling non-existent persons at addresses in the marginal seat;
- people who are not entitled to be electors enrolling at real addresses in the marginal seat;
- people enrolling other people's names at false addresses in a marginal seat.

The number of false enrolments detected by the Shepherdson inquiry is not large, ranging from 2 (Mundingburra in 1996) to 25 (Townsville in 1996). This is not unexpected because the existing system is not designed to prevent or detect fraud, but to sacrifice everything to make the franchise as broad as possible.

The AEC attempts to maintain the accuracy of the roll by data mining of its RMANS (Roll MANagement System) where name and address information of all electors is stored. This data set is data matched with other data sets of Commonwealth and state agencies and with a separately maintained RMANS Address Register (introduced in 1997). The Address Register should pick out enrolments made to non-existent addresses, but not otherwise. This data mining and data matching can only give an indication of fraud if the name is on the other data sets. What if it is not? Many Australians are not yet on social security data sets. Waving the wand of fancy computer technology does not guarantee the integrity of the roll.

Between the announcement of an election and the close of the electoral rolls, huge number of people enrol or re-enrol. It is freely admitted by the JSCEM and the AEC, that in this hectic time, it is not possible to check the flood of enrolment paperwork for fraudulent enrolments.

Recommendation 1

The solution to the whole problem of the integrity of the electoral roll is to have prospective electors enrol personally at the electoral office with proof of identity and proof of address. To reduce the problem at election time, wide publicity should be given to the obligation of voters to keep their enrolment up to date.

Voting Integrity

Voter identification

At the polling booth two questions are asked of the voter: first, "What is your name?" and second, "Have you voted before, today?" In cases of ambiguity, the voter may be asked, "What is your address?" There are no other checks on voter identity. The name is marked off on the roll and the person is allowed to vote. This procedure allows the AEC after the election to detect instances of multiple voting. It does not prevent multiple voting.

From the JSCEM report on its Inquiry into the 1998 federal election, there seems to be a breakdown in enforcing penalties for multiple voting. Of 45 cases of multiple (3 or more) voting detected, only 3 were being investigated. According to the JSCEM report there were 966 cases of dual voting in the 1998 election with 56% coming from voters with a non-English speaking background and 13% were from people aged over 70. In the AEC view, discussed in the JSCEM report, it was not in the public interest to prosecute such cases. This meant that about 300 cases,

with no prima facie excuse, were not even investigated. This seems to indicate an attitude that is not conducive to the integrity of the voting system.

With no requirement to show ID at the voting booth, the system is wide open to situations where the name of someone else on the electoral roll is used falsely at the voting booth. This may prevent the genuine voter from voting, (if the fraud occurs at his or her normal voting booth) or result in the genuine voter being charged later for multiple voting (if the fraud occurs elsewhere). It would be of interest to enquire of the AEC if they have detected such practices. With the electoral roll being available to all candidates, this sort of fraud would be easy to do and virtually impossible to find the guilty party, even though post-election detection of multiple voting would be easy. The potential for this sort of fraud to take place could be greatly reduced by a requirement for ID to be shown before the person is allowed to vote.

An alternative would be for each elector to nominate or be allocated in advance a single polling booth where the elector is authorised to vote. Another variant would be to designate a single polling booth where the elector is authorised to vote without personal identification and to require positive personal identification at any other polling booth.

Recommendation 2

The Australian Electoral Commission should be required to implement an auditable process that prevents multiple voting by any elector. Possible controls include: (a) nominating a single polling booth for each elector at which he or she is authorised to vote; (b) requiring positive personal identification before an elector is issued with voting papers; (c) a combination of the above.

Provisional Voting

In the 1998 Federal election, some 183,000 provisional votes were submitted but only about 116,000 were accepted for counting. This raises the question of whether the 67,000 or so rejected votes were from people attempting to vote illegally. The rejected votes approach 1% of the total Australian vote and in some marginal seats could be large enough to affect the outcome.

The declaration votes provided by provisional voters are checked against the electoral roll before being entered into the count. Most provisional votes are allowed for people whose names have been removed from the electoral roll but who claim to have moved address within the division without proper re-enrolment. This should be sufficient ground to require personal identification and proof of address of the applicant for a provisional vote. Again there is no requirement to show personal ID or proof of address. The fact that over 36% of provisional votes were rejected and not counted, is disturbing and indicates that some voters will attempt to defraud the electoral process.

Recommendation 3

The Australian Electoral Commission should implement a process for requiring personal identification and proof of address by any applicant for a provisional vote.

In summary, because the integrity of the electoral process (and the perception that it has integrity) is integral to the functioning of a healthy democracy, it is important that the showing of proper personal identification and proof of address be necessary in both the process of enrolling and re-enrolling on the electoral roll, and in the process of voting on election day.

Senate Voting Above the Line

In the "Inquiry into the 1998 Federal Election and Matters Related Thereto",² a number of

submissions advocated the elimination of above the line voting for the following reasons:

- Ungrouped candidates are unable to have a box above the line. Thus with well over 90% of people voting above the line (94.9% in 1998), ungrouped independents have a very difficult task to attract enough voters to give them any chance of being elected.
- The system also gives political parties a great deal of power to direct preferences not only to their own party candidates, but also to influence who else gets into the Senate. Above the line voting is usually a blind vote since most voters are probably unaware of the group's proposed preference distribution. Furthermore, providing this information to electors presents considerable practical difficulties.

Allowing political parties to lodge preference allocations that are generally unknown to the electorate opens the election process to manipulation by stooze parties and candidates. A genuine party can form a stooze party with a catchy name in the hope of attracting additional votes for the stooze candidates and directing their preferences to the genuine party. However, the stooze party may deceive voters by appearing to stand for issues opposed by the party receiving the preferences.

Because the voter has no control over preferences in this system, voting for a particular group may have the exact opposite effect to what he or she intended. For example, suppose a "New Flag Party" is formed to work for the replacement of the Australian flag with a new design. The New Flag Party then forms the "Save the Flag Party" that claims to stand for keeping the present design. The Save the Flag Party could lodge a preference allocation directing preferences to the New Flag Party. The likely result is that voters would be deceived by this ruse.

Corruption of the Senate election process by stooze parties and candidates can be prevented by eliminating preference allocations by parties and requiring voters to indicate their own preferences. Voters are familiar with indicating their own preferences on the House of Representatives ballot paper. The only significant difficulty voters may have with indicating their own preferences on the Senate ballot paper is likely to be the large number of names on the Senate ballot paper.

A simple remedy would be to allow voters to indicate their own preferences either for groups above the line or for individuals below the line.

This system would retain the below-the-line option as at present. The above-the-line option would simply require the voter to give preferences to all the groups above the line. The number of groups is likely to be similar to the number of candidates on a House of Representatives ballot paper. Senate voting above-the-line would then be about as easy as House of Representatives voting, which is familiar to voters.

Voting above-the-line would involve numbering all the boxes above-the-line in the voter's order of preference. If "ungrouped" independents are accepted as Senate candidates, they would need to be listed both above and below the line. An alternative would be to require all Senate candidates to be nominated by a registered party. The ballot paper would then list the parties above the line and the individual candidate or candidates below the line.

Preferences marked above the line would first flow to candidates within the party in the order they are printed on the ballot paper, then in a similar way to candidates in other parties in the party preference order indicated by the voter. In the figure on the following page, both votes are equivalent.

This system would be simpler for the AEC to administer, since it would eliminate the need for the collection of preference sheets from all the parties taking part in the election. It would save the AEC from having to print large numbers wall charts or booklets showing preference allocations.

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Jim Jones	Ian Mckay

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Jim Jones	Ian Mckay

In this example of preferential voting above-the-line (left) and below-the-line (right), both votes are equivalent

Recommendation 4

The Senate voting system should be changed to require voters to indicate their own preference order, either by groups above-the-line or by candidates below-the-line. The present system of requiring parties to lodge preference allocations with the AEC should be terminated.

Conclusion

Australia enjoys the stability provided by one of the world's oldest constitutions and the commitment of the people to the processes of democracy. Many of the election processes used around the world today were pioneered in this country and are sometimes described overseas as the "Australian voting system".

However, the price of democracy is vigilance and some aspects of Australia's voting system for federal elections are open to abuse and corruption. Cracks in the process must be recognised. Whether or not these opportunities for corruption are currently being exploited, the cracks must be closed. The main problem areas are the electoral roll, the voting process, and the preference allocation system for the Senate.

The Australian Electoral Commission should be required by law to guarantee the integrity of the electoral roll and the integrity of the voting system. The Senate voting system should be changed to require voters to indicate their own preferences and eliminate preference allocations by parties.

References

1. Queensland Criminal Justice Commission, April 2001. The Shepherdson Inquiry: An investigation into electoral fraud. P. 166.
2. JSCEM Report tabled in Federal Parliament on 26 June 2000. "Inquiry into the 1998 Federal Election and Matters Related Thereto".