



Joint Standing Committee on Electoral Matters	
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Secretary	<i>[Signature]</i>

The Secretary
 The Joint Standing Committee on Electoral Matters
 Parliament House
 Canberra ACT 2600

31 March, 2005



Dear Sir/Madam

I am pleased to submit a paper that covers the issues of concern to The Nationals arising from the 2004 General Election. This paper is presented on behalf of The Nationals Federal Management committee and follows internal consultations with Federal MPs, candidates, campaign committee members and local campaign chairs.

Yours sincerely

Andrew Hall
Federal Director

Federal Secretariat

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Submission to the Joint Standing Committee on Electoral Matters
Andrew Hall
Federal Director
The Nationals

Introduction

The 2004 general election highlighted a number of issues that our party believes this Committee should carefully examine. Many of these issues are ones which this committee would be aware of and some of what is contained within this submission is revisiting issues raised in previous inquiries. Yet our party believes that further progress needs to be made to address some of these issues for future elections.

Our submission has been broken down to 8 specific areas:

1. Roll Closure
2. Voter Enrolment and Registration
3. Provisional Voting
4. Postal Voting
5. Party Registration
6. Tighter Controls on Party activities
7. Differing Voting Systems

Close of Roll

Currently the roll closes somewhere between 7 to 10 days after the issue of the writs. This has allowed a large number of persons to change their address and update their details of enrolment with the AEC. The size of changes have varied across the electorates where The Nationals field candidates, but generally our coastal seats have a larger number of changes than our more rural electorates. While a large proportion of these are genuine cases, we are concerned that the long period before close of rolls could enable deceitful persons to shift voters from safer electorates to more marginal ones.

There has been evidence of false voter enrolments occurring in past elections, specifically in Queensland, and we are concerned that the Federal system has not been sufficiently changed to prevent this problem from occurring. While we have no evidence that we can submit to this Inquiry from the 2004 election, our concerns are that the integrity of the rolls are in question while they remain open for such a long period during the campaign.

The point is not if false voter enrolment occurs, but whether the present system provides an opportunity for it to occur, and the limited opportunity available for checking if it has taken place. We believe that the current arrangements are unnecessarily generous. We note that other State jurisdictions have a system where their roll closes at the issue of the writs and it would appear to be working effectively and urge the committee to recommend accordingly.

RECOMMENDATION 1

The Nationals recommend to the committee that the time for the closure of the rolls be moved to either the same time as the issue of the writs; or be no longer than 72 hours after the issue of the writs. While we would prefer closure to coincide with the issue of writs, we also acknowledge that some extra time may be necessary for genuine voters to have their details updated with the AEC.

Voter Enrolment, Registration and Maintenance

Currently all that is required to change your voting enrolment is to sign a card with a willing witness. There is no requirement to produce any information to attest to your enrolling address or to your identification. This arrangement is unreasonably easy and leaves the electoral roll open for potential abuse and should be addressed.

In regions of high growth, such as the North Coast of NSW and the coastal regions of Queensland, there still is some time lag between when new housing areas are occupied and when the details of those residents are included on the electoral roll.

In the last election our party was concerned that the roll may not have correctly reflected new voters in seats such as Richmond, Wide Bay and Hinkler. Many of our members have made the point that, in new suburbs and subdivisions, it takes a quite a number of months between when people move in to when they appear on the electoral roll for that area.

The Nationals' suggest a communications campaign outlining the change in policy would need to take place prior to each election, well before the close of rolls. An AEC telephone hotline could be utilised to encourage people to check if their details are correct and be informed about how to update their enrolment in the lead-up to an election. This should occur before an election is announced.

RECOMMENDATION 2

- A. The Nationals recommend to the committee that the requirements for changing address be altered to include the production of some form of significant identification, such as a driver's license, 18+ card, passport or birth certificate, along with documentation that shows a current residential address, such as a utilities bill or bank statement.
- B. The process for changing ones enrolment details should be either undertaken by presenting oneself to an AEC office or to a JP to witness the production of these materials and then generate a change of enrolment form.
- C. Further, the AEC needs to improve its communications with utility providers and local government bodies. It would appear a far more proactive role is needed by the AEC in respect to the roll in these areas of high growth.

Provisional Voting

The 2004 General Election saw a significant increase in the number of provisional votes submitted to the count and included in the count. The current arrangements allow people who have been taken off the roll by the AEC, for not responding to AEC requests on validating their enrolment, to continue to exercise a vote in a particular electorate they were previously enrolled.

The Nationals are concerned that this creates a loop-hole in the integrity of the electoral roll and opens the system to potential abuse by people who enrol in marginal electorates, while not living in that electorate, and vote to influence a close result. This possibility should be removed.

Under the Commonwealth Electoral Act it is incumbent upon voters to ensure their details are correct at all times. We believe that it is therefore inconsistent for the AEC to remove people from the roll for their failure to respond to AEC notices asking them to justify or at least acknowledge their enrolment address, but then still allow them to vote.

The current AEC policy position, backed by legislation, is that no one should leave a polling place without lodging a vote if they are above voting age and believe they are eligible to vote. We contend that this is a questionable policy, and that the guiding principle should be that if a prospective voter is not properly registered on the roll, and can't provide adequate identification and evidence of current address, then that person is not eligible to register a vote on the day.

All Australian voters have access to some form of identification be it a driver's licence, bank account details or statements, a health care card or an electricity bill to name some examples.

There would be much to be gained in terms of ease of administration and vote counting, from a reduction in demand for provisional voting which could be achieved through a tightening of AEC policy coupled with common-sense changes to the way in which electoral rolls are managed prior to elections, as discussed above.

The basis of these changes would be to reinforce the responsibility of the voter to ensure his or her correct inclusion and continued presence on the electoral roll.

To encourage greater transparency, personal responsibility must be further encouraged to ensure each voter's address details are kept up-to-date and that his or her name is correctly registered on the Australian Electoral Roll at the time the rolls close.

Whilst we acknowledge the AEC's efforts to ensure the details of provisional voters are checked thoroughly after an election has taken place, our concern is that this form of voting has the largest potential to be misused by

unscrupulous political forces to affect the result in a marginal electorate. Detailed checks after an election, whatever the result, can't change that result.

2004 Election Example : In the NSW electorate of Richmond, after tallying of all votes and exhaustion of preferences, the winning margin was just 301 votes (0.19%) to Labor. This means that only 151 votes had to swing to The Nationals' candidate, or that 302 Labor votes had to be excluded or deemed invalid in order for Larry Anthony to have retained the seat.

There were 711 provisional votes cast in Richmond with 184 first preferences cast for The Nationals, 257 cast for Labor and 270 cast for 'Others'. The two-party preferred provisional vote count was 238 votes (33.5%) for The Nationals and 473 votes (66.5%) for Labor. The overall two-party preferred result was 49.81% for The Nationals and 50.19% for Labor.

One can choose to ignore the anomaly in the percentage of provisional votes counted for each party when compared to the percentages of total votes, and write it off as a factor of the demographics of those who cast provisional votes. However, assuming changes are made to reflect our view that the need for provisional voting could be virtually eliminated if full responsibility for correct inclusion on the role is handed to the voter, we must consider the difference in the final outcome should these provisional votes not have been allowed to be lodged in the first place.

Provisional voting in Richmond gave Labor 235 votes more than The Nationals. If no provisional votes were counted, this would have reduced the total margin of the Labor win to just 66 votes. In isolation, this may not have changed the result of the election, but in our view there is a very real possibility that, coupled with other factors such as postal voting anomalies and the historical association issue, it may have made all the difference.

RECOMMENDATION 3

- A. The Nationals recommend to the committee the removal of provisional voting in conjunction with a plan to task the AEC with improved management systems of the electoral roll's maintenance.
- B. The AEC needs to undertake work to ensure people are informed of their current status and address on the roll, which may involve an audit of the roll via a mail-out to all voters at some defined time prior to the latest possible date for a general election. The AEC's work should also involve a greater advertising awareness campaign prior to an election period, ie in the final 12 months of a Government's term.

Postal Voting

It is the view of The Nationals that the management by the AEC at the 2004 general election in respect to postal voting was nothing short of appalling. In more than 100 years of federal democracy, it was disappointing to find that people living in regional Australia were potentially being disenfranchised

because systems were untested and failed at critical points in the election process.

Worldwide trends demonstrate that voters are tending to vote prior to polling day, either in person pre-polling or by postal voting. In Australia this has seen a general trend upwards in the number of postal votes cast.

The Nationals understand that AEC divisional staff, when giving estimates on the numbers of postal votes expected, did these figures on the basis of the growth in the number of electors in their division proportioned to the previous election's number of postal votes. This in itself failed to take account of the fact that this election was being held during a holiday period, which results in more people being away from their normal voting area than usual.

It was also likely that numbers of postal and pre-poll voters were going to be higher than those at the 1998 election, combining the changes to the size of electorates and the worldwide trend in this type of voting. We believe that the AEC failed to take account of this and at the same time centralised the distribution and handling processes.

The Federal Member for Maranoa Bruce Scott has gone into great detail on the issue of postal voting and we refer the committee to his comments and signal this submission's support for his comments and all the recommendations in respect to the management of postal votes. We also make the point that it is important to address the failings of the current system before looking at engaging new systems.

The problems with the management of postal votes at this election were not just limited to large rural electorates. Another example occurred in the electorate of Richmond. Here the margin was very close in respect to the final outcome and again, as with Maranoa, many campaign staff hours were spent making representations to the AEC and assisting postal voters as a result of ballots, which had either not turned up, or were turning up very very late compared with when the voter had requested the ballot paper. It is possible this single area of incompetence by the AEC could have altered the result in this seat.

The failure of the AEC to correctly estimate the numbers of postal votes, to not have a proper tracking system in place for these votes, and not taking heed of the warnings of representations that were being made about the failure of votes to turn up is a damning indictment on its procedures.

There were 600,370 postal votes lodged Australia-wide at the 2004 Federal Election, with 133,959 of these lodged in Queensland. These numbers represent 4.86% and 5.77% respectively of the total number of votes lodged in these jurisdictions.

Since the 1998 Federal Election there has been a significant increase in the number of postal votes being lodged in Queensland (up by 42.31% from 94,132) and Australia-wide (up 21.24% from 495,180).

These are significant numbers when you consider that an election can be decided by just one vote, and some marginal electorates were decided by just a few hundred votes at the recent election.

TABLE 1 – POSTAL VOTES BY SELECTED ELECTORATES – 1998, 2001, 2004

Division	Election	LIB	NP	ALP	Other	Total
Capricornia	1998	0	2,399	1,863	955	5,217
	2001	1,181	1,622	2,267	619	5,689
	2004	846	2,323	2,463	553	6,185
Hinkler	1998	0	1,421	1,293	720	3,434
	2001	0	1,668	1,379	769	3,816
	2004	0	3,493	2,095	599	6,187
Kennedy	1998	0	2,460	663	844	3,967
	2001	0	896	538	2,508	3,942
	2004	0	1,568	779	2,662	5,009
Richmond	1998	0	1,812	1,523	719	4,054
	2001	0	1,817	1,077	442	3,336
	2004	0	2,950	1,788	593	5,331
Queensland	1998	27,285	15,908	31,533	19,406	94,132
	2001	41,485	16,275	36,994	18,026	112,780
	2004	52,852	20,168	43,588	17,351	133,959
Australia	1998	185,377	35,630	175,863	98,310	495,180
	2001	201,274	34,835	161,684	70,948	468,741
	2004	273,351	44,388	206,284	76,347	600,370

Source – Parliamentary Library

At the 2004 election, the postal vote ballot paper distribution service to regional and remote areas of Queensland and NSW could not be described as anything better than a disaster, with many people receiving their ballots at the last minute and some not receiving them in time to register their vote.

Exacerbating the issue, AEC policy on static polling booths is to cease staffing such polling booths where less than 100 votes have been registered at the last two elections. This has caused some confusion in that some remote constituents who didn't receive postal ballots travelled distances to former polling places, only to find that these locations were no longer taking votes.

In the electorate of Kennedy, result records indicate that the number of static booths was reduced from 111 in 2001 to 101 in 2004 (source : AEC results website) . This was despite a recent redistribution that increased the number of communities in Kennedy, and left some small but significant communities like Burketown and Camooweal off the list. In other rural electorates like Maranoa, the static booth numbers were relatively stable at 125 in 2001 and 127 in 2004 (source : AEC results website), also allowing for an increase in the number of communities included in the electorate in the redistribution, notwithstanding that some smaller communities, for example Capella, Aramac and Alpha, had their polling booths closed.

Anecdotal evidence from Maranoa suggests that as many as 500 people were affected by late or non-received postal ballot papers, many of whom were registered postal voters.

There were large numbers of cases where only one member of a family received their ballot paper and the others would miss out. In some families, the wife would receive her ballot paper, but not the husband and children. In others, a son would receive his paper but the parents would miss out. Other cases saw 2 in the family receive their ballot papers as expected, but not the others.

These cases were not isolated amongst those who live in remote areas in the very far west of the electorate. There were cases recorded around Dalby, Wandoan and Condamine - across all communities of the electorate.

We understand that the AEC's call centre misinformed people who could get through to them to ask where their ballot paper was, telling them that their ballot paper had been sent when in fact the only confirmation they could reliably provide was that the AEC had lodged their requests for ballot papers to the contracted distributor.

In the electorate of Kennedy, anecdotal evidence suggested a similar situation to that in Maranoa.

Some permanent postal voters from outside Charters Towers are reported to have received their ballot papers after voting day and after many had made arrangements to travel over distance to a polling booth.

A voter put her postal vote application in early as she was due to leave to go on holidays but did not receive her ballot papers prior to leaving the week before the election.

There were several missing postal vote cases recorded in the Hughenden area. One Hughenden resident was not able to vote due to not having received her ballot papers and reported that her husband and family members located on their other station outside Burketown were in the same predicament. She had lodged her postal vote applications early and was very annoyed at the fact that she did not get a chance to vote.

A family from Gregory Downs (south of Burketown - a 10 hour round trip to the polling booth in Cloncurry) did not receive their ballot papers and indicated that there would have been approximately 20 eligible voters from the community who had no chance of voting.

Those that worked on campaigns in these electorates and provided the anecdotal evidence outlined above wished to stress that the problems with late postal votes did not stem from the local offices of the AEC, but rather from the point at which the AEC processed the postal vote applications and handed them over to the contractor to distribute the requested ballot papers.

We are certain that all members of the Committee will agree that just one person failing to receive a ballot paper to which they are constitutionally entitled is an unacceptable situation.

It is inappropriate that questions about election results could be raised as a result of management procedures by the AEC of functional tasks.

RECOMMENDATION 4

- A. The recommendations set out in the internal report written by Minter Ellison commissioned by the AEC need to be fully pursued and the Special Minister of State should review all of these in 12 months.
- B. A flagging system should be developed within the AEC system to identify postcodes of remote area postal vote applications and make them a priority to receive ballot papers.
- C. Special consideration should be given to remote communities that have previously been serviced by polling booths, but have recently lost this service due to the AEC 'under 100 votes' policy. Consideration should be given to reinstating these booths, or at very least organising some kind of 'fly-in fly-out' polling service to ensure these small, but nevertheless important, groups of voters are able to lodge their ballots on voting day.

Party Registration

In a correctly functioning democracy, political parties play an important role in bringing together a large group of like-minded people into a formal and organised democratic institution to participate in elections.

Political parties should be respected as valid organisations, with proper internal structures, public accountability and total conformity with the Commonwealth Electoral Act.

Under the current legislation, a political party can be registered, so long as they have a constitution in the correct format, by either one existing member of the federal parliament, or by listing 500 members nationally. The Nationals believe that both of these methods are very low requirements to achieve registration as a federal political party.

In the 1999 NSW State Election the upper house voting paper was termed a "tablecloth", with some 70 odd parties being on the ballot paper creating a ridiculous sized ballot paper. This occurred because NSW's registration process also involved a low requirement of either 350 members or a member of parliament. By lifting the requirement to having a minimum of 750 membership forms, which are cross-checked to the roll each year, NSW reduced the numbers of true political parties considerably and restored public confidence in the system.

A number of the de-registered parties appeared to have been formed for no other purpose than to distract voters and corrupt the voting system. The

changes did not however place an unfair burden on people who were serious about registering a political party as drawing 750 voters from a pool of more than 4 million in NSW is reasonable.

While the number of parties in the federal sphere could still be considered as reasonable, the Nationals are concerned with the current legislative requirements the current system may produce a plethora of parties with the distinct aim of confusing voters.

The Federal Parliament should be setting a national standard, and at the moment it takes only 500 people out of about 12 million voters to register a party, which is 250 less than in NSW, the same number as WA and the same as in QLD. If NSW is used as the gauge point then federal registration should be around the 2000 mark for the required number of members.

RECOMMENDATION 5

The Nationals believe the number of people that it takes to register a political party should be increased and the manner for registration should be modelled around the current standards set in NSW.

Initially however we recommend that the membership numbers required for a political party be set at 1,000 nationally, combined with tighter arrangements similar to NSW. We also recommend the committee looks at increasing the number of members of parliament required for registering a party from 1 to 2.

Tighter Controls on Party activities

The Nationals are concerned that some registered political parties engaged in deceptive behaviour of voters at the 2004 election.

Historical association of political party names

There has been a recent emergence of a number of minor parties which The Nationals believe are specifically set up in an attempt to take advantage of a historic association of their names with existing or previously existing political parties in order to garner support in the Australian electorate.

With specific regard to the 2004 election, The Nationals have identified *Liberals for Forests* and the *New Country Party* as parties that we believe should not have been registered by the AEC due to historical association conflicts.

New Country Party

With regard to the *New Country Party*, The Nationals unsuccessfully argued prior to the party's registration with the AEC that its name held a historical association with our party.

Members of the committee would be aware that The Nationals were formerly registered as the Country Party and are still referred to by many voters as the new Country Party. This argument was put forward in officially opposing the

registration of the *New Country Party* under that name, but was rejected by the AEC and the registration took place.

Although the *New Country Party* has failed to gain significant support at recent Federal and State elections, the potential remains for confusion to occur and, consequently, for The Nationals to be deprived of vital votes which rightfully belong to our party and to the Coalition.

Liberals for Forests

Anecdotal evidence suggests that many voters in the electorate of Richmond were confused by *Liberals for Forests* booth workers, wearing blue tee-shirts with the word 'Liberals' emblazoned prominently on the front, handing out How To Vote cards and asking voters to 'vote Liberal' as they entered the polling place.

Of course, it is impossible to determine the full impact in terms of the number of votes meant for the Coalition that were cast according to the *Liberals for Forests* How To Vote Card which allocated preferences to the Labor candidate, but we think it is reasonable to say that this happened in a number of cases and certainly The Nationals campaign workers reported cases of people who realised their mistake after they had voted, and that they had voted for Mark Latham's candidate instead of John Howard's.

With a total of 1417 votes registered for the *Liberals for Forests* candidate, it is in our view entirely possible that the historical association of the party name, coupled with the fact that it was a Nationals candidate representing the Coalition in Richmond, and not a Liberal – was the deciding factor in the loss of this seat for the Coalition.

Such significant doubt over the result could have been avoided entirely if the historical association of the *Liberals for Forests* name was recognised initially and registration under this name was refused by the AEC.

The Nationals believe that deliberate brand confusion and deception was used at this 2004 election to confuse voters.

Using minor parties to either support their vote or distract voters from the Coalition is a well entrenched tactic of our political opponents. It is a practice based around deception and we believe it is not in the spirit of our electoral system.

A number of voters in NSW have either written or phoned in following the Richmond campaign to say they had been misled. While the onus is on the elector to ensure they are informed about their actions, a set of rules which fails to prevent a potential deception does not assist this process, but rather adds confusion.

It is also worth noting that in Richmond, as in a number of other seats, the people used to hand out how-to-votes for Liberals for Forests were neither on the electoral roll or were Australian citizens. Many were on holiday visas,

which had the law been enforced, would have seen them in breach of the conditions of their visas. Many of the Liberals for Forests workers were foreign backpackers, who told our campaign staff that they had been flown to the North Coast with all expenses covered to hand out the how-to-vote cards. They said they were instructed to say "Liberals" when handing out how to votes, which clearly demonstrated a campaign of deception of voters. In some cases, when challenged about their activities at the pollings booths, the foreign workers would simply leave rather than discuss their actions with the local returning officer.

Similar reports were also received from booths in the Page electorate, especially those areas in the north of the electorate near to Byron Bay.

The party lodged official complaints with the AEC on polling day about this behaviour as we believed it amounted to deception of voters. The complaints were investigated, but as the Act only covers written material and correct authorisations, the complaints were dismissed.

Currently the AEC is severely hampered when it comes to its ability to address inappropriate behaviour by people participating in the electoral process on polling day.

When damaging and or misleading materials are produced by a person or party and distributed on polling day there is no recourse of action by the offended party. If these materials are authorised in the correct manner, there is nothing the AEC is able to do about the circulation of these materials. The process for their removal becomes a legal process and one which can take some time to address. Thus meaning that in marginal seats, the intended damage is already done.

RECOMMENDATION 6

- A. We believe that steps should be taken to remove the ability of non-affiliated parties from using components of the name of an existing political party, or former party, from within their registered party name. While we understand this is the arrangement for new parties, it has not addressed the issues created by those parties already registered, such as Liberals for Forests and New Country Party. Steps should be taken to de-register these parties.
- B. The committee should also look at the issue of whether people who are not on the roll, or Australian citizens at the very least, can hand out materials to influence voters on polling day. This may involve either registering polling booth workers, or at the very least random checking systems for polling day combined with a process where other workers could notify the relevant AEC personnel of a potential breach.
- C. There may be a need for stricter controls on the conduct of representatives of candidates and parties, including boothworkers, where the conduct has the potential to confuse and/or mislead voters as to political affiliation.

- D. The Nationals believe that the AEC should be given more powers to deal with matters occurring on polling day, with particular respect to materials being distributed. This may involve giving the AEC the power to remove materials which are believed to be misleading or confusing for voters.

Differing Voting Systems

There can be no doubt that having differing voting systems between State and Federal elections is having an effect on voting formality. With NSW and QLD having optional preferential and NSW having a different upper house voting system this is seeing voters being confused and a reasonable number voting informally.

While there are different systems in Tasmania and the ACT, these systems are significantly different and being so different offer a clear distinction as to how one should vote. By having a similar system as we do in NSW and QLD with the federal system, the confusion is much greater. At this stage we are not in a position to be able to fully quantify the effect, as we are still waiting for the full distribution of preferences to be released by the AEC, our scrutineers have identified a considerable number of people who simply voted 1 only.

RECOMMENDATION 7

The Nationals recommend the committee work with the State and Territory jurisdictions in an attempt to establish a common voting system nation wide. Compulsory preferential voting has been our traditional voting system since federation and is the system used in the majority of State jurisdictions and should be implemented in every State and Territory to reduce voter confusion.

Summary

The Nationals' believe our voting system should be, as best possible, beyond reproach, and what we have outlined above, we believe will go some way to addressing both obvious problems with the current systems and potential areas of exploitation by those unscrupulous people involved in electioneering.

The Nationals' are pleased to have had the opportunity to make a submission to this inquiry and would welcome an opportunity to expand on these issues in greater detail.

Andrew Hall
Federal Director