

Submission by the Liberal Party of Australia**To the Joint Standing Committee on Electoral Matters****Inquiry into the 2010 Election**

The Liberal Party welcomes the opportunity to provide our views on the conduct of the 2010 election.

The Joint Standing Committee continues to play a significant role in the consideration by the Parliament of electoral matters, and we look forward to its careful consideration of the various issues raised in our submission.

Conduct of Election

The Liberal Party believes the election was well-administered by the Australian Electoral Commission. While there are some aspects we believe can be improved upon, and which we comment on in this submission, we do wish to record our appreciation of the AEC's conduct of the election.

We note the concerns raised by the AEC regarding the increased workload on the Commission during the election campaign, on election day and in the weeks immediately afterwards.

The long-term trend of voters casting their votes before election day continued at this election. Similarly, the increased level of enrolment inquiries - particularly early in a campaign - also continued at this election.

The Liberal Party strongly supports adequate resourcing of the AEC to ensure it is able to properly carry out its important functions during an election. With a growing population and the trend to earlier voting it is clear the demands on the AEC's resources during an election will continue to increase. We support the Commission reviewing its requirements to ensure it has appropriate contingencies in place to meet unexpected demands on its resources during a campaign.

The Liberal Party welcomed the new feature of the Commonwealth Electoral Act enabling pre-poll votes cast in their home division to be counted on election night. It is undoubtedly advantageous that a significant number of votes are able to be included in the results on the night. Our scrutineers confirmed that, on the whole, the count of pre-poll votes proceeded smoothly and without disruption to the count of ordinary votes.

However we are concerned the counting of votes in some places was too slow in the days immediately following polling day. Based on the feedback we have received this seems to have been due to a shortage of staff. Our scrutineers witnessed instances in closely contested seats where the count for the day was ended mid-afternoon while there were still more votes available to count. We believe it is important in future elections that AEC

Divisional Returning Officers have the ability to arrange additional shifts of fresh staff should they believe the need exists. We recommend that the AEC review the adequacy of its staffing arrangements in those situations.

The Liberal Party is also seriously concerned with the incorrect handling of pre-poll votes in Boothby and Flynn, leading to the exclusion of some votes from the count and the subsequent disenfranchisement of voters. We strongly support the recommendations of the inquiry conducted by Mr W Gray into this matter and emphasise the importance of thorough training for officials placed in charge of polling centres.

The Liberal Party also wishes to reinforce the importance of people employed as officials by the AEC at election time being adequately checked for their suitability for such positions. On election day the Liberal Party complained about a polling official who had previously worked for former NSW Labor Minister Joe Tripodi, and the AEC withdrew that person. As part of maintaining the integrity of the electoral process, the AEC needs to check the appropriateness of the staff it employs.

Reform of Electoral Laws

The Liberal Party will support reform of our electoral laws that is fair to all participants in the electoral process. It is very disappointing to us that the Labor Government has so far failed to pursue such an approach.

As previously submitted to this Committee, the Liberal Party is prepared to engage in substantive discussion with the Government about a package of reforms - including appropriate changes to funding and disclosure laws - that can achieve bi-partisan support.

Consequently, we do not support the approach taken by the Government in pushing ahead with the introduction of the Commonwealth Electoral Act (Political Donations and Other Measures) Bill, which sets out to disadvantage the Coalition parties. Reform to our electoral laws should be considered comprehensively and taking all aspects of possible changes into account. The Government should therefore drop its current bill and engage in genuine discussion about developing laws that are fair to all participants in the political process.

Any reasonable outcome designed to achieve broad consensus must ensure that the issue of third party activity in election campaigns is adequately dealt with and, in particular, that trade unions are treated in a manner similar to other third parties. The Liberal Party notes with great concern the desperate last minute changes to the State electoral laws in NSW by the Keneally Government which had the effect of advantaging trade unions. Such changes make a mockery of genuine electoral reform and any attempt to replicate them at the national level would undermine achieving the consensus needed for genuine long-term reform.

The importance of ensuring appropriate disclosure by third parties was further highlighted during the 2010 election campaign. It is clear the ACTU, unions and other left wing groups were fully integrated into Labor's campaign as an analysis of television advertising during the campaign shows. The ACTU spent \$3.8 million on anti-Coalition advertising during the

election campaign. GetUp! spent \$1.5 million on television advertising, assisted by union donations worth \$1 million. There was a period of ten days – a lifetime in a political campaign – in the first half of the election in which Labor did not advertise at all except for a minor buy in one State. But during this period, the ACTU and unions were on the air nationally attacking Tony Abbott and the Coalition.

The Liberal Party supports JSCem requiring the ACTU, other major union advertisers and GetUp! to appear before it to be questioned on their activities during the 2010 campaign.

Postal Vote Applications

The present system for the handling of postal vote applications - including the opportunity for parties to process applications returned to them - has worked well for many years and no significant problems have been identified. The Liberal Party is therefore strongly opposed to any change to the current arrangements.

We believe Labor has not demonstrated an adequate reason for its proposal to remove the ability for voters to return PVA applications to political parties. The current system works well, no case has been made to justify a change and the Liberal Party is strongly opposed to any change to current arrangements.

On another aspect of postal vote administration, the Liberal Party again raises its concern at the growing complexity of the postal vote application form. It is important that the information the form requires is as simple and clear as possible. We are grateful for the willingness of the AEC to discuss this matter with the parties and encourage the AEC to continue discussion with the parties and appropriate technical advisors to ensure the requirements of the form are met in the simplest, clearest manner possible.

We also take the opportunity to reiterate the importance of the AEC providing the required text of the PVA as early as possible. Except for exceptional cases (for example, changes required by a court decision) we believe the relevant PVA forms should be promulgated no later than twelve months before the third anniversary of the previous election.

Close of Rolls and Prisoner Voting

High Court decisions regarding the close of rolls and prisoner voting have led the Government to introduce a bill to amend the Electoral Act. The Liberal Party reiterates its position that as a matter of policy the provisions on close of roll which were struck down by the narrowest of majorities by the High Court were an important means of strengthening the integrity of the electoral system. The integrity of the roll is central to this goal.

We do not believe that reverting to the previous arrangements for close of roll seven days after the issue of the writ will protect the integrity of the roll. Coalition Members of JSCem in a dissenting report on the 2007 election stated our position clearly: *“The closure of the rolls seven days after the issue of a writ is a significant threat to the integrity of the electoral roll.”* This strongly remains the view of the Liberal Party.

Concerning prisoner voting, we believe that it is not necessary or desirable to go back to the previous three year provision. The High Court's judgment on this matter leaves the way open for some tightening of the previous provision, and so we advocate a one year rule instead. This position was expressed in the Coalition Members' dissenting report on the 2007 election: *"We acknowledge the High Court's decision in Roach, but we also note that the Court only gave a narrow decision in relation to a blanket exclusion, and did not seek to invalidate the general principle that the franchise may be removed from certain prisoners. It is the view of the Coalition that voting should be denied to those who are currently serving full-time custodial sentences of one year or longer."*

Electronic Enrolment

During the 2010 election campaign the Federal Court handed down a decision permitting the use of an electronic signature by a person applying to be placed on the electoral roll. The applicant used an enrolment website provided by the left-wing activist organisation Getup!. We draw the Committee's attention to this development as it may raise questions about protecting the electoral roll against attempts of fraudulent enrolment.

Redistributions

The timing of the 2010 redistribution of Federal boundaries in Victoria meant parties and the AEC were forced to dedicate considerable time and effort to the redistribution process in what was almost certain to be an election year. This in our view was highly undesirable.

With the redistribution triggered early in 2010, the boundaries could not be finalised until late in that year and it was clear the new boundaries could not therefore apply at the election.

In the event, the first draft of new boundaries was published in the middle of the 2010 campaign, which was of course being held on a different set of boundaries. The risk of confusion for the voting public, as well as the distraction and unnecessary diversion of resources this process required for the Commission and the parties in an election year, was considerable and unnecessary. It is difficult to understand what public interest was served by the redistribution taking place in 2010 rather than 2011.

While there is a provision in the Act that intends to prevent a redistribution occurring close to a forthcoming Federal election, this provision is clearly inadequate as it stands. We ask JSCEM to consider this matter as part of its current inquiry.

The Liberal Party believes the Act should be amended to ensure that there is never any possibility of a redistribution process happening in the third year of the life of a Parliament. We suggest that this can be achieved by amending the Act so that the direction to commence a redistribution cannot be given within one year and eleven months (not the present one year) before the date of expiration of a House of Representatives by effluxion of time. This would ensure that redistributions are triggered at the latest at the start of the second year of the life of a Parliament and that their outcome is in place by the end of that second year.

Party Names

It is important for the integrity of the electoral system that there is no uncertainty created for voters by a party registering under a name which can be confused with or thought to be related to the name of an existing party. The Act needs to contain strong provisions to stop this happening. We are opposed to any weakening of the present provisions of the Act in this regard, and submit there may be a need for strengthening the current provisions.

There was a technical recommendation from JSCEM in its report on the 2007 election - based on a recommendation from the AEC - for the removal from the Act of subsections 129 (d) and (da) which were added by Parliament in 2004 to try to strengthen the legislation. Since the impact of these subsections has not yet been fully tested in the courts, we do not believe they can be regarded as ineffective. We are firmly opposed to removing them.

Our long-standing concerns in this area have been reinforced by our experience with the Liberal Democratic Party at the 2010 election. It was a major disappointment to us that the AEC allowed the Liberal Democratic Party to gain registration under that name, as it seemed obvious to us that there would be a high risk of voter confusion between that party and ourselves. The election results in 2010 show that our concerns were well-grounded.

The LDP had contested the 2007 election as the Liberty and Democracy Party with LDP as its abbreviation. In 2010 it contested as the Liberal Democratic Party with the abbreviation Liberal Democrats (LDP). The inclusion of the word 'Liberal' in the party's name and abbreviation corresponded with a large increase in the LDP vote. In 2007 the LDP received an Australia-wide Senate vote of 0.13%. In 2010 its Senate vote was 1.81%, an enormous increase. With no campaign issues or publicity to reasonably explain this jump in vote, it is clear to us that confusion over the party's name led a great number of people to place a vote with the LDP when they intended to vote for the Liberal Party.

The Liberal Party formally requests JSCEM to review the current arrangements regarding the registering of party names, including the application of the amendments introduced in 2004, to ensure the intent of the 2004 changes to reduce voter confusion are applying in effect.

How-To-Vote Card Authorisation

Before the election the Act was amended to require authorisation details on how-to-vote cards of a specified nature and of a specified size. The Liberal Party strongly supported the principle underlying this change, as the need for it arose out of the misdeeds of the Labor Party at the South Australian state election in March 2010. Labor had distributed how-to-vote material which was designed to give the appearance that it was from Family First. This grubby deception was exposed, and it led to Federal Parliament legislating new requirements for Federal elections to be found in section 328B.

The section specifies the font size to be used. The principle that the authorisation can be readily seen by voters is important. However, we believe that the font sizes prescribed need adjusting. The font sizes currently outlined in the Act are impractically large for some sizes of card.

These requirements were not in force for the 2010 election, but will be in force at all future elections, if not amended. We sought to observe the spirit of them in designing our how-to-vote cards for the 2010 election. In the process of doing this, it became clear to us that the new requirements need a little variation to make them practical.

We therefore recommend that section 328B(2) be amended to require:

10 point, for how-to-vote cards smaller than A4;

12 point, for how-to-vote cards between A4 and A3 (inclusive);

16 point, for how-to-vote cards larger than A3.

Electoral Roll

We draw to the Committee's attention the emerging issue of a divergence between the Federal electoral roll and the electoral rolls of the States and Territories. This is arising because some States have legislated to have close of roll deadlines different from what is contained in the Federal Act and to have different enrolment procedures and methods of updating the roll. Divergent rolls unnecessarily add to potential voter confusion and have the potential to reduce the integrity of our electoral systems. The Liberal Party urges JSCEM to consider reviewing this development at future hearings.

Flights for Remote Polling

The AEC charters aircraft to carry its staff to remote locations in electorates such as Kennedy and Leichhardt to conduct mobile polling. It does not make seats on such aircraft available to scrutineers. Parties and candidates that wish to have scrutineers present at the mobile polling have to charter their own aircraft. This is a significant cost burden. The Liberal Party has asked the AEC to consider making available at future elections any spare seats on its charter flights for scrutineers at a commercial-equivalent price. The support of JSCEM for this modest initiative by the AEC would be welcomed by all parties.