



Jon Stanhope MLA

CHIEF MINISTER

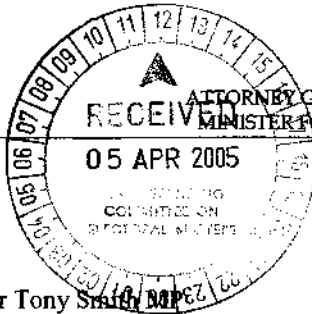
ATTORNEY GENERAL MINISTER FOR THE ENVIRONMENT

MINISTER FOR ARTS, HERITAGE & INDIGENOUS AFFAIRS

MEMBER FOR GINNINDERRA



FAXED



Joint Standing Committee on Electoral Matters	
Submission No.	119
Date Received	5-14-05
Secretary	[Signature]

Mr Tony Smith
Chairman
Joint Standing Committee on Electoral Matters
Parliament House
CANBERRA ACT 2600

Dear Mr Smith

Thank you for your letter of 15 February 2005 seeking a submission to the Commonwealth Parliament's Joint Standing Committee on Electoral Matters concerning the Joint Committee's inquiry into the conduct of the 2004 federal election and matters related thereto.

I note the Committee's request for views "on the conduct of the election and, in particular, any areas where you may consider there is scope for improvement in the federal electoral system". I have also noted your comments on the ABC Radio "AM" program of 12 February 2005 concerning the issue of compulsory voting.

The ACT Government considers the conduct of federal elections to be a matter for the Commonwealth. Therefore this submission does not address any matters directly related to the conduct of the 2004 federal election.

However, the ACT Government has a direct interest in the joint electoral roll maintained by the Australian Electoral Commission in conjunction with the ACT Electoral Commission. It is this aspect of federal electoral matters that this submission addresses.

Under the ACT's *Electoral Act 1992*, the ACT electoral roll automatically includes anyone entitled to be on the Commonwealth electoral roll for an address in the ACT. As a result, any changes to the Commonwealth franchise entitlements or to requirements for electoral enrolment automatically apply to the ACT, unless the ACT Legislative Assembly specifically legislates otherwise.

The ACT Government is concerned with a number of proposed changes to the Commonwealth enrolment regime. These include possible further restrictions on the enrolment rights of prisoners; proposed closure of the electoral roll on the date of the issue of the writ for a federal election; and the effect of the possible introduction of voluntary voting on the compulsory enrolment scheme.

ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601

Phone (02) 6205 0104 Fax (02) 6205 0433



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Enrolment rights of prisoners

Prior to 2004, section 93(8) of the *Commonwealth Electoral Act 1918* provided that a person serving a sentence of five years or longer for an offence against the law of the Commonwealth or of a State or Territory was not entitled to electoral enrolment.

In 2004 the Commonwealth Government proposed through the Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004 to remove the right to vote for all prisoners, regardless of the length of sentence. During debate on the legislation in the Senate on 25 June 2004, a number of amendments moved by the Federal Labor Opposition were carried and subsequently accepted by the Commonwealth Government. As a consequence the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* amended the *Commonwealth Electoral Act* to provide that a person serving a prison sentence of three years or longer was not entitled to electoral enrolment.

Within the ACT, the ACT's *Human Rights Act 2004* requires a range of human rights to be taken account of in the Territory's legislation. Two relevant rights enshrined in the *Human Rights Act* include the right to enjoy human rights without any discrimination of any kind (section 8), and the right to vote at periodic elections (section 17).

The ACT Government would be particularly concerned if the *Commonwealth Electoral Act* was further amended to remove the right to enrol and vote from all persons serving a prison sentence regardless of the length of the sentence. This would be an unduly harsh penalty for persons serving very short sentences. It could also lead to absurd situations, such as denying the right to enrol to persons serving a short sentence for failure to vote.

Closure of the electoral roll on the date of the issue of the writ for a federal election

Under the current *Commonwealth Electoral Act*, the electoral rolls for a federal election close seven days after the issue of the writ for a federal election. In the ACT, rolls close seven days after the commencement of the pre-election period, under the ACT's fixed-term election arrangements.

Before the 2004 federal election, the Commonwealth Government made an unsuccessful attempt to reduce the time between the issue of the writ and the close of the rolls.

The Commonwealth Government's Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004 included a measure that would have allowed for the close of rolls for new electors to be 6.00 pm on the day on which the writ for an election is issued, and 8.00 pm three working days after the issue of the writ for those amending their enrolment details. This measure was not passed into law as it was rejected by the Senate.

The ACT Government is concerned that this proposal, if enacted, would significantly degrade the quality and accuracy of the national electoral roll. As a result, it would also degrade the quality and accuracy of the ACT's electoral roll.

Statistics provided by the Australian Electoral Commission indicate that, in the week before the close of rolls for the 2004 election, there were over 270,000 additions to the roll, including over 70,000 new enrolments. There were an additional 103,893 transfers within electoral divisions. Earlier closure of the rolls with little or no notice would inevitably lead to many thousands of eligible people not being enrolled at all, and many more thousands being enrolled for an incorrect address. It is worth noting that the motivation for the current seven day period between the issue of the writ and the close of the roll was the experience of the 1983 election, when the rolls closed one day after the election was announced, disenfranchising many thousands of eligible people.

The Commonwealth Government's argument for making this change is that it will allow the Australian Electoral Commission sufficient time to verify the applicant's details and thereby maintain the integrity of the roll. Supporters of this proposal claim that electors should maintain their enrolment up to date at all times, as this is a legal requirement.

The ACT Government considers that this argument is flawed, as it is well known that many people do not apply for or update their enrolment until prompted to do so by the announcement of an election, despite the best efforts of the electoral authorities to persuade people to enrol earlier. To deny people a reasonable opportunity to enrol after the announcement of an election will lessen the integrity of the roll, not strengthen it, as this approach would be bound to lead to a less accurate roll.

Voluntary voting

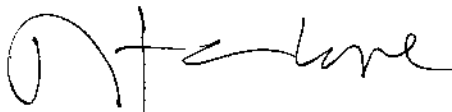
The ACT Government supports the current Commonwealth and ACT compulsory voting provisions and would be opposed to any proposal to introduce voluntary voting for federal elections.

Compulsory voting is a well-established, popular feature of the Australian electoral process. It ensures that election results are representative of the general population.

A move to voluntary voting at the federal level would be bound to degrade the quality and accuracy of the electoral roll. It is unlikely that electoral authorities would be successful in persuading all eligible citizens to enrol if voting is voluntary, even if compulsory enrolment was maintained. This would in turn have an impact on the ACT electoral roll even if the ACT retained compulsory voting.

It should be noted that section 67B of the *Australian Capital Territory (Self-Government) Act 1988* provides for compulsory enrolment for ACT Legislative Assembly elections and that compulsory voting for ACT elections is entrenched under the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*.

Yours sincerely



Jon Stanhope MLA
Chief Minister

21 MAR 2005