

Submission by the Liberal Party of Australia
to the Joint Standing Committee on Electoral Matters
Conduct of the 2001 Federal Election

The Liberal Party of Australia welcomes this opportunity of putting its views to the Joint Standing Committee on Electoral Matters with regard to the conduct of the 2001 federal election. As always with our submissions to the Committee, we will be happy to provide witnesses to give evidence in person in support of this submission.

Powers of Presiding Officers

A situation arose on election day in the seat of Petrie in Queensland where the how-to-vote card for the Australian Democrats incorrectly identified the Greens candidate as an independent. The Liberal Party successfully argued that this card was misleading and the then Australian Electoral Officer for Queensland asked the Democrats to stop distributing the offending card. Liberal Party workers at polling booths in Petrie found that the Democrats were continuing to distribute the cards and approached the presiding officers at the booths. The presiding officers, however, said that they had no power to demand that Democrat workers cease distributing these how-to-vote cards. The then Australian Electoral Officer confirmed that the presiding officers had no power in this regard.

The Petrie occurrence is by no means an isolated incident. The issue arose similarly, for example, at the Ryan by-election in early 2001.

We raise the matter with this Committee, as there may be a gap in the authority of the staff of the Australian Electoral Commission to prevent the distribution of misleading material at polling booths.

Accuracy of the Electoral Roll

We have in a number of submissions over the years drawn attention to problems with the accuracy of the electoral roll. We have welcomed previous recommendations from the Committee urging the introduction of reforms to deal with this. Specifically, we welcomed the action by the Government to introduce legislation and regulations to enable new enrollees to be required to provide evidence of identification.

We deplore the action by the Labor Party and others in the Senate of disallowing the regulations. We deplore the resistance of state and territory Labor Governments to the introduction of such a requirement. That identity requirement would be a significant help in enhancing the integrity of the electoral roll and in enhancing public confidence in the integrity of the electoral roll. We continue to urge the adoption of this reform.

Clearly, despite the public exposure of Labor Party rotting involving the electoral roll, Labor is as resistant as ever to serious reform.

There have also been other measures recommended by this Committee which are now embodied in the Electoral and Referendum Amendment (Roll Integrity and Other Measures Bill) 2002. We urge the Parliament to pass that bill in its entirety.

As a reminder of the continuing need for improvement to the accuracy of the roll, we draw the Committee's attention to the experience of Mr Jim Lloyd MP, who represents the seat of Robertson in New South Wales. He reports that his first mailout after the 2001 election of letters to new constituents brought a 'Return to Sender' rate much higher than he had experienced before. Usually, about 1 in 1,000 of these letters are returned, a rate of about 0.1%. However, on this occasion a rate of 10% (60 of 600) was returned. When this matter was drawn to the attention of staff of the AEC, advice was offered that this was the result of provisional voters being returned to the roll after the election.

This then points up the difficulties with the system of provisional votes as presently administered and raises the issue of voters not entitled to vote in a seat in fact doing so by means of falsely claiming a provisional vote.

Mr Lloyd advises, as an example of his concern, a telephone call received from constituents who had accurately enrolled after moving to the seat twelve months before the election. The constituents had received a 'new constituent' letter at their home, addressed to the former owner of their home, a landlord who had owned the property as an investment and had never lived there. Yet in the 2001 election he was returned to the roll and his vote in a seat in which he had never resided was accepted.

Proposal for AEC Mailout to All Electors

As one part of action to deal with the continuing problems with the integrity of the electoral roll, we propose that the AEC should be required to mail a personalised letter to every person on the roll at a time no more than 12 months before the likely date of the next general election. This

would be a significant help in cleaning up the roll when all the undelivered letters returned to the AEC are followed up.

Push Polling by ALP

An area of concern in the election campaign was the behaviour of the Australian Labor Party in conducting push polling. Clear evidence of this came to light.

As Federal Director Lynton Crosby told the National Press Club on 21 November 2001, "Labor extensively push polled. They rang people in their homes and told them lies about the GST and about Telstra. We received hundreds of calls of complaint about this tactic."

It is time that fines are imposed on parties and companies that engage in push polling.

At present there is no constraint on either contractors or the people who engage them to verify their claims. One way to expose this activity would be to require all those undertaking advocacy calls in conjunction with an election campaign to release their scripts publicly. This is a procedure undertaken by the Liberal Party with issuing of a script prior to advocacy calls being made.

Radio Advertising

Labor in the 2001 campaign ran some disgraceful radio advertisements making false claims including about tax reform and Telstra. They ran these on radio because these advertisements would not have been allowed to go to air on television. It is time that radio advertising became subject to the same standards as television advertising.

Trade Practices Act

There is a need for clarification as to whether the Trade Practices Act's provisions relating to misleading and deceptive conduct apply to broadcasting, when it seems that the Federation of Australian Commercial Television Stations believes that they do while the Australian Competition and Consumer Commission believes that they do not.

Voter Information

A provision in the Electoral Act passed by the Victorian Parliament recently (section 123) allows for registered parties and independent MPs to obtain on request the names and addresses of electors who voted (other than silent electors and itinerant voters), whether they voted

personally or by post, and, if they voted at a voting centre for the electoral district for which the electors were enrolled, the location of that voting centre. Such information may only be used in connection with an election.

This is a useful provision which aids the work of parties and members, and it would be worthwhile for the Commonwealth Act to contain a similar provision.

Newsletter Difficulty during Campaign

We want to put on record a situation of confusion caused for parties and candidates by the AEC during the election campaign. The then AEO for Queensland, Mr Bob Longland, sent to all Queensland newspapers on 8 October 2001 a letter giving a general reminder of the need to use the term "advertisement" on electoral matter. This letter caused considerable confusion concerning newsletters inserted into community newspapers, since it failed to clarify whether the AEC was defining such inserts as journals. If a journal, the insert would have needed to bear the word "advertisement" in 10 point type or larger (section 331 of the Commonwealth Electoral Act). Parties have traditionally regarded such inserts as pamphlets and thus only needing to meet the authorisation requirements of section 328. Given the uncertainty caused by the AEC letter, at least one newspaper organisation decided not to proceed with an order of electoral newsletters.

The confusion was only resolved by the AEC 11 days later in a letter to Federal Director Lynton Crosby. The advice now was that such inserts, as long as they were not paginated as part of a newspaper, were not journals and so did not need the heading of "advertisement". This uncertainty came at a crucial time for parties and candidates seeking to communicate with electors. It was completely avoidable, but it revealed an AEC insensitivity to the practical needs of parties and candidates at this point in the campaign.

Timeliness of AEC Responses

It is important that the AEC is clear in its communications and timely in its responses. I do want to record some concern about the AEC's failure to respond during the election campaign to all campaign-related letters that went from the Liberal Party campaign headquarters to the AEC. 14 letters were sent during the campaign to the AEC formally raising various matters on which AEC advice/action was sought. For only 4 of these were written responses from the AEC received before election day. An election campaign is the time when a party's need for prompt advice from the AEC is at its highest. It is of course also the time of greatest

pressure on the AEC in carrying out its functions, but being able to deal with issues raised by parties and candidates promptly is an integral part of the task of the AEC in an election campaign.

Requirements for Special Hospitals/Electoral Visitors

Parties receive many questions from candidates and members of the public about the details for the voting arrangements at those institutions declared to be special hospitals under section 225. It would be very helpful for the AEC to publish, perhaps in its Electoral Backgrounder series, a full statement of how the arrangements for these special hospitals operate.

Loudspeakers at Polling Booths

One matter that arose late in the campaign was the suggestion that another party may have been planning to set up CD players or other forms of loudspeaker equipment near polling booths, even if more than 6 metres from the entrance, and use them to play pre-recorded electoral material, which would of course be heard by voters when less than 6 metres from the entrance. Such an activity may well be regarded as being a breach of the spirit of the Act and perhaps of the letter of the Act as well. A clarification of the position under the present law as to whether this activity is permitted would be helpful, and may lead then to consideration of whether any change to the law is needed.

Role of the AEC

The Committee should give consideration to the role of the Australian Electoral Commission and consider the desirability of some fundamental reform. Recent history has shown both the problems the AEC has had with regard to the integrity of the electoral roll and the inability of the AEC to act adequately to deal with unauthorised material being circulated or other such breaches of the Commonwealth Electoral Act. Serious consideration needs to be given to splitting the AEC and having two separate bodies, one to maintain the electoral roll and one to run elections.