Submission

No 13

Review of the Parliamentary Electorates and Elections Act 1912 and the Election Funding, Expenditure and Disclosures Act 1981

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1) That the Joint Standing Committee on Electoral Matters conduct a comprehensive review of the *Parliamentary Electorates and Elections Act 1912* ("the PE&E Act") (excluding Part 2) and the *Election Funding, Expenditure and Disclosures Act 1981* (the "EFE&D Act").

This review should have been undertaken in time for a new electoral regime to be legislated for the 2012 Local Government Elections. The recent changes made to the respective acts have made elections more complicated than necessary.

URGENT completion of the enquiry by 30 June should be considered.

2) The Committee is to consider whether the Acts should be amended or rewritten to promote free, open and honest elections in New South Wales.

This goes without saying. Current legislative, administrative and funding bias and practice to promote the electoral interests of established major parties actively prevents “free, open and honest elections in New South Wales” and causes unnecessary expense and waste and does nothing to inform electors of the process, policies or outcomes of elections.

3) In its review of the PE&E Act, the Committee is to inquire into and report to Parliament on the following matters:

a) whether the terms and structure of the PE&E Act remain appropriate having regard to changes in electoral practices and the nature of modern political campaigning;

Technology – that continues to rapidly change – has the ability to enable more people to legitimately and easily participate more effectively and without interference of third parties.

b) the role and functions of the New South Wales Electoral Commission;

The Commissioner is hopelessly compromised by his own perception of the legislative limitations, funding, enforcement and rightful liberties that his position should (and may well already) be afforded.

Unfortunately, the current Commissioner, in statements made to earlier Inquiries and pronouncements via his staff, has lost any confidence as an independent agent and is

committed to a two party state and the financial stability of the existing party structures. This makes his continued role untenable.

c) whether existing provisions regarding the entitlement to enrol and vote in New South Wales elections are appropriate;

In ongoing discussions with the State Electoral Commissioner and his delegated service provider, the Federal Electoral Commissioner, the KPI they seek is the maximisation of enrolled voters, irrespective of the validity of such registrations or the accuracy of enrolment details. Essential requirements relating to address are generally of no consequence to the Commissioners.

This 'official' view also compromises the validity of candidates and the incapacity of the said officials in preventing and remedying fraudulent activities.

d) the effectiveness of amendments made by the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* to facilitate automatic enrolment for the NSW elections;

Again, the emphasis is on enrolments and hopefully may improve accurate residential rolls that can deal with a highly mobile population.

e) whether existing provisions relating to pre-poll voting, postal voting and other forms of voting remain appropriate;

There remains constitutional issues as to whether these forms of voting have ever been appropriate, however, the significant increase in pre-poll voting is now providing a sizable distortion where in excess of 10% of an electorate can cast a vote prior to the completion of campaigns, independent scrutiny/challenges to rolls and late breaking news such as a change in candidate policy or alliances. We effectively have more people participating in a multi-day election and provide more opportunity to avoid effort in a collective response and duty being exercised in unity.

The demands of an extended pre-poll campaigning element on individual (independent) candidates further disenfranchises candidates and voters beyond the major parties or the 'well heeled.'

Modifications that now allow postal or provisional votes to be irrevocably placed with others prior to full scrutiny of entitlement is a retrograde step.

f) whether the PE&E Act provides appropriate voting options for electors with a disability and rural and remote electors;

The requirement for any and all voters to make a conscious decision to ‘go and vote’ may require greater levels of discipline and convenience for some. Rural and remote electors are no different to busy parents who have sports or work demands on polling day or can only shop on weekends.

The varieties of disabilities – from plain ageing issues through to more serious physical impairments such as sight, hearing, wheelchair etc - do require some integration of alternative technology and administrative responses. Actions to date by the electoral authorities to cater for these demands is to be commended, but, special variations to normal voting practice – at a booth on election day – should remain exceptional.

g) those provisions of the *Local Government Act 1992* ***(1993??!!)*** that relate to local government elections and that are administered by the Electoral Commissioner under section 21AA(2) of the PE&E Act;

The outdated ‘sampling’ method of distributing excess votes after a quota has been achieved needs to be revised as the Commissioner now spends considerable sums electronically keying in each actual vote and distribution.

h) whether the offences and penalties prescribed by the PE&E Act remain appropriate; and

i) any other matter relating to the administration of state and local government elections under the PE&E Act.

4) In its review of the EFE&D Act, the Committee is to consider the following matters:

“The disclosure regime under the Election Funding Act is based on the principle that the integrity of the electoral system can be preserved despite the presence of private contributions if the public is made aware of the sources of such contributions…”

This delusional statement - from the Department of Premier and Cabinet - sums up the errors of our electoral system.

The EFE&D Act is a complete waste of time and misconstrues the potential for proper public funding and administration of elections. The bastardisation of the education funds and the administration of the act is laughable.

a) whether the terms and structure of the EFE&D Act remain appropriate having regard to changes in electoral practices and the nature of modern political campaigning;

The increase burden of disclosure does nothing to improve the bastardisation of the current electoral system.

b) the role and functions of the Election Funding Authority of New South Wales;

These border on both the comic and the criminal.

c) the operation and effectiveness of recent campaign finance reforms including the *Election Funding Amendment (Political Donations and Expenditure) Act 2008*, the *Election Funding and Disclosures Amendment (Property Developers Prohibition) Act 2009*, and the *Election Funding and Disclosures Amendment Act 2010*; and

Who is checking?

d) the recommendations made by the Committee following its 2010 inquiry into the public funding of local government election campaigns.

The proposals are not the public funding of an election but the reimbursement of electoral expenses.

An alternative model is proposed and will be distributed separately.

G J Briscoe-Hough