

Local Body Election Practices

Terms of Reference

In 1974 the Commission was asked to consider and report on:

- (a) whether s 143 of the *Local Government Act 1960* (WA) ("the Act") should be extended to cover printed materials at present excluded from its ambit;
- (b) the extent to which access should be restricted to copies of local body electoral rolls which have been marked to indicate who voted; and
- (c) Whether s 140 of the Act should be amended to expressly include within the definition of bribery, the transport of an elector to and from a polling place by a candidate or his supporter, with a view to influencing the elector's vote.

Background of Reference

In respect to the matter set out in (a) above, the purpose of s 143 of the Act was to enforce mandatory disclosure of the name of the person printing or authorising an electoral advertisement, handbill or pamphlet. The Commission's attention was drawn to two articles in periodicals which might have had the effect of promoting candidates for local body elections but which did not appear to be subject to the provisions of s 143.

The Commission was asked to specifically look into the issues contained in (b) above, following a complaint made to the Minister for Local Government that sitting councillors had access to electoral rolls after they had been used in local government elections and had been marked to show which persons had voted. It was claimed that this gave sitting councillors an advantage when campaigning in subsequent elections.

With regard to (c) above, s 140 of the Act lists the acts that constitute bribery. This section did not include the provision of transport for voters, which was a widespread practice.

Nature and Extent of Consultation

In July 1975 the Commission issued a working paper that discussed the issues involved. This was sent to judges of the Supreme and District Courts, local council associations and institutes, local councils, the University of Western Australia, the Law Society of Western Australia, relevant government departments and law reform agencies in other jurisdictions. A notice was also placed in *The West Australian* inviting anyone interested to obtain a copy of the paper and submit comments. The Commission received 18 submissions in response to the working paper. After considering the comments the Commission delivered its final report in October 1975.¹

Recommendations

In summary, the Commission recommended that:

- The scope of s 143 should be broadened to provide that any letters and articles concerning forthcoming elections, regardless of whether they are published in a newspaper or not should have the name and address of the person authorising publication. If the letter or article is published elsewhere than in a newspaper it should also include the name and address of the printer.
- Access should not be further restricted to electoral rolls.

¹ Law Reform Commission of Western Australia, *Local Body Election Practices*, Project No 52 (1975).

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- Electoral rolls should be kept for two years.
- No change should be made to s 140 of the Act.

A comprehensive outline of the Commission's recommendations may be found at pages 5–9 of the final report.

Legislative or Other Action Undertaken

In 1995 the Government enacted the *Local Government Act 1995 (WA)* as part of a comprehensive reform of local government. This Act incorporated the first recommendation of the Commission, regarding the authorisation of electoral materials. No provision was included to ensure that election rolls are retained for two years. However, Parliament stated a clear intention that each local council be authorised to make regulations concerning the disposal or retention of electoral material.²

² *Local Government Act 1995 (WA)*, s 4.84.