

12th May 2010

The Chair
Electoral Legislation Select Committee
Parliament

WELLINGTON

ELECTORAL REFERENDUM BILL

1. This submission on the Electoral Referendum Bill is made by the Legislation Advisory Committee (LAC).
2. The LAC was established to provide advice to Government on good legislative practice, legislative proposals, and public law issues. The LAC produces and updates the LAC Guidelines adopted by Cabinet as appropriate benchmarks for legislation.
3. The LAC was established in February 1986 by the Minister of Justice. The terms of reference of the LAC include:
 - (a) to scrutinise and make submissions to the appropriate body or person on aspects of Bills introduced into Parliament that affect public law or raise public law issues;
 - (b) to help improve the quality of law making by attempting to ensure that legislation gives clear effect to government policy, ensuring that legislative proposals conform with the LAC guidelines, and discouraging the promotion of unnecessary legislation.
4. The LAC does not seek to be heard on this submission.
5. In this submission the LAC wishes to raise only one point. It relates to clauses 44 and 49 of the Bill.

6. Clause 44 provides:

44 Purposes of register

The purposes of the register are-

- (a) to enable members of the public to-
 - (i) identify registered promoters; and
 - (ii) find out the name and contact address of a registered promoter; and
- (b) to assist with the enforcement of the provisions of this Part.

Clause 49 provides:

49 When search constitutes interference with privacy of individual

A search of the register for personal information that has not been carried out for a purpose specified in **section 44** constitutes an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.

- 7. It is submitted that cl 49 is effectively meaningless. It would be different if the Bill provided that the register could only be searched for a number of specified secondary purposes, as is the case with a number of statutory registers. For example the Dog Control Act 1996 s35, provides that a person is only entitled to obtain the name and address of a dog owner for a limited number of purposes, for example in order to return the dog to its owner, or to advise of the dog's destruction.
- 8. However in the case of the register set up by this Bill clause 44 specifies no secondary purpose. The purpose of a search by a member of the public under clause 44(a) is simply to discover the names and addresses of registered promoters. It would be difficult to conceive of any search that, in terms of clause 49, "has not been carried out for [that] purpose." Clause 49 is a standard form provision which appears in a number of recent bills, but makes no sense in the context of the present bill.
- 9. We thus submit that clause 49 is effectively meaningless, and should be deleted.

Thank you for your consideration of this submission.

John Burrows
Member, Legislation Advisory Committee

