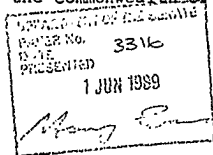


Parliament of the Commonwealth of Australia



THE 1987 FEDERAL ELECTION

Report Number 3 of the
Joint Standing Committee on Electoral Matters

May 1989

INQUIRY INTO THE CONDUCT OF THE 1987 FEDERAL ELECTION AND 1988 REFERENDUMS

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3. Replaced Mr Peter Shack, MP on 25 May 1988
4. Replaced Senator John Coulter on 25 November 1988

TERMS OF REFERENCE

On 28 October 1987 the Minister for Home Affairs, Senator the Hon. Robert Ray, gave the Committee a reference to inquire into and report upon:

All aspects of the conduct of elections for the Parliament of the Commonwealth and matters related thereto, including:

- (i) legislation governing, and the operation of, the Australian Electoral Commission,
- (ii) the provision of 'free' time on radio and television for political messages during election periods,
- (iii) the provisions of the Commonwealth Electoral Act 1918 concerning the defamation of candidates for election, and
- (iv) tax deductibility of political donations.

On 31 August 1988 the above reference was widened by the Minister with the requirement that the Committee inquire into and report upon:

All aspects of the conduct of elections for, or votes on behalf of, the Parliament of the Commonwealth and matters related thereto, including:

- (i) the legislation governing, and the operation of, the Australian Electoral Commission;
- (ii) the provisions and operation of the Commonwealth Electoral Act 1918; and
- (iii) the provisions and operation of the Referendum (Machinery Provisions) Act 1984.

This Report is concerned primarily with the conduct of the 1987 federal election, item (i) the legislation governing, and the operation of, the Australian Electoral Commission and item (ii) the provisions of the Commonwealth Electoral Act 1918.

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PREFACE

The 1987 Federal election highlighted a number of problem areas in the Electoral Act and its administration.

The task of reviewing these problem areas has been ideally suited to the Joint Standing Committee on Electoral Matters because it is a joint committee of the Commonwealth Parliament with its membership including those from all parties and independent Senator Brian Harradine.

One of the problem areas examined is the need for candidates to be Australian citizens. During the 1987 election this was given publicity by the case of former Senator Robert Wood who believed himself to be an Australian citizen but was found by the High Court not to be so.

The election became a focal point for those concerned about the integrity of the electoral system with allegations of cemetery voting and multiple voting being made. The Inquiry's examination of these issues has led to recommendations aimed at restoring confidence in the electoral system. Some of the other issues examined have been of a somewhat mundane nature, but in the final analysis they are of no less importance in the achievement of an efficient and fair electoral system.

This Report continues a tradition of reforming and refining the Australian electoral system begun by the Joint Select Committees on Electoral Reform of the 33rd and 34th Parliaments. The Report contains some dissenting comments but for the most part is unanimous in its recommendations. As such, it is a strong statement of the changes needed to the Australian electoral system.

The Committee gratefully acknowledges the assistance given to it during the Inquiry by individuals and organisations that provided written submissions and gave evidence. The Committee is also grateful for the assistance provided by the Electoral Commissioner, Dr Colin Hughes, and his staff and for the work undertaken by the staff of the Parliamentary Library, and the Parliamentary Reporting Service. The Committee particularly thanks Denise Denahy, Helen Misa, Trevor Rowe and Lexia Noakes, for the support they have given to the Inquiry.

RECOMMENDATIONS

Chapter 3

1. The Administrative Appeals Tribunal continue to review enrolment decisions for all States including joint roll States. (Paragraph 3.11)
2. The Minister for Administrative Services approach State governments with a view to having the review of all enrolment decisions undertaken by the Administrative Appeals Tribunal. (Paragraph 3.12)
3. Section 102(1)(b)(v) of the Commonwealth Electoral Act 1918 be deleted to enable streamlined processing of enrolment cards. (Paragraph 3.15)
4. The Commonwealth Electoral Act 1918 be amended so that all persons who change their address are required to notify the Australian Electoral Commission and thereby change their address on the Electoral Roll. (Paragraph 3.15)
5. Section 176 of the Commonwealth Electoral Act 1918 be amended so that a candidate who has a silent enrolment may be exempt from having his or her address published. (Paragraph 3.21)
6. The Commonwealth Electoral Act 1918 be amended to provide Senators and Members of the House of Representatives with a choice of recording either their enrolment address or place of residence when completing a nomination form. (Paragraph 3.25)
7. The Commonwealth Electoral Act 1918 be amended so that candidates endorsed by a party can authorise, by means of a standard letter formulated by the Australian Electoral Commission, their respective Registered Officer or Deputy Registered Officer to nominate them as candidates for elections for the House of Representatives. (Paragraph 3.31)

8. The Commonwealth Electoral Act 1918 be amended so that the Registered Officer or Deputy Registered Officer of a party may lodge the nominations for all candidates in a State or Territory endorsed by the party with the Australian Electoral Officer for each State or Territory up to 48 hours before the close of nominations. (Paragraph 3.31)
9. The Commonwealth Electoral Act 1918 be amended so as to provide for nominations to be forwarded by facsimile to either Divisional Returning Officers or the Australian Electoral Officer in each State. Nominations made by facsimile must be received 48 hours before the close of nominations in the case of Australian Electoral Officers and up until the close of roll in the case of Divisional Returning Officers. (Paragraph 3.34)
10. The Commonwealth Electoral Act 1918 be amended so as to:
- a) define those classes persons who hold an office of profit under the Crown; and
 - b) state the requirement for such persons to resign their office before nominating for election to the Parliament of the Commonwealth. (Paragraph 3.55)
11. Those people affected by the requirement to resign from an office of profit under the Crown before nominating for election to the Parliament of the Commonwealth, for which they are subsequently unsuccessful, have their employment and entitlements protected by suitable legislation. (Paragraph 3.55)
12. The nomination forms used by the Australian Electoral Commission be revised so that candidates are required to declare their eligibility to nominate in terms of all the eligibility criteria. (Paragraph 3.61)

13. Candidates completing a nomination form and claiming to be an Australian citizen state:
- a) how they became Australian citizens (that is either by birth or naturalisation); and
 - b) if the candidates were naturalised, where and when the naturalisation took place. (Paragraph 3.61)
14. Section 339 of the Commonwealth Electoral Act 1918 be amended so that any person making a claim in his or her nomination form which is false or misleading in material respect shall be subject to a maximum penalty of \$3,000 and/or imprisonment for 6 months. (Paragraph 3.64)
15. The Australian Electoral Commission take all possible steps to inform prospective candidates and candidates of the penalties to which they are subject for recording false or misleading claims on their nomination forms. (Paragraph 3.66)
16. Penalties for the recording of false or misleading claims on nomination forms be printed on nomination forms. (Paragraph 3.67)
17. The Commonwealth Electoral Act 1918 be amended so as to provide for the completion of a modified electoral enrolment form at the time a person applies for Australian citizenship. (Paragraph 3.89)
18. Consequent upon the Commonwealth Electoral Act 1918 being so amended, the Australian Electoral Commission and the Department of Immigration, Local Government and Ethnic Affairs act in conjunction to implement a system of enrolment for those persons applying for citizenship, the system to be that described in paragraphs 3.85 - 3.87 of this Report. (Paragraph 3.89)

19. The Australian Electoral Commission amend the electoral enrolment form so that it contains questions which ask:
- (a) how a person became an Australian citizen; and
 - (b) if the person is naturalised, where and when the naturalisation took place.
(Paragraph 3.97)
20. The Australian Electoral Commission conduct regular random checks of those electoral enrolment forms completed by persons born overseas and claiming to be Australian citizens. (Paragraph 3.100)
21. The Australian Electoral Commission and the Department of Immigration, Local Government and Ethnic Affairs work in conjunction to formulate and implement a system of checking the citizenship of persons born overseas and seeking to be added to the Electoral Roll.
(Paragraph 3.100)
22. The Commonwealth Electoral Act 1918 be amended so as to provide that electors can only once be restored automatically to the Commonwealth Electoral Roll after they have been removed by habitation review. Such electors may then only be added to the Electoral Roll by means of completing an electoral enrolment form.
(Paragraph 3.111)
23. The Australian Electoral Commission ensure that an accurate record is maintained of all voters who, at the time of an election, claim a declaration vote for an address for which they are not enrolled but for which they claim to have been enrolled at a previous election. Such a list should be publicly available.
(Paragraph 3.113)
24. Nomination forms be amended to require candidates to state their membership of any registered political party. (Paragraph 3.122)

25. There be a penalty for a candidate failing to state his or her membership of any registered political party on a nomination form. The penalty to be \$6,000. (Paragraph 3.122)

Chapter 4

26. The Commonwealth Electoral Act 1918 be amended to permit licensed premises to be used as polling places subject to the Electoral Commissioner being satisfied that:
- a) no liquor will be sold or consumed on that part of the premises being used for polling;
 - b) the part of the premises to be used for polling is segregated from areas where alcohol is being sold or consumed; and
 - c) voters have easy access to the part of the premises to be used for polling which does not involve passage through an area where alcohol is being sold or consumed. (Paragraph 4.5)
27. The Australian Electoral Commission make every effort to ensure cardboard screens and ballot boxes are recycled. (Paragraph 4.13)
28. The Australian Electoral Commission's program for the training of relevant polling staff be modified to give additional emphasis to the assembly and emptying of cardboard ballot boxes. (Paragraph 4.19)
29. The Commonwealth Electoral Act 1918 be amended or a regulation be made so that the prompt, **PLEASE READ THE INSTRUCTIONS BEFORE YOU VOTE,** appears in bold type on all ballot papers. (Paragraph 4.26)
30. Section 211A(8) of the Commonwealth Electoral Act 1918 be amended to allow the name of a candidate who is using s.211A(1) or s.211A(2) to be recorded along with the word 'Independent' in the top portion of the Senate ballot paper. (Paragraph 4.31)

31. Prior to the next federal election the Australian Electoral Commission introduce a system of double enveloping or an appropriately designed, ready-to-assemble envelope for the purpose of postal voting. (Paragraph 4.42)
32. Australia Post make arrangements to receive and postmark all mail addressed to the Australian Electoral Commission or officers of the Australian Electoral Commission and lodged at Post Offices up until 5.00pm on the Friday immediately preceding an election. This includes mail lodged in locked mail bags. (Paragraph 4.49)
33. The Australian Electoral Commission provide full information to postal voters on the procedures for making postal votes including arrangements made by Australia Post. (Paragraph 4.49)
34. The Commonwealth Electoral Act 1918 be amended so that mobile polling stations at federal elections become polling places for the purposes of registration of general postal voters. (Paragraph 4.56)
35. The Australian Electoral Commission develop and implement a charging policy to apply to media organisations for their access to, and usage of, the National Tally Room wherever and whenever it is set up for elections of the Parliament of the Commonwealth. (Paragraph 4.63)
36. The Commonwealth Electoral Act 1918 be amended to allow for a second scrutiny of all declaration votes which have been rejected at the first scrutiny. (Paragraph 4.69)
37. An infringement notice system be introduced to replace the present system of enforcement of compulsory voting. (Paragraph 4.80)

Chapter 5

38. The Commonwealth Electoral Act 1918 be amended to extend the definition of 'electoral advertisement' to cover video material.
(Paragraph 5.4)
39. The Australian Electoral Commission ensure newspaper publishers are fully aware of the provisions of s.328 and s.331 of the Commonwealth Electoral Act 1918.
(Paragraph 5.13)
40. Section 328 of the Commonwealth Electoral Act 1918 be amended so that newspaper advertisements appearing as double page advertisements carry authorisation details on both pages of the advertisement unless the advertisement extends across the two pages and is contained within one box or is printed across the seam of the two pages in which case only one authorisation statement need be printed. (Paragraph 5.18)
41. Section 328 of the Commonwealth Electoral Act 1918 be amended so that business cards which promote a person's candidacy for election to the Parliament of the Commonwealth be exempt from the requirement to display authorisation details. (Paragraph 5.21)
42. Section 328(3) of the Commonwealth Electoral Act 1918 be amended so as to add to the category of material that do not require authorisation under subsection (1), letters and cards (other than how-to-vote cards) which are marked with the name and address of the sender so as to make it clear who is responsible for the material. (Paragraph 5.24)
43. Section 351 of the Commonwealth Electoral Act 1918 be amended so as to delete the requirement to prove a matter is published on behalf of any association, league, organisation or other body of persons.
(Paragraph 5.31)

44. Section 351(3) of the Commonwealth Electoral Act 1918 be amended so as to provide that the person whose name is printed as the authoriser of a how-to-vote card is deemed to be the publisher. (Paragraph 5.31)

Chapter 6

45. The Commonwealth Electoral Act 1918 be amended so as to provide for the distribution to each candidate, as soon as practicable after the close of rolls, one copy of the certified list of voters for the Division in which the candidate seeks election. (Paragraph 6.10)
46. The Commonwealth Electoral Act 1918 be amended so as to provide that after an election for the Senate or a Division or Divisions of the House of Representatives, each Member of the House of Representatives be given three copies of the certified list of voters used in his or her Division for the election. (Paragraph 6.10)
47. The Commonwealth Electoral Act 1918 be amended so as to provide that after each election for the Senate or the House of Representatives each Senator be provided with one copy of the certified lists for his or her State or Territory. (Paragraph 6.10)
48. For the next federal election the Australian Electoral Commission conduct a thorough examination of those persons added to the rolls of two marginal Divisions before the election and those persons deleted from the rolls of the same Divisions after the election. One Division shall be a Government held Division and the other an Opposition held Division. (Paragraph 6.13)
49. Subsections 191(1) and 191(2) of the Commonwealth Electoral Act 1918 be repealed. (Paragraph 6.21)
50. Subsections 64(1) and 64(2) of the Referendum (Machinery Provisions) Act 1984 be repealed. (Paragraph 6.21)

51. Proposed ss. 191(1), 191(2), 200H(1) and 200H(2) of the Commonwealth Electoral Act 1918 and proposed ss. 64(1), 64(2), 73G(1) and 73G(2) of the Referendum (Machinery Provisions) Act 1984 which are contained in the Electoral and Referendum Amendment Bill 1988 not be enacted. (Paragraph 6.22)
52. Section 208 of the Commonwealth Electoral Act 1918 be amended so as to provide for the certification of certified lists by the Electoral Commissioner or an officer or officers appointed by him for that purpose. (Paragraph 6.25)
53. At the next federal election the Australian Electoral Commission code on the laser printed certified lists the names of those voters believed to be dead but for which no official advice has been received from the Registrar of Births, Deaths and Marriages. (Paragraph 6.42)
54. The penalties for election offences under the Commonwealth Electoral Act 1918 be substantially increased with those penalties currently set at \$1,000 or 6 months imprisonment being increased to \$12,000 or imprisonment for not more than two years. (Paragraph 6.77)
55. All election penalties be subject to regular review. (Paragraph 6.79)

Chapter 7

56. Future audits of Divisional Offices be conducted according to the strictest audit standards. (Paragraph 7.14)
57. The Auditor-General revise his schedule of planned efficiency audits so that an efficiency audit of the Australian Electoral Commission may commence as soon as possible. (Paragraph 7.27)

CHAPTER 1

OVERVIEW

- . Enrolment and Nomination
- . Polling
- . Advertising
- . Electoral Fraud
- . The Electoral Commission

1.1 This chapter provides an overview of the Report and highlights some of the recommendations made. However, in doing this there is no intention to elevate the importance of these recommendations over others in the body of the Report. A full list of recommendations is found at p. (xiii).

1.2 The Report is the third to be prepared by the Joint Standing Committee on Electoral Matters. It is also the first report on the Committee's current Inquiry into the Conduct of the 1987 Federal Election. To date the Inquiry has examined a wide range of issues including enrolment and nomination, polling, advertising, and electoral fraud.

Enrolment and Nomination

1.3 Chapter 3 deals with issues on enrolment and nomination. The issue of disqualified candidates is considered and in particular, the case of Robert Wood, who was elected to the Senate at the 1987 federal election only to lose his seat as a result of a ruling by the High Court sitting as a Court of Disputed Returns. The Court ruled that the Senate election was not complete because an unqualified candidate had been returned as elected. However, at all times Mr Wood had considered himself to be an Australian citizen.

1.4 It is the view of the Committee that the Australian Electoral Commission (AEC) has no role in assessing the qualifications of candidates and has recommended amending the nomination form as a means of ensuring candidates consider their eligibility to nominate.

1.5 The Committee's amendments deal with all aspects of eligibility and are not limited to citizenship.

1.6 The Committee recommends that:

The nomination forms used by the Australian Electoral Commission be revised so that candidates are required to declare their eligibility to nominate in terms of all the eligibility criteria. (Paragraph 3.61)

Candidates completing a nomination form and claiming to be an Australian citizen state:

- a) how they became Australian citizens (that is either by birth or naturalisation); and
- b) if the candidates were naturalised, where and when the naturalisation took place. (Paragraph 3.61)

1.7 Requiring individuals to make more comprehensive declarations as to their eligibility to nominate is not sufficient to discourage nomination by unqualified candidates. It is believed the Electoral Act must be amended so that it contains penalties sufficient to make candidates approach their nomination with due care.

1.8 The Committee recommends that:

Section 339 of the Commonwealth Electoral Act 1918 be amended so that any person making a claim in his or her nomination form which is false or misleading in material respect shall be subject to a maximum penalty of \$3,000 and/or imprisonment for 6 months. (Paragraph 3.64)

1.9 The Committee is concerned that all prospective candidates be aware of the seriousness of incorrectly declaring their eligibility to stand as a candidate and recommends that:

The Australian Electoral Commission take all possible steps to inform prospective candidates and candidates of the penalties to which they are subject for recording false or misleading claims on their nomination forms. (Paragraph 3.66)

1.10 Some changes are also recommended for people wishing to enrol. In the case of new citizens it is proposed that a new system be introduced whereby citizens are added to the electoral roll automatically as a result of citizenship application forms. To achieve this the Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide for the completion of a modified electoral enrolment form at the time a person applies for Australian citizenship. (Paragraph 3.89)

Consequent upon the Commonwealth Electoral Act 1918 being so amended, the Australian Electoral Commission and the Department of Immigration, Local Government and Ethnic Affairs act in conjunction to implement a system of enrolment for those persons applying for citizenship, the system to be that described in paragraphs 3.85 - 3.87 of this Report. (Paragraph 3.89)

1.11 It is also noted that some voters have made a habit of voting by claiming to live at an address at which they no longer live. It is believed that this problem can be overcome by limiting the automatic adding to the Electoral Roll of such people when they give a declaration vote at an election. To avoid this problem the Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide that electors can only once be restored automatically to the Commonwealth Electoral Roll after they have been removed by habitation review. Such electors may then only be added to the Electoral Roll by means of completing an electoral enrolment form. (Paragraph 3.111)

Polling

1.12 The use of cardboard voting screens and ballot boxes was of particular interest to many people who made submissions to the Inquiry.

1.13 The AEC has moved towards the use of disposable cardboard screens and ballot boxes as a result of escalating costs of purchasing and storing metal and wooden screens and boxes. The Committee notes the comparative cost data provided to it by the AEC and projected cost savings will be monitored. While the AEC continues to use cardboard screens and ballot boxes the Committee recommends that:

The Australian Electoral Commission make every effort to ensure cardboard boxes and ballot boxes are recycled. (Paragraph 4.13)

1.14 Postal voting confidentiality is another issue of concern to many people who feel that personal details recorded on the exterior of the postal voting envelope amount to an invasion of privacy and that the availability of this information may subject people to burglary or personal harassment.

1.15 The Committee is of the opinion that either double enveloping or a new ready-to-assemble envelope could be satisfactorily used for postal voting. What is of prime importance is confidentiality. Therefore whichever option is selected it must ensure confidentiality of both the voter's personal details and the ballot paper.

1.16 The Committee recommends that:

Prior to the next federal election the Australian Electoral Commission introduce a system of double enveloping or an appropriately designed ready-to-assemble envelope for the purpose of postal voting. (Paragraph 4.42)

1.17 The Inquiry found the total cost providing the National Tally Room was \$203,600.66.

1.18 As for previous elections, the cost of the National Tally Room for the 1987 federal election was borne by the AEC.

1.19 However, there is now no reason why the AEC should not charge media organisations for access to and usage of the National Tally Room.

1.20 The Committee recommends that:

The AEC develop and implement a charging policy to apply to media organisations for their access to, and usage of, the National Tally Room wherever and whenever it is set up for elections of the Parliament of the Commonwealth. (Paragraph 4.63)

1.21 Some consideration has been given to the enforcement of compulsory voting and in particular, an infringement notice system which would allow the Commission to issue infringement notices to electors who had not voted. This would provide them with the opportunity to put a quick end to the offence of failure to vote by payment of a fine. The Committee is persuaded that the legal difficulties which exist with the present system, namely the exercise of judicial power administratively, justify a change to arrangements and recommends that:

An infringement notice system be introduced to replace the present system of enforcement of compulsory voting. (Paragraph 4.80)

Advertising

1.22 A number of matters relating to the definition of electoral advertisements and requirements in newspapers and other published items have been considered. The Committee recommends that:

- . The definition of electoral advertisement be extended to include voting material;
- . there be a continuing requirement for the word 'advertisement' to be printed at the top of newspaper articles or paragraphs which are presented as article text when they are in fact advertisements.

Electoral Fraud

1.23 Chapter 6 deals with matters relating to electoral fraud:

- . the state and availability of electoral rolls;
- . the scrutiny of vote counting;
- . cemetery voting; and
- . multiple voting and personation.

1.24 The Committee has examined the state and availability of electoral rolls and makes a number of recommendations. As to the availability of the rolls to Members and Senators it is noted that the Electoral and Referendum Amendment Bill 1988, which at the time of drafting is before the Parliament, provides for the printing and distribution of rolls to Members, Senators and political parties no later than the end of the second year of each Parliament. Senators will be entitled to five sets of the rolls and in certain cases the rolls will be made available to Members, Senator and parties in microfiche, magnetic tape or disk format.

1.25 While this change in the availability of the rolls will assist Members and Senators there remains a need for the certified lists to be more readily available to all candidates in a federal election. After consideration of the needs of candidates, Members and Senators the Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide for the distribution to each candidate, as soon as practicable after the close of rolls, one copy of the certified list of voters for the Division in which the candidate seeks election. (Paragraph 6.10)

The Commonwealth Electoral Act 1918 be amended so as to provide that after an election for the Senate or a Division or Divisions of the House of Representatives, each Member of the House of Representatives be given three copies of the certified list of voters used in his or her Division for the election. (Paragraph 6.10)

The Commonwealth Electoral Act 1918 be amended so as to provide that after each election for the Senate or the House of Representatives each Senator be provided with one copy of the certified lists for his or her State or Territory. (Paragraph 6.10)

1.26 In relation to the quality of the rolls one submission alleged that large numbers of dummy enrolments were made before the close of rolls, then, on polling day those perpetrating the fraud legitimately appeared on the certified lists and were able to vote. The Committee notes that while individual cases have been cited no evidence of an organised scheme was presented to it.

1.27 One means of dispelling concerns about such activity would be for the AEC to conduct an examination at the next federal election of two marginal Divisions. Such an examination would include looking at enrolments made in the two Divisions (one Government and one Opposition) in the months preceding the election and then examining the results of habitation reviews conducted in the same two Divisions after the election.

1.28 The Committee recommends that:

For the next federal election the Australian Electoral Commission conduct a thorough examination of those persons added to the rolls of two marginal Divisions before the election and those persons deleted from the rolls of the same Divisions after the election. One Division shall be a Government held Division and the other an Opposition held Division. (Paragraph 6.13)

1.29 In assessing the extent of cemetery voting, the Committee notes the findings and conclusions of the Report of the New South Government Inquiry into the operations and processes for the conduct of State elections which was tabled in the New South Wales Parliament in February 1989. The Report found that while it was possible for people to engage in cemetery voting there remained no evidence of its widespread use.

1.30 While the Inquiry raised the issue of cemetery voting no evidence of its widespread use has been forthcoming. The advice of the AEC is that the activity is negligible and it is therefore seen that no legislative action is required at this time.

1.31 As with allegations of cemetery voting the Committee did not receive any factual information to support the theory that multiple voting was prevalent at the 1987 federal election. The absence of such information makes any allegation of widespread multiple voting difficult to sustain.

1.32 Available data suggests there was an increase in multiple voting at the 1987 election, but in the absence of any other information the Committee can only conclude the data reflects nothing more than the effectiveness of the AEC's new computer scanning of certified lists after the election.

1.33 The following proposals to inhibit electoral fraud were considered:

1. the introduction of a computerised election system;
2. a requirement for persons to provide documentary evidence at the time of enrolment;
3. a requirement for voters to provide proof of identification at the time of polling;
4. the introduction of locality voting; and
5. an increase in the penalties under the Electoral Act.

1.34 There are powerful and effective measures that could be implemented to eradicate electoral fraud but the Committee does not believe they are warranted at this time. Nevertheless, as a first step in ensuring integrity in the Australian election system, the penalties for electoral fraud need to be substantially increased before the next federal election.

1.35 In considering increases in penalties under the Electoral Act the Committee has been mindful of the findings and recommendations of the recent New South Wales Government Inquiry into the State's election system. In examining multiple voting the Inquiry found that in the United States the penalty for voting more than once was not more than \$10,000 or imprisonment for not more than 5 years. This contrasts with the situation in Australia where the penalty is \$1,000 or 6 months imprisonment.

1.36 The Committee recommends that:

The penalties for election offences under the Commonwealth Electoral Act 1918 be substantially increased with those penalties currently set at \$1,000 or six months imprisonment being increased to \$12,000 or imprisonment for not more than two years. (Paragraph 6.77)

1.37 In addition, there is a need for all election offences to be reviewed regularly and the Committee recommends that:

All election penalties be subject to regular review. (Paragraph 6.79)

The Electoral Commission

1.38 The AEC's submission on the conduct of the 1987 federal election was accompanied by a report and submission on an audit of six Commonwealth Electoral Divisions which was conducted following the 1987 federal election.¹

1.39 The audit was conducted as a result of statistics sought from the AEC by Senator Jim Short in October 1987. In the process of compiling the statistics sought by Senator Short the AEC discovered it had a number of problems in reconciling different sets of statistics. These difficulties suggested there may have been problems with the AEC's Election Manual and/or in its application by Divisional staff.

1.40 The audit found a variety of problems had occurred during the 1987 election. The AEC's Election Procedures Manual, which was used for the first time at the 1987 election, had not been complied with in a uniform manner and this was attributed to:

a reluctance of AEC staff to accept national policy because of their long standing freedom to make their own interpretations of the Electoral Act;

1. Minutes of Evidence, pp. 133-250.

- . the fact that the Manual did not arrive in Divisional Offices until the day after the election was announced; and
- . the fact that there was no training in the use of the Manual for Divisional staff.

1.41 The audit was critical of the lack of training for Divisional Office staff, casual employees and polling officials. In general, there was no training for these groups and as result there were problems on polling day with greater responsibility and pressure being placed on Divisional staff.

1.42 The AEC has taken and is taking action in response to the findings of the audit of the six Divisions which includes the updating and distribution of the Election Procedures Manual and the training of Divisional staff.

1.43 While it is somewhat alarming that the deficiencies exposed by the audit of the six Divisions may not have come to light but for Senator Short's questioning, the whole process has been beneficial for the AEC. The audit is one of the most positive management initiatives undertaken by the AEC in recent years.

1.44 The Committee supports the AEC's decision to conduct audits of the operation of Divisional Offices at future elections and believes that the audits will only be effective if the strictest audit standards are applied.

1.45 The Committee recommends that:

Future audits of Divisional Offices be conducted according to the strictest audit standards. (Paragraph 7.14)

1.46 The 1987 federal election highlighted the issue of morale in the AEC and during the Inquiry a number of submissions from DROs specifically raised the issue. In addition, the some letters received were critical of AEC management, thereby pointing to the issue of morale. These letters were not authorised for publication by the Committee.

1.47 It is clear to the Committee that morale is a problem at the Divisional level, however, it is not clear as to whether the problem extends to the various head offices and central office.

1.48 While the Committee is of the opinion that the AEC is on the right path in terms of improving its operations it is not convinced that all is well in the organisation. Some of the submissions received and in particular, material not authorised for publication leads the Committee to question the overall

management style of the AEC. The appropriate action is therefore for a somewhat closer examination of the AEC to be conducted and to this end the Committee recommends:

The Auditor-General revise his schedule of planned efficiency audits so that an efficiency audit of the Australian Electoral Commission may commence as soon as possible.
(Paragraph 7.26)

CHAPTER 2

BACKGROUND

- . Introduction
- . Historical Perspective
- . Electoral and Referendum Amendment
Bill 1988

Introduction

2.1 This Report is the third report prepared by the Joint Standing Committee on Electoral Matters (hereafter referred to as 'the Committee'). The Report is a first report on the Committee's current Inquiry into the Conduct of the 1987 Federal Election and the 1988 Referendums.

2.2 On 28 October 1987 the then Minister for Home Affairs, Senator Robert Ray, referred to the Committee the following matter for inquiry and report:

All aspects of the conduct of elections for the Parliament of the Commonwealth and matters related thereto, including legislation governing, and the operation of, the Australian Electoral Commission.

2.3 In accordance with this reference the Committee decided to conduct an inquiry into the conduct of the 1987 federal election. Advertisements announcing the inquiry and calling for submissions appeared in the national press on 19 and 20 February 1988.

2.4 On 31 August 1988 the Minister for Home Affairs again wrote to the Committee. On this occasion the Minister provided the Committee with a revised terms of reference which allowed the Committee to widen its inquiry to include the conduct of the 3 September 1988 referendums. The Committee advertised this new part of its inquiry on 23 and 24 September 1988.

2.5 To date the Committee has received some 129 submissions and held eight public hearings. Appendix A lists those submissions received to date and Appendix B lists those witnesses who have appeared before the Committee.

2.6 As part of the Committee's Inquiry into the conduct of the 1987 federal election it has examined the AEC's Election Funding and Financial Disclosure Report for the 1987 federal election, Report on the operation of Part XX of the Commonwealth Electoral Act 1918 in relation to the elections held on 11 July 1987. This report was referred to the Committee by the Minister for Administrative Services, the Hon. Stewart West, MP, on 3 November 1988. The Committee's comments and recommendations on the Election Funding and Disclosure Report are to be found in the Committee's fourth report which will deal with the issue of political advertising.

2.7 It is the Committee's intention to report at this time on matters which relate to the conduct of the 1987 federal election and at a later date to report on matters which relate to the conduct of the 3 September referendums.

2.8 The Inquiry has led the Committee to examine in some detail the issue of political advertising on radio and television and it is the Committee's intention to present a separate report on this matter as well.

Historical Perspective

2.9 The Inquiry represents an ongoing task which has been given to successive parliamentary committees.

2.10 In 1983 a Joint Select Committee on Electoral Reform was established to:

inquire into and report upon all aspects of the conduct of elections for the Parliament of the Commonwealth and matters related thereto, including:

- (a) public funding and disclosure of funds;
- (b) franchise and registration of voters;
- (c) voting systems;
- (d) legislation governing, and the operation of the Australian Electoral Office;
- (e) ballot paper format; and
- (f) electoral distribution, procedures and systems.

2.11 This committee tabled its first report in September 1983. The report reviewed Commonwealth electoral legislation and made recommendations for substantial reform. The recommendations of the report were largely implemented by the Commonwealth Electoral Legislation Act 1983 which amended the Commonwealth Electoral Act 1918. The amendments brought about changes to redistribution procedures, introduced public funding of election campaigns, established the Australian Electoral Commission (AEC) and made other significant changes to aspects of Commonwealth electoral law and practice.

2.12 A federal election was held in 1984 and in the subsequent 34th Parliament a second Joint Select Committee was established to inquire into and report upon:

all aspects of the conduct of elections for the Parliament of the Commonwealth and matters related thereto, ...

2.13 The second report of this second committee was titled, The Operation during the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation. This report was presented to the Parliament in December 1986. It made 156 recommendations designed to fine tune the Commonwealth electoral and referendum acts. Some of the recommendations have been given effect by the Commonwealth Electoral Amendment Act 1987 and the Referendum (Machinery Provisions) Amendment Bill 1988.

2.14 The Joint Select Committee of the 34th Parliament believed a parliamentary committee was useful forum for the AEC to raise matters of concern and to put forward proposals for amending the Commonwealth electoral laws and it recommended that in succeeding parliaments a Joint Standing Committee be established. The Joint Select Committee was of the view that by examining proposals and other issues a parliamentary committee enabled the AEC to more confidently put forward to Government proposals for amendment and kept the Government better informed as to the likely reaction to changes it may consider. In addition, a parliamentary committee was able to monitor legislation and alert the Parliament to areas in need of legislative change.

Electoral and Referendum Amendment Bill 1988

2.15 At the time of drafting this report the Parliament had before it the Electoral and Referendum Amendment Bill 1988. This bill results from the second report of the Joint Select Committee on Electoral Reform. It provides fixed formulae for the representation of Territories and new States in the Federal Parliament. In addition, it provides for changes to:

- . the printing and distribution of the Electoral Roll to Senators, Members and political parties;
- . the voting rights and responsibilities of those in prison;
- . postal voting;
- . mobile voting facilities in hospitals and special hospitals;
- . questions asked of voters by polling officials;
- . the registration of political parties;
- . election funding and financial disclosure provisions;

- . voters failing to advise of a change of address within a subdivision; and
- . the resolution of a deadlocked election.

2.16 The Committee draws the Government's attention to the fact that some of the issues raised during its Inquiry are also dealt with by the Electoral and Referendum Amendment Bill 1988 which is before the Parliament at the time of drafting the report.

CHAPTER 3

ENROLMENT AND NOMINATION

- . External Review of Enrolment
- . Claims for Enrolment in the Same Sub-division
- . Candidate with Silent Enrolment
- . Address on Candidate Nomination Form
- . House of Representatives Nominations by Registered Officers
- . Nominations Received by Facsimile Machine
- . Disqualified Candidates
- . Aged and Infirm Electors
- . Enrolment of New Citizens
- . Real Place of Living
- . Declarations by Candidates of Political and Quasi-political Affiliations and Associations

External Review of Enrolment

3.1 Objection action refers to the removal of names from the electoral roll by a Divisional Returning Officer (DRO). This action is undertaken primarily as a result of an elector's failure to vote or as a result of a habitation review. In order to remove a name from a Commonwealth electoral roll, a DRO is required to send written notices of his/her intention to remove that name from the divisional roll to the elector. Such action is subject to review by the Australian Electoral Officer in each State and finally to external reviews by the Administrative Appeals Tribunal (AAT).

3.2 Prior to February 1984, review was only available through a Court of Summary Jurisdiction. In keeping with the Commonwealth's law reform program, external review of the enrolment on the Commonwealth roll is now undertaken by the AAT.

3.3 In States where there is a joint roll with the Commonwealth, external review of enrolment decisions is by both the AAT and the magistrates court¹. This is because decisions pertaining to Commonwealth enrolment may be challenged in the AAT whereas similar decisions for State enrolment may be challenged in magistrates courts. In other States, external review is only carried out by the AAT.

3.4 This means that objection action on an elector's enrolment in the joint roll States can be challenged twice. The AEC suggested it may be preferable in joint roll States to have decisions reviewed by magistrates courts claiming that in Victoria voters had preferred the cheaper and more expeditious review of the magistrates courts. However, this claim was not supported by strong evidence. In reality, appeals to magistrates courts have only occurred on two occasions.^{2,3}

3.5 Despite this situation there was a perceived need to assess the merits of appeal to magistrates courts vis-a-vis the AAT.

3.6 In considering the AEC's suggestion the Committee sought comment from the Attorney-General's Department and the President of the AAT. It was evident from the advice received that magistrates courts did provide an avenue for hearing appeals but they were oriented towards less complicated matters and while they had the apparent advantage of being cheaper it was noted that the charge applying to appeal through the AAT was a filing fee of \$240, which was refundable if a party was successful. In addition, costs were not awarded against parties in the AAT.

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1. All States, except Queensland and Western Australia, are joint roll States for electoral purposes.
 2. Minutes of Evidence, pp. S1167-8.
 3. Minutes of Evidence, p. S1831.

3.7 Perhaps of greater importance, however, was the fact that the AAT offered a greater potential for uniformity in decision making and was well equipped to deal with more complex matters in a flexible way. For example, the AAT was able to commence preliminary conferences and directions hearings prior to the hearing of applications. This often led to the resolution of disputes before they went to hearings. The AAT further enhanced uniformity by being able to have matters reviewed by one Court, the Federal Court.

3.8 The Committee believes the AAT to be a superior avenue for hearing appeals on enrolment matters because of its structure and the potential for uniformity in decision making. In addition, the AAT is not seen to be expensive or slow. The Committee notes the advice of the President of the AAT that:

[the] Tribunal has developed practices and procedures to allow such review quickly and economically.⁴

3.9 The Committee concludes that only one external body should be empowered to review enrolment decisions made by the AEC. In particular, the appropriate body to review a Commonwealth is the Administrative Appeals Tribunal.

3.10 However, the evidence presented by the AEC does not warrant action at this time to exclude magistrates courts.

3.11 The Committee recommends that:

The Administrative Appeals Tribunal continue to review enrolment decisions for all States including joint roll States.
(Recommendation 1)

3.12 The Committee believes it is important that steps be taken to achieve greater uniformity in decision making in the area of enrolment decisions and recommends that:

The Minister for Administrative Services approach State governments with a view to having the review of all enrolment decisions undertaken by the Administrative Appeals Tribunal. (Recommendation 2)

4. Minutes of Evidence, p. S1167.

Claims for Enrolment in the Same Sub-division

3.13 The Commonwealth Electoral Act 1918 provides that where a person changes address within a Sub-division (that is the same Sub-division for which the person is already enrolled), there is no obligation for the person to alter the address on the Electoral Roll and hence there is no loss of entitlement to vote. However, the Electoral Act also provides that where a person notifies the AEC of a change of address within a Sub-division the DRO should write to the claimant stating that the existing enrolment is correct. In practice, the DRO sends the claimant an acknowledgement card as is done for normal claims. The AEC believes that this is an efficient approach and that it makes no difference to a claimant whether a card or letter is received.

3.14 The Committee agrees with the AEC which believes there is no need to treat these cases differently and that an acknowledgement card can be sent in both instances.

3.15 The Committee recommends that:

Section 102(1)(b)(v) of the Commonwealth Electoral Act 1918 be deleted to enable streamlined processing of enrolment cards.
(Recommendation 3)

the Commonwealth Electoral Act 1918 be amended so that all persons who change their address are required to notify the Australian Electoral Commission and thereby change their address on the Electoral Roll.
(Recommendation 4)

Candidate with Silent Enrolment

3.16 Silent enrolment refers to the provision of s.104 of the Electoral Act whereby an elector can lodge a claim for his or her address not to be entered on the Roll for which enrolment is claimed if the elector considers that the displaying of his or her address on the Roll would put at risk his or her personal safety or that of the elector's family.

3.17 The AEC raised in its submission the issue of the application of section 166(1)(a) of the Electoral Act to a candidate who has silent enrolment.

3.18 Should an elector with silent enrolment stand as a candidate s.166(1)(a) states that the nomination form shall set out the name, place of residence and occupation of the candidate. In addition, s.176 requires the DRQ to publicly declare the names and addresses of all candidates nominated. Candidates details are included in an AEC press release on nomination day and they are also published by the press.

3.19 The AEC was of the view that the likelihood of candidates wishing to have their addresses withheld was very small and that it was somewhat paradoxical that a candidate should maintain a silent enrolment.⁵

3.20 Nevertheless as silent enrolment is usually granted after threats to the safety of a public figure the Committee believes there may be occasions when individuals would wish to stand as a candidate but legitimately not wish their address to be published.

3.21 The Committee recommends that:

Section 176 of the Commonwealth Electoral Act 1918 be amended so that a candidate who has a silent enrolment may be exempt from having his or her address published. (Recommendation 5)

Address on Candidate Nomination Form

3.22 Section 166(1)(a) of the Electoral Act requires that when a candidate fills out a nomination form the candidate's name, place of residence and occupation be recorded. The AEC was approached during the election period with a request that the requirement for recording place of residence be altered to allow incumbent Members and Senators to record their enrolled address on their nomination forms if they so wished.

3.23 Under s.99(4) of the Electoral Act a Senator or Member of the House of Representatives need not enrol in the Sub-division which they reside and hence their enrolment address may be different to their residential address provided the enrolment address is in the same State as the residential address.

3.24 The AEC's submission suggested that since the recording of place of residence on enrolment forms was simply a means to identify candidates it was reasonable to allow incumbent Senators and Members of the House of Representatives to have the option of recording either their enrolment address or their place of residence when completing a nomination form.

5. Minutes of Evidence, p. 289.

3.25 The Committee finds this proposal acceptable and therefore recommends that:

The Commonwealth Electoral Act 1918 be amended to provide Senators and Members of the House of Representatives with a choice of recording either their enrolment address or place of residence when completing a nomination form. (Recommendation 6)

House of Representatives Nominations by Registered Officers

3.26 At this time all candidates for the House of Representatives (whether or not they are nominated by a Registered or Deputy-Registered Officer) lodge their own nominations with their local DRO.

3.27 The AEC submission contained a suggestion that the process of nominating candidates endorsed by registered political parties be altered to streamline the process.

3.28 The modification would allow the Registered (or Deputy Registered) Officer of a party to lodge the nominations for all candidates endorsed by the party with the Australian Electoral Officer for each State or Territory up to 48 hours before the close of nominations. Candidates' nomination details would then be forwarded to the relevant DRO by the AEC for the declaration of nominations and the draw of ballot paper positions.

3.29 The situation would remain unchanged for party candidates not nominated by the Registered Officer or Deputy Registered Officer of a party.

3.30 The Committee viewed the proposal as a practical approach to dealing with the enrolment of party endorsed candidates and saw that it may also be beneficial to have Registered Officers of parties nominating candidates on the candidates' behalf on the provision that the candidate provided some form of written authorisation for this. A favoured approach was for candidates to authorise Registered Officers to act on their behalf by means of a standard letter.

3.31 The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so that candidates endorsed by a party can authorise, by means of a standard letter formulated by the Australian Electoral Commission, their respective Registered Officer or Deputy Registered Officer to nominate them as candidates for elections for the House of Representatives. (Recommendation 7)

The Commonwealth Electoral Act 1918 be amended so that the Registered Officer or Deputy Registered Officer of a party may lodge the nominations for all candidates in a State or Territory endorsed by the party with the Australian Electoral Officer for each State or Territory up to 48 hours before the close of nominations. (Recommendation 8)

Nominations Received by Facsimile Machine

3.32 The AEC's submission indicated it received regular inquiries about nominations being made by facsimile machine and that it was usual practice to accept nominations sent by facsimile machine. Nominations made by facsimile machine are only valid when the appropriate deposit, in the form of either cash or bank cheque, is received by the AEC before close of nominations.

3.33 The Committee believes the use of facsimile machines to receive nominations is an acceptable practice.

3.34 The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide for nominations to be forwarded by facsimile to either Divisional Returning Officers or the Australian Electoral Officer in each State. Nominations made by facsimile must be received 48 hours before the close of nominations in the case of Australian Electoral Officers and up until the close of roll in the case of Divisional Returning Officers. (Recommendation 9)

Disqualified Candidates

3.35 Part XIV of the Electoral Act contains provisions for the nomination of candidates for election to the Senate or the House of Representatives, the basic requirements being that a person be:

- . at least 18 years old;
- . an Australian citizen; and
- . an elector or qualified to become an elector;

3.36 Part XIV also contains provisions which disqualify persons from nominating or cause their nominations to become invalid. Further provisions rendering persons incapable of sitting as a Senator or a Member of the House of Representatives are contained in s.44 of the Constitution.

3.37 Up until 1983 it was not uncommon for DROs and the various Australian Electoral Officers to receive complaints about the failure of individual candidates to meet the qualifications for candidates contained in the Electoral Act or the Constitution. The complaints created problems for the AEC's officers in that they were not qualified to resolve what often amounted to complex legal questions and nor were they able to resolve questions of fact in the limited period of an election.

3.38 The problem was resolved in 1983 by an amendment to the Electoral Act whereby s.172(1) was added to Part XIV of the Act. This new provision stated that a nomination could only be rejected if the formal requirements for nomination (contained in sections 166, 167, 170 and 171) had not been complied with. However, the 1983 amendment did not deal with the situation whereby facts pointing to disqualification only become known after the close of nominations.

3.39 Since the 1983 amendment there have been four cases where a question of disqualification has arisen after the close of nominations.

3.40 In two cases candidates failed to resign from their positions as public servants and were regarded as holding an 'office of profit under the Crown', which according to s.44 of the Constitution is a disqualification from being chosen or sitting as a Member of Parliament. In the second of these two cases the AEC sought advice from the Director of Public Prosecution (DPP) as to what was required to obtain a conviction under s.339(1)(k) of the Electoral Act. The advice stated that a conviction required an admission from the candidate that:

... he had turned his mind to the question of section 44(iv) of the Constitution, that he concluded that he was disqualified, and that he deliberately signed a declaration to contrary effect.⁶

3.41 The DPP saw that such a confession was unlikely to be obtained and noted that the candidates' handbook was so ambiguous as to be misleading.

... it says Commonwealth public servants 'normally resign' in order to comply with the Constitution. This leaves open the possibility that resignation is a matter of [practice] rather than law.⁷

6. Minutes of Evidence, p. 89.

7. Minutes of Evidence, p. 89.

The AEC took no further action on the case.

3.42 The two other cases of disqualification after the close of nominations involved candidates who were not Australian citizens. In the first of these cases the candidate advised the AEC he was not an Australian citizen. The AEC sought advice as to whether an offence had occurred and found that it had not. The Electoral Act does not automatically regard incorrect declarations on nomination forms as an offence and in this case the candidate had not knowingly made an incorrect declaration.

3.43 The last case involved the election of Mr Robert Wood as a Senator for New South Wales. Mr Wood stood as a candidate for the Senate in the 1987 federal election believing he was eligible to stand.

3.44 Mr Wood told the Committee why he believed he was eligible to stand:

My situation was that I had been required to vote since I was of voting age, when I turned 21, and that I would have been penalised had I not voted in any of those elections since I turned 21. I was conscripted for national Service to serve in Vietnam. On refusing to fight in Vietnam, I was imprisoned. Were I not a citizen I would believe that I would not be called up for a start and that on being put in prison it would have seemed most likely that I should have been deported, rather than put in prison. I worked for the Public Service for many years; I paid taxes all my working life and until 1984 I was eligible to stand for public office.⁸

3.45 The 1984 amendments to the Electoral Act had introduced the requirement that all candidates for election to the Commonwealth Parliament be Australian citizens.

3.46 Prior to 1984 Australian citizens and British subjects who had migrated to Australia were eligible to enrol and to stand as candidates. The change introduced in 1984 was a deliberate attempt to tighten up the qualifications for enrolment and sought to ensure that from 1984 onwards only Australian citizens could enrol. British subjects on the roll up until 1984 were allowed to stay on the roll but they could only stand for Parliament if they were Australian citizens. The result was that persons such as Mr Wood, who were British subjects but not Australian citizens, were able to remain on the roll but were unable to stand for Parliament.

8. Minutes of Evidence, p. 709.

3.47 Pursuant to s.377 of the Electoral Act, the Senate referred Mr Wood's case to the High Court sitting as the Court of Disputed Returns. On 12 May 1988 the High Court handed down its decision that at all relevant times Mr Wood had not been an Australian citizen. The Court ruled that the Senate election was not complete because an unqualified candidate had been returned as elected and that the resulting vacancy was to be filled by the further counting or recounting of ballot papers. In this recounting the ballot papers were regarded as being formal but Mr Wood's votes were treated as though they had gone to a deceased candidate. Justice Mason of the High Court issued an order on 7 June 1988 which stipulated how the counting and recounting was to be conducted and on 21 July 1988 the Australian Electoral Officer for New South Wales reported to the Court that the candidate entitled to be elected was Ms Irina Dunn.

3.48 The abovementioned cases show that the two main problems with the qualifications of candidates are the requirement that candidates not hold 'offices of profit under the Crown' and the requirement that candidates be Australian citizens.

3.49 On the matter of candidates not holding 'offices of profit under the Crown' there is no dispute that it is a provision for disqualification contained in the Constitution. The problem appears to be more one of uncertainty about its importance.

3.50 The AEC has pointed out that there is scope for amending the Electoral Act so that the requirements for public servants to resign when contesting an election are made quite explicit. However, the AEC also notes there is a need to first obtain legal advice as to a clear definition of a public servant.

3.51 It is regrettable that the Electoral Act has allowed some doubt to exist over the requirement for public servants to resign. Moreover, it is unfortunate that the requirement has been seen by some to be discretionary.

3.52 The Committee also believes the Electoral Act should clearly state that public servants, however defined, are under a requirement for them to resign their offices in order to be eligible to nominate for election to the Commonwealth Parliament.

3.53 The Committee is of the opinion that the Electoral Act should contain clear statements on the classifications of persons who fall under the heading of 'office of profit under the Crown' and notes that this phrase embraces the term public servant.

3.54 A person wishing to nominate as a candidate for election to the Commonwealth Parliament should be able to find in the Electoral Act a comprehensive statement of the requirements for eligibility to nominate.

3.55 The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to:

- a) define those classes persons who hold an office of profit under the Crown; and
- b) state the requirement for such persons to resign their office before nominating for election to the Parliament of the Commonwealth. (Recommendation 10)

Those people affected by the requirement to resign from an office of profit under the Crown before nominating for election to the Parliament of the Commonwealth, for which they are subsequently unsuccessful, have their employment and entitlements protected by suitable legislation. (Recommendation 11)

3.56 While the Committee recognises that such a recommendation has certain inherent difficulties associated with its implementation the Committee believes there is an important overriding principle, that the Electoral Act be sufficiently clear as to reduce the possibility of a person being elected to the Commonwealth Parliament and subsequently being challenged on the grounds of being a holder of an officer for profit under the crown.

3.57 On the matter of the requirement for candidates to be Australian citizens the Committee canvassed various proposals aimed at ensuring there would be no repetition of the Robert Wood case. At this time candidates are only required to declare on their nomination form that they are eligible to nominate. The AEC and others suggested the problem might be resolved by amending the nomination form so that candidates would be required to declare explicitly that they were Australian citizens and did not hold 'an office for profit under the crown'. While such an approach makes sense it would not prevent a repetition of the Robert Wood case and it would be difficult for the AEC to verify the declarations made by candidates.

3.58 Another suggestion was that candidates be required to attach to their nomination forms copies of birth certificates and other documentation which might prove their qualification to nominate. The AEC stated that this approach was workable but that it may inhibit some people from standing. It did not believe this practice would totally eliminate the problem and, as with the previous approach, it would be difficult for the AEC to verify the documents attached to nomination forms.

3.59 In addition, there may be difficulties associated with people getting hold of the documents they required in time.

3.60 At this time the Committee holds the view of the former Joint Select Committee on Electoral Reform that the AEC has no role in assessing the qualifications of candidates but the Committee believes the approach of amending the nomination form will go a long way towards ensuring candidates consider their eligibility to nominate. Such amendments should deal with all aspects of eligibility and not be limited to citizenship.

3.61 The Committee recommends that:

The nomination forms used by the Australian Electoral Commission be revised so that candidates are required to declare their eligibility to nominate in terms of all the eligibility criteria. (Recommendation 12)

Candidates completing a nomination form and claiming to be an Australian citizen state:

- a) how they became Australian citizens (that is either by birth or naturalisation); and
- b) if the candidates were naturalised, where and when the naturalisation took place. (Recommendation 13)

3.62 An example of appropriate amendments can be found in Appendix 15 of the AEC's submission on the 1987 federal election.⁹

3.63 Requiring individuals to make more comprehensive declarations as to their eligibility to nominate is not sufficient to discourage nomination by unqualified candidates. The Electoral Act must be amended so that it contains penalties sufficient to make candidates approach their nomination with due care.

9. Appendix 15 can be found at Minutes of Evidence, p. 91.

3.64 The Committee recommends that:

Section 339 of the Commonwealth Electoral Act 1918 be amended so that any person making a claim in his or her nomination form which is false or misleading in material respect shall be subject to a maximum penalty of \$3,000 and/or imprisonment for 6 months.
(Recommendation 14)

3.65 In making this recommendation it is intended that community service orders be issued in preference to imprisonment sentences. However, it is noted that while this may be possible in most States, at this time Queensland, New South Wales and Tasmania do not have agreements with the Commonwealth to facilitate the issuing of community service orders.

3.66 The Committee is concerned that all prospective candidates be aware of the seriousness of incorrectly declaring their eligibility to stand as a candidate and recommends that:

The Australian Electoral Commission take all possible steps to inform prospective candidates and candidates of the penalties to which they are subject for recording false or misleading claims on their nomination forms.
(Recommendation 15)

3.67 The Committee recommends that:

Penalties for the recording of false or misleading claims on nomination forms be printed on nomination forms.
(Recommendation 16)

Aged and Infirm Electors

3.68 The 1987 federal election raised again the issue of enforcing compulsory voting for aged electors. The issue for some is simply a matter of wanting to free aged and infirm voters from the requirement to vote because of the confusion they experience with the voting process and the worry and distress that occurs when they receive non-voter notices.

3.69 However, other aged electors take the opposite view as indicated by comments made by the Electoral Commissioner:

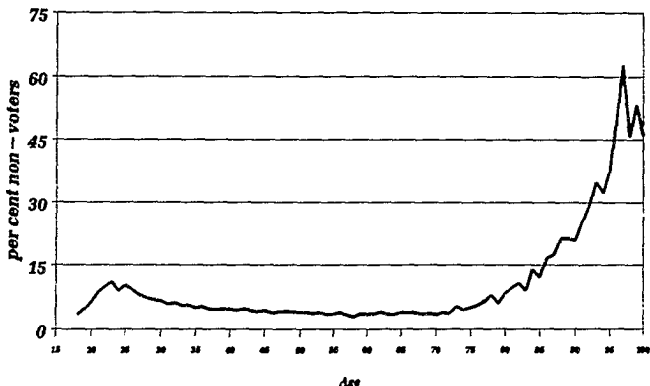
... on occasions when this has been raised, elderly voters have been highly indignant at the suggestion that they could or should be taken off the roll.¹⁰

3.70 At this time the issue is complicated by the situation in Victoria where electors who are 70 years of age and over are not required to vote in local government elections. This has tended to cause confusion in the minds of some voters who cannot understand why they are required to vote for one election and not another.

3.71 The Committee sought from the AEC data on the percentage of non-voters by age. At the time of report drafting the AEC was not able to provide the Committee with national age data on non-voters. Data forwarded was for Divisions represented by the Members of the Committee. This data is presented in Appendix C.

3.72 Despite the limitation of this data it shows certain patterns exist across Divisions. In particular, the percentage of young voters failing to vote is very low but the percentage increases through the 20s. After 30 years of aged the percentage drops and remains low up until the 60s. It is only at about the 80 years of age level that there is a significant increase in the percentage of non-voters. Figure 3.1 shows these trends.

Figure 3.1 Percentage of Non-Voters by Age Group



Source: Australian Electoral Commission

10. Minutes of Evidence, p. 489.

3.73 While the Committee is sympathetic to the distress elderly voters may experience as a result of the requirements of the current electoral legislation and the resulting correspondence from DROs, it is unwilling to recommend the introduction of exemptions from enrolment or voting for voters above a certain age.

3.74 It is a matter of concern that elderly voters should suffer any distress as a result of the way the current electoral legislation is put into practice. While DROs are expected to enforce the requirements of the Electoral Act, the Committee believes they must be particularly sensitive to those elderly voters who have difficulty in understanding the electoral system and/or fail to vote. It might also be noted that the need for such sensitivity will continue to be important with Australia's ageing population.

3.75 Also of concern to the Committee is the lack of uniformity of practice in electoral systems between the three levels of government (federal, state and local) in Australia. It is desirable that there be uniformity of practice in the electoral process so that voters are not confused. In particular, there is a concern that voting in Australia be compulsory for all eligible electors.

Enrolment of New Citizens

3.76 During its inquiry into the 1984 federal election, the Joint Select Committee on Electoral Reform considered the issue of encouraging enrolment amongst residents who became Australian citizens. The Joint Select Committee found that the naturalisation ceremonies provided a good opportunity for new citizens to be added to the Electoral Roll. The Electoral Reform Committee recommended that AEC officers attend citizenship ceremonies to facilitate new enrolments and that funds be made available for this to occur.

3.77 Unfortunately funds were not made available for this activity and as a result DROs were instructed not to attend citizenship ceremonies. However, an alternative procedure was instituted whereby the AEC asked local councils to distribute enrolment forms and reply paid envelopes to people receiving their citizenship certificates.

3.78 Also, since 1985 the Department of Immigration, Local Government and Ethnic Affairs has provided the AEC on a fortnightly basis a listing of the names and addresses of all new citizens. The lists are provided on magnetic tape to the AEC which then sorts them and distributes printed versions of the resulting lists to DROs. The DROs then check to see if the new citizens have enrolled since their citizenship ceremony. Those new citizens who have not enrolled are sent an enrolment card.

3.79 The issue of enrolling new citizens was raised during the current Inquiry and consideration was given as to how the process might be improved.

3.80 Some consideration was given as to what could be done at the time of a citizenship ceremony and it was found that a number of difficulties existed with effecting new enrolments both before and after citizenship ceremonies. For example, it was found that attempts to get people to fill out enrolment cards before becoming citizens was illegal. Only eligible citizens could apply for enrolment. It was also found that on becoming new citizens people had a preference to go off and enjoy the celebratory side of proceedings rather than complete enrolment cards.

3.81 One favoured solution for ensuring new citizens were added to the Electoral Roll was to introduce a system of provisional enrolment similar to that recommended by the Joint Select Committee on Electoral Reform of the 34th Parliament.^{11,12} Under the system recommended by the Joint Select Committee 17 year olds could enrol provisionally but their name was only added to the list of certified voters if they attained 18 years of age before polling day.

3.82 A provisional enrolment scheme for new citizens would involve the department responsible for citizenship, the Department of Immigration, Local Government and Ethnic Affairs, obtaining particulars required on an enrolment form at the time an application was made for citizenship. The information would then be forwarded to the AEC which would add the names of prospective new citizens to the Electoral Roll. When the prospective citizens had been naturalised the Department would notify the AEC which would in turn ensure enrolment became fully effective.

3.83 A variation of this provisional enrolment scheme was suggested by the Member for Grayndler, Mr Leo McLeay, MP. Mr McLeay proposed first that an additional question on occupation be added to the citizenship application form. Once this was done the application form would then contain all the information the AEC required for enrolment. Second, a tear-off 'Provisional Electoral Enrolment Claim' form could be included at the end of the application form. This form would be forwarded to the AEC once the person had taken an oath or affirmation. Mr McLeay also suggested that s.101 of the Electoral Act be amended so that at the time of citizenship an obligation would be placed upon the Electoral Commissioner to notify the relevant DRO of the citizenship. The DRO would then have 21 days to add the new citizen to the Electoral Roll. Mr McLeay saw that an amendment such as this would ensure:

no-one is left out because he or she may get

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11. Joint Select Committee on Electoral Reform, The Operation during the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation, December 1986, Parliamentary Paper 1/1986, pp. 45-6.
 12. Joint Select Committee on Electoral Reform, First Report, September 1983, Parliamentary Paper 227/1983, p. 110.

lost in the process as a result of an excessive passage of time.¹³

3.84 Mr McLeay concluded:

This simple change to the present cumbersome procedures would ensure that all new citizens were entitled to their fundamental right as a citizen, that is, the right to vote.

... This is an important step to take in the Year of Citizenship.¹⁴

3.85 The Committee agrees with the sentiments expressed by Mr McLeay and is of the view that steps should be taken to improve the current methods of enrolling new citizens. The Committee recognises that there may be difficulties in implementing a system of provisional enrolment for prospective citizens and proposes a more simple system which incorporates aspects of the provisional enrolment systems it has considered.

3.86 Such a system would involve persons applying for citizenship being required to complete a detachable modified electoral enrolment form which would be attached at the end of the citizenship application form. The electoral enrolment form would require the applicant to answer, 'When did you apply to become an Australian citizen?'. This question would be asked in place of the question, 'Are you an Australian citizen?', which appears on the current electoral enrolment form.

3.87 The Department of Immigration, Local Government and Ethnic Affairs would retain the electoral enrolment form until such time as the person was naturalised. At this time the card would be certified by the Department to indicate the date and place of citizenship and then forwarded to the AEC to effect the enrolment. This certification would be made in lieu of Recommendation 13 in paragraph 3.61 of this Report.

3.88 The Committee believes this system will ensure new citizens are added to the Electoral Roll by effectively allowing them to apply for enrolment at the time of apply for Australian citizenship.

13. Minutes of Evidence, p. S1646.

14. Minutes of Evidence, p. S1646.

3.89 The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide for the completion of a modified electoral enrolment form at the time a person applies for Australian citizenship. (Recommendation 17)

Consequent upon the Commonwealth Electoral Act 1918 being so amended, the Australian Electoral Commission and the Department of Immigration, Local Government and Ethnic Affairs act in conjunction to implement a system of enrolment for those persons applying for citizenship, the system to be that described in paragraphs 3.85 - 3.87 of this Report. (Recommendation 18)

3.90 Related to the issue of enrolling those applying for citizenship is the issue of checking the bona fides of those applying for enrolment who claim to be Australian citizens and were born overseas. This includes those British subjects not on the Electoral Roll as at 25 January 1984.

3.91 At this time the electoral enrolment form requires a person to state their place of birth and to indicate if they are an Australian citizen but does not ask when and where the person became a citizen.¹⁵ If this was a requirement it would then be possible for the AEC to then verify the citizenship of the person by checking with the Department of Immigration, Local Government and Ethnic Affairs.

3.92 However, the AEC indicated that this sort of checking would be difficult because the Department of Immigration, Local Government and Ethnic Affairs did not have computerised records and consequently checking would be slow. Experience had shown this to be so. The difficulty of checking would be accentuated near the close of roll for an election when there was a rush of enrolment applications.

3.93 Comments provided by the Department of Immigration, Local Government and Ethnic Affairs confirmed these difficulties. The Department noted its Citizenship Index was an incomplete record of persons born overseas who had acquired Australian citizenship. In addition, problems existed with tracing those people who already appeared on the Citizenship Index. Many had changed their name after they were naturalised, and others had moved address or died.

15. See Appendix D for a copy of the current Electoral Enrolment Form.

3.94 The situation was further complicated by the fact that the Privacy Act 1988 was thought to prevent the disclosure of information on individual citizens by the Department to third parties such as the AEC. At the time of report drafting the Department was awaiting legal advice on this matter.

3.95 In assessing this issue the Committee has been mindful of the fact that for a long time enrolment has been made as easy as possible. This is in contrast to the more recent concern about the state of the Electoral Roll in the context of allegations of electoral malpractice.

3.96 The Committee is concerned about the state of the Electoral Roll and believes there is scope for some tightening of the enrolment process with regard to new citizens by modifying the electoral enrolment form.

3.97 The Committee recommends that:

The Australian Electoral Commission amend the electoral enrolment form so that it contains questions which ask:

(a) how a person became an Australian citizen; and

(b) if the person is naturalised, where and when the naturalisation took place.
(Recommendation 19)

3.98 In making this recommendation it is intended that some form of checking occur.

3.99 The Committee notes such checking could be annoying to a prospective elector and that administrative difficulties may exist in the checking process but it does not believe these factors should justify a continuation of the status quo. A reasonable solution is seen as a random checking of those electoral enrolment forms completed by those persons born overseas and claiming to be Australian citizens.

3.100 The Committee recommends that:

The Australian Electoral Commission conduct regular random checks of those electoral enrolment forms completed by persons born overseas and claiming to be Australian citizens. (Recommendation 20)

The Australian Electoral Commission and the Department of Immigration, Local Government and Ethnic Affairs work in conjunction to formulate and implement a system of checking the citizenship of persons born overseas and seeking to be added to the Electoral Roll. (Recommendation 21)

Real Place of Living

3.101 Up until 1987 people wishing to cast ordinary votes were obliged to establish that their real place of living had been within the Division for which they were enrolled at some time during the three months preceding polling day. Each voter was asked a series of questions which included the question, 'Where do you live?'. If the answer given to this question was different to the address contained in the Certified List the voter was then asked, 'At what place or places have you lived during the last 3 months?'. If the answer to this question was an address in the Division where the person was attempting to vote then they would be able to cast an ordinary vote. Otherwise their claim to vote was rejected.

3.102 Removal of the 3 month question had been recommended by the Joint Select Committee on Electoral Reform in its December 1986 Report on the 1984 Election.¹⁶ The Joint Select Committee had found that the operation of the 3 month rule could not be enforced properly because postal voters were able to avoid it and the rule disenfranchised those electors who had not correctly maintained their enrolment and were honest enough to admit it. Those who lied about their address were able to vote. Also of concern to the Joint Select Committee was its view that the 3 month rule could give rise to challenges in the Court of Disputed Returns.

3.103 A submission on the conduct of the 1987 federal election from the AEC Director of Victorian Operations, Mr Trefor Owen, claimed that the elimination of the 3 month question was leading to inaccurate enrolment.¹⁷ In particular, it was said that:

people who had left their address several years earlier but had not been removed from the Electoral Roll because of ordinary review activity were allowed to cast an ordinary vote; and

16. Joint Select Committee on Electoral Reform, The Operation during the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation, December 1986, Parliamentary Paper, 1/1987, pp. 28-30.

17. Minutes of Evidence, p. 609.

3.110 Following the election these voters will again be removed from the Roll by habitation review unless they return to live at the old address. The only means of returning their name to the Roll is to complete an electoral enrolment form. At any subsequent election a voter may claim a vote but this vote will not be included in the count. The Committee proposes that at a subsequent election the voters may again claim a declaration vote (claiming to live at the old address) but on this occasion the vote would be disallowed.

3.111 To effect this method the Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide that electors can only once be restored automatically to the Commonwealth Electoral Roll after they have been removed by habitation review. Such electors may then only be added to the Electoral Roll by means of completing an electoral enrolment form.
(Recommendation 22)

3.112 The Committee notes that this recommendation requires the AEC to maintain an accurate record of any voter claiming a declaration vote for an address for which the voter claims to have been at the time of the previous election.

3.113 The Committee recommends that:

The Australian Electoral Commission ensure that an accurate record is maintained of all voters who, at the time of an election, claim a declaration vote for an address for which they are not enrolled but for which they claim to have been enrolled at a previous election. Such a list should be publicly available.
(Recommendation 23)

3.114 The Committee notes that the Electoral and Referendum Amendment Bill 1988 which is currently before the Parliament provides for the replacement of the requirement now in the Electoral Act that voters be asked specific questions before issuing them with ballot papers with a requirement that polling officials ask such questions as they think necessary to establish a voter's name and place of living.

3.115 Some cases were cited where voters sought to make absentee votes in a Division bordering the one in which they were enrolled only to be told by polling officials that they should travel to a polling place in the Division for which they were enrolled. The AEC should ensure that all polling staff are aware of the provisions of the Electoral Act with regard to a voter's entitlement to cast an absentee vote, irrespective of the distance from their Division.

Declarations by Candidates of Political and Quasi-political Affiliations and Associations

3.116 On 6 April 1989 the Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs, Mr Alan Griffiths, MP wrote to the Committee requesting the Committee consider the matter of whether there should be a requirement of candidates in elections in Australia to declare their membership of, or association with, political parties or other organisations espousing extremist views. Mr Griffiths was concerned that by not declaring such affiliations candidates were deceiving voters.

3.117 Comment was sought from the AEC which advised that there would be numerous problems involved with implementing such a proposal. The main points made by the AEC were:

- . it would be difficult to make declarations of political affiliations mandatory, there being difficulties in enforcing an offence of failing to declare an affiliation or association;
- . there would be limited time available to check statements made by candidates on the nomination forms;
- . there were significant problems in defining a political or quasi-political organisation or association; and
- . while it was important to have a free flow of information to ensure an effective election, this had never been made a legal requirement.

3.118 The AEC noted that while Australia and other countries had a requirement to disclose sources of election funds there were no known cases of a requirement to disclose political links. It was possible that money rather than membership of associations had been pursued because there was a desire to avoid the experience of the anti-Communist post war campaign in the United States.

3.119 The AEC saw that there was no practical solution to the problem getting candidates to declare the affiliations and associations with political and quasi-political organisations and cited the conclusion of the Joint Select Committee on Electoral Reform that the judgement of the truth or otherwise of political advertising should be left to the electors and the law of defamation.

3.120 The AEC concluded:

There is much to be said for leaving whether a candidate has something to hide to the activities of opposing candidates and the media who, in this regard, will be subject to the law of defamation.¹⁸

3.121 The Committee is sympathetic to the concerns expressed by Mr Griffiths about candidates who seek to hide their membership of political organisations when seeking public office. However, the Committee has had difficulty in finding a solution to the problem. The major stumbling block is being able to define a political organisation. While registered political parties obviously fall into this category it is difficult to define organisations such as the League of Rights as political organisations without including RSL sub-branches, school parents and citizens associations and sporting groups which on occasions may become involved in public debate. At this time, the Committee is inclined to impose some strictures in the hope that they either encourage disclosure and/or inhibit some persons from pursuing candidature.

3.122 The Committee recommends that:

Nomination forms be amended to require candidates to state their membership of any registered political party.
(Recommendation 24)

There be a penalty for a candidate failing to state his or her membership of any registered political party on a nomination form. The penalty to be \$6,000.
(Recommendation 25)

3.123 In addition, the Committee believes other candidates and the media will continue to have an important responsibility to reveal the associations and affiliations of candidates.

18. JSCEM, File CFE87.1, Part 10.

CHAPTER 4

POLLING

- . Use of Licensed Premises as Polling Places
- . Cardboard Voting Screens and Ballot Boxes
- . Printing of Ballot Papers
- . Ballot Paper Instructions
- . Identification of Single Incumbent Senators'
Ticket Voting Boxes
- . Postal Voting Confidentiality
- . Post Office Closing Time for Postal Votes
- . Registration of General Postal Voters
- . National Tally Room
- . Scrutiny of Declaration Votes
- . Enforcement of Compulsory Voting

Use of Licensed Premises as Polling Places

4.1 The 1987 federal election was held during winter and coincided with school holidays. Consequently, there were many electors at ski resorts. At the Thredbo and Mount Buller resorts the only premises suitable for polling places were both licensed and were therefore prohibited from such a use by s.205 of the Electoral Act. Section 205 allows licensed premises to be used as polling places only if the Electoral Commissioner declares in writing that he is satisfied no intoxicating liquor will be available for sale in any part of the premises during the hours of polling on polling day.

4.2 For the 1987 federal election the available premises at the Thredbo and Mt Buller resorts were declared postal voting centres and postal votes were issued. This was because section 205 does not apply to premises used as postal voting offices. Local residents and visitors therefore recorded declaration votes rather than ordinary votes and absent votes. This slowed the voting process and caused considerable inconvenience.

4.3 The AEC suggested the problems at these ski resorts could be resolved by amending the Electoral Act to:

- (a) permit the use of licensed premises notwithstanding that liquor was being sold - if the Electoral Commissioner was satisfied that no liquor would be sold or consumed on that part of the premises to be used for polling; or
- (b) permit the use of licensed premises notwithstanding that liquor was being sold - if the Electoral Commissioner consented to such use. As a matter of administration the Electoral Commissioner would as a general rule have regard to whether there would be sale or consumption of liquor on that part of the premises to be used for the polling; or
- (c) repeal s.205. As a matter of administration licensed premises would only be used where no other premises were available and then only in the circumstances outlined in (a) and (b) above.¹

4.4 The Committee is of the view that the use of licensed premises as a polling places is not desirable except where no other premises are suitable and the part of the premises to be used as a polling place can be segregated from areas where alcohol is being sold or consumed.

1. Minutes of Evidence, p. 16.

The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended to permit licensed premises to be used as polling places subject to the Electoral Commissioner being satisfied that:

- a) no liquor will be sold or consumed on that part of the premises being used for polling;
- b) the part of the premises to be used for polling is segregated from areas where alcohol is being sold or consumed; and
- c) voters have easy access to the part of the premises to be used for polling which does not involve passage through an area where alcohol is being sold or consumed.
(Recommendation 26)

Cardboard Voting Screens and Ballot Boxes

4.6 The 1987 election saw the widespread use of disposable cardboard voting screens and ballot boxes instead of durable wooden and metal units. The use of cardboard raised questions of cost and security.

4.7 The AEC indicated that its decision to use disposable cardboard screens and ballot boxes was prompted by the escalating costs of purchasing and storing the metal and wooden units. To demonstrate savings from the use of cardboard the AEC provided comparative data on the costs of cardboard units and the more durable units for a three year period, that is the national period between federal elections set by the Constitution. Table 4.1 shows the cost data.

Table 4.1 Comparative Costs of Maintaining Durable Screens and Ballot Boxes and Cardboard Screens and Ballot Boxes.

	Storage Cost	Replacement Costs	Total Cost
Durable units:	\$900,000	\$461,970 (screens only)	\$1,361,970
Cardboard ballot boxes:	-	\$163,000	
Cardboard screens:	-	\$1,037,000	\$1,200,000
Difference:			\$ 161,970

Source: Minutes of Evidence, p. 97.

4.8 The AEC suggested the saving of approximately \$162,000 per 'three year period' would be a recurrent saving and one which was expected to increase because of increasing of storage costs of durable units and because of the marked disparity in the capital replacement cost of durable voting screens, now over \$100, as compared to cardboard screens at \$13.

4.9 After polling day at the 1987 election the cardboard screens and ballot boxes were disposed of in three ways. Some were handed over to schools for educational purposes; some were recycled and the remainder were discarded. Discarding occurred where transport costs associated with recycling were high and the screens and ballot boxes were not wanted by schools.

4.10 In providing the Committee with data on the ongoing costs and benefits of using cardboard the AEC did not include figures relating to the buy-back of cardboard by recycling centres. However, the AEC stated that at the next federal election it hoped to recycle the 'greater part of cardboard used in metropolitan centres along the eastern States'.²

4.11 The Committee notes the comparative cost data provided to by the AEC and will monitor with interest the savings that result from the use of cardboard screens and ballot boxes.

4.12 The Committee views the giving of cardboard screens and ballot boxes to schools for electoral education as laudable but believes the AEC should wherever possible ensure that cardboard material is recycled rather than discarded.

2. Minutes of Evidence, pp. 1765-6.

- 4.13 The Committee recommends that:

The Australian Electoral Commission make every effort to ensure cardboard screens and ballot boxes are recycled. (Recommendation 27)

4.14 On the matter of security a number of submissions raised doubts about the use of cardboard ballot boxes stating that ballot boxes were not sealed, broke open, were too small or permitted ballot papers to get stuck.

4.15 Despite such claims the Committee found the cardboard ballot boxes to be a secure means of collecting ballot papers. On polling day individual ballot boxes remained in view of all voters and more importantly, they were constantly under the scrutiny of a Presiding Officer and party scrutineers. Similarly, smaller ballot boxes used for mobile polling remained under the scrutiny of Divisional Office staff. Also important was the fact that most polling places were counting centres and as a result security problems with transporting ballot boxes were negligible.

4.16 At the end of polling day the bases of cardboard ballot boxes were punched out and inspected. This process ensured any stray ballot papers were found.

4.17 While some submissions were critical of cardboard ballot boxes the Committee found there to be overall acceptance of them and noted they had been well received by AEC staff.

4.18 The Committee is aware that polling staff receive training in the assembly of cardboard ballot boxes but believes additional emphasis should be given to this aspect of training so that relevant polling officials are demonstrably familiar with the assembly of cardboard ballot boxes.

- 4.19 The Committee recommends:

The Australian Electoral Commission's program for the training of relevant polling staff be modified to give additional emphasis to the assembly and emptying of cardboard ballot boxes. (Recommendation 28)

Printing of Ballot Papers

4.20 The 1987 election was the first occasion on which standardised ballot papers were used nationally. Printing commenced shortly after the close of nominations and the ballot papers were then distributed nationally and to overseas posts.

4.21 The ballot papers suffered from proof-reading errors, the reason for this being given as the pressure on the AEC to distribute ballot papers as quickly as possible. In Victoria problems were experienced with the House of Representatives ballot paper and as a result most of the ballot papers were recalled and shredded. Critical comments on ballot papers were received from the Administrative and Clerical Officers' Association which claimed:

Ballot papers were again of very poor standard and in New South Wales some had a candidate's name missing (due to a printing error) and every paper had to be individually checked.³

4.22 The AEC advised the Committee that procedures for proofreading ballot papers were "revised and tightened to prevent any future misadventure of such magnitude" as the problem experienced in Victoria.⁴ The Committee notes the problems that occurred during the 1987 election and the assurances given by the AEC.

Ballot Paper Instructions

4.23 In January 1987 the AEC carried out a survey on informal voting which found that 46.9% of those surveyed did not notice instructions on a ballot paper and only 36.4% read the instructions.

4.24 The AEC's advertising agency suggested to the AEC that a 'prompt' message, PLEASE READ THE INSTRUCTIONS BEFORE YOU VOTE, should appear in bold type on the ballot paper. The AEC has recommended this change noting that it requires an amendment to the Act or a new regulation.

4.25 The Committee believes the suggested 'prompt' message may assist voters and thereby reduce informal voting.

4.26 The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended or a regulation be made so that the prompt, PLEASE READ THE INSTRUCTIONS BEFORE YOU VOTE, appears in bold type on all ballot papers. (Recommendation 29)

3. Minutes of Evidence, p. 625.

4. Minutes of Evidence, p. 24.

Identification of Single Incumbent Senators' Ticket Voting Boxes

4.27 The 1987 amendments to the Electoral Act resulted in a new s.211A which provided for incumbent Senate candidates to have the name of a registered party or the word 'Independent' printed against the ticket voting box both in the top half of the ballot paper and under his or her name in the lower half of the ballot paper.

4.28 In the 1987 federal election the former Liberal Senator, Senator Don Jessop stood as an independent Senate candidate in South Australia. Mr Jessop availed himself of the provisions of the new s.211A, the result of which is shown in Figure 4.1.

Figure 4.1 Reproduction of Part of the South Australian Senate Ballot Paper used for the 1987 Federal Election.

BALLOT PAPER
South Australia

You may vote in one of two ways

either

By placing the single figure 1 in one and only one of these squares to indicate the voting ticket you wish to select as your vote

A	B	C	D	E
<input type="checkbox"/> or	<input type="checkbox"/> or THE GREENS	<input type="checkbox"/> or INDEPENDENT	<input type="checkbox"/> or NATIONAL PARTY	<input type="checkbox"/> or COMMUNIST PARTY OF AUSTRALIA

A	B	C	D	E
<input type="checkbox"/> MAGASON <small>Candidate</small>	<input type="checkbox"/> FRICKER <small>THE GREENS</small>	<input type="checkbox"/> JESSOP <small>INDEPENDENT</small>	<input type="checkbox"/> WRIGHT <small>NATIONAL PARTY</small>	<input type="checkbox"/> WISHART <small>COMMUNIST PARTY OF AUSTRALIA</small>
<input type="checkbox"/> MCCOLL <small>THE GREENS</small>	<input type="checkbox"/> DAVISON <small>THE GREENS</small>		<input type="checkbox"/> AGARS <small>NATIONAL PARTY</small>	<input type="checkbox"/> GALE <small>COMMUNIST PARTY OF AUSTRALIA</small>
			<input type="checkbox"/> ROGERS <small>NATIONAL PARTY</small>	
			<input type="checkbox"/> TAYLOR <small>NATIONAL PARTY</small>	

or

By placing the numbers 1 to 45 in the order of your preference

4.29 During the scrutiny many ballot papers recording votes for Mr Jessop were rendered informal because they only had a number one in the box below the line. The AEC investigated the problem and concluded that many voters wishing to vote for Mr Jessop had done so by putting a number one against the box where his name was displayed.

4.30 The AEC subsequently recommended to the Committee that the Electoral Act be amended to avoid repetition of the problem experienced by Mr Jessop.

4.31 The Committee agrees with the AEC's recommendation and accordingly recommends that:

Section 211A(8) of the Commonwealth Electoral Act 1918 be amended to allow the name of a candidate who is using s.211A(1) or s.211A(2) to be recorded along with the word 'Independent' in the top portion of the Senate ballot paper. (Recommendation 30)

Postal Voting Confidentiality

4.32 Section 184 of the Electoral Act provides that an elector is eligible to cast a postal vote if:

- . the elector will not be within his/her State or Territory on polling day; or
- . the elector will not be within 8 kilometres by the nearest practicable route of any polling booth in his/her State or Territory; or
- . the elector is seriously ill or infirm; or
- . the elector is a patient in a hospital; or
- . by reason of religious belief the elector is precluded from attending a polling booth on polling day.

4.33 An elector's postal vote is forwarded to his/her Divisional Returning Officers in a special envelope which records the elector's division, name, and date of birth.

4.34 Various submissions on the conduct of the 1987 federal election expressed concern about the confidentiality of postal voting. In particular, they were concerned that personal details recorded on the exterior of the envelope amounted to an invasion of privacy and that some elderly voters were concerned that the recording of their date of birth would increase the likelihood of burglary or personal attack. Other concerns were that the envelopes indicated that an elector would probably be absent from their home on polling day (this was an invitation for burglary) and that at the time of counting postal votes an elector's voting preference and name could be seen by polling officials.

4.35 The AEC acknowledged such concerns but observed that for most people voting was a public act. The AEC submission on the 1987 election stated:

Double enveloping is of course the ultimate answer to the problem. However, is the problem of such gravity as to warrant additional costs, envelopes only, of at least \$12,000?⁵

4.36 The AEC was more inclined to advertise in pamphlets sent to postal voters that voters were able to send their postal vote certificate (the envelope) in a stamped and addressed outer envelope provided by themselves.

4.37 However, two other solutions existed:

- the declaration envelope could be placed inside another envelope; or
- a system could be developed whereby the details are written on the inside of a ready to assemble envelope.

4.38 The AEC indicated that the first solution would have a total cost of \$87,000⁶, that there was a real risk that the ballot papers would not be put inside the two envelopes and that this still did not prevent a person's vote being known if an official was interested enough. However, the AEC also stated that it was not essential to place date of birth details on the exterior envelope as it was used for identification and that voters could use a self-provided stamped extra envelope if they wished.

4.39 At the time of report drafting the AEC was still negotiating with suppliers on the design of a special ready to assemble envelope. The envelope was described as using an extended glue flap to carry the return address and cover the elector's declarations. The ballot paper was then independently sealed in the envelope. This meant electors declarations could be processed at a preliminary scrutiny before the envelope was opened to count the ballot papers.

4.40 This new type envelope should be available for use by the end of 1989 at an estimated cost per envelope of 30-40 cents. The approximate total cost of providing this type of envelope would therefore be \$12,000.

5. Minutes of Evidence, p. 36.

6. The total cost of \$87,000 comprises \$12,000 for cost of double envelopes, \$15,000 for larger envelopes to send outgoing material to electors and \$60,000 in staff costs for handling the additional envelopes.

4.41 The Committee is of the opinion that either double enveloping or a new ready-to-assemble envelope could be satisfactorily used for postal voting. What is of prime importance is confidentiality. Therefore whichever option is selected must ensure confidentiality of both the voter's personal details and the ballot paper.

4.42 The Committee recommends that:

Prior to the next federal election the Australian Electoral Commission introduce a system of double enveloping or an appropriately designed ready-to-assemble envelope for the purpose of postal voting. (Recommendation 31)

4.43 Should the AEC choose to use a new ready-to-assemble envelope the Committee wishes to examine the envelope before it is put into use.

4.44 Should the AEC choose double envelopes the AEC should forward the additional envelope to the postal voter when posting out ballot papers.

Post Office Closing Time for Postal Votes

4.45 Section 200(7) of the Electoral Act states that postal votes are not included in the count for an election if the envelope containing the postal ballot papers bears a postmark that includes a date after polling day.

4.46 While the provision is fair and reasonable, certain problems exist in its application. For example, because of early clearance times on Fridays in some centres postal votes posted on the Friday afternoon before an election are postmarked after polling day. Such votes are therefore not included in the count.

4.47 The ACOA suggested s.200(7) be repealed because in the ten days after polling day a large number of postal envelopes were received which did not have any postmark. These postal votes were admitted if the date given by the witness on the postal vote was that for the polling day.⁷

4.48 The Committee does not believe it is necessary at this time to repeal s.200(7) but rather sees the solution as setting aside for Friday postmarking those letters addressed to the AEC or AEC officers and which are posted at Post Offices with early Friday clearance times after the time of clearance on the Friday before an election and before 5.00pm that same Friday. Similar arrangements should be made for country voters or others using locked mail bags. The Committee believes this will ensure a fair cut off time exists for the receipt of postal votes.

7. Minutes of Evidence, p. 651.

- 4.49 The Committee recommends that:

Australia Post make arrangements to receive and postmark all mail addressed to the AEC or officers of the Australian Electoral Commission and lodged at Post Offices up until 5.00pm on the Friday immediately preceding an election. This includes mail lodged in locked mail bags. (Recommendation 32)

The Australian Electoral Commission provide full information to postal voters on the procedures for making postal votes including postal arrangements made by Australia Post. (Recommendation 33)

- 4.50 The Committee notes that postal votes witnessed on the date of the polling day and similarly postmarked before the close of the poll should continue to be admitted to the count.

Registration of General Postal Voters in Remote Areas

- 4.51 Section 227 of the Electoral Act provides for remote area polling which involves teams of polling officials travelling by air and land transport to remote centres such as Aboriginal communities, cattle stations and tiny remote townships.

- 4.52 The AEC's submission on the 1987 federal election stated:

Remote area mobile polling is used most extensively in the Northern Territory where about one in seven electors cast their vote at mobile polling stations. [During the 1987 election] sixteen teams operated throughout the Territory. Remote mobile polling was also conducted in the Divisions of Riverina-Darling (5 teams), Farrer (1 Team), Kennedy (3 teams), Grey (3 teams), Wakefield (1 team) and Kalgoorlie (11 teams).⁸

- 4.53 Section 185 of the Electoral Act sets out conditions for electors to register as general postal voters. Subsection 185 (a)(ii) states that a prescribed elector is an elector whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place.

4.54 In the case of the Northern Territory this provision contrasts with s.57 of the Northern Territory's Electoral Act which provides that where an elector's enrolled address is not within 20 kilometres, by the shortest practicable route, of either a static polling place or a mobile polling station, application may be made for registration as a general postal voter.

4.55 The AEC has recommended that the Commonwealth Electoral Act be amended so that a majority of Northern Territory electors may be in essentially the same position whether they are voting for elections for the Northern Territory or the Commonwealth. The current anomaly is:

Under s.227 of the Commonwealth Electoral Act, a mobile polling station is deemed to be a polling place for the purposes of taking votes under the section. An elector can therefore be a general postal voter if he or she lives at a mobile polling station under Commonwealth legislation but not under [Northern] Territory legislation.⁹

4.56 The Committee accepts the AEC's recommendation and accordingly recommends that:

The Commonwealth Electoral Act 1918 be amended so that mobile polling stations at federal elections become polling places for the purposes of registration of general postal voters. (Recommendation 34)

4.57 The Committee notes that advice of the AEC that this recommendation should have the effect of reducing the number of registered voters because many electors on the register live at mobile polling centres.

National Tally Room

4.58 For the 1987 federal election the National Tally Room was again set up at the National Exhibition Centre which is located in the Canberra suburb of Mitchell. The AEC had use of the Centre from 29 June 1987, 12 days before the election.

4.59 The AEC has a standing contract with the owner of the Centre, the National Exhibition Centre Trust, which allows the AEC the right to eject other tenants should there be an election.

9. Minutes of Evidence, p. 38.

4.60 For each election the AEC has to fit out the Centre by building offices, a stage, constructing the tally board and forming and furnishing the Room so it will house the members of the public and the media representatives who attend on election night. For the 1987 federal election 280 media representatives requested seating in the National Tally Room but only 260 could be accommodated. The total cost of providing the Nationally Tally Room was \$203,666 of which \$92,000 was spent on constructing it.

4.61 As for previous elections, the cost of the National Tally Room for the 1987 federal election was borne by the AEC. The AEC has considered charging media organisations for access to and usage of the Room but has never been given approval to do so. The Electoral Commissioner stated to the Committee that the suggestion of charging media organisations for the Tally Room had not been regarded as politically feasible by those to whom the idea was put.¹⁰

4.62 There is now no reason why the AEC should not charge media organisations for access to and usage of the National Tally Room. Moreover, there is a demand for such a facility demonstrated by the fact that the AEC decided against establishing a tally room for the first ACT Legislative Assembly elections held on 5 March 1989 and yet one was spontaneously set up.¹¹

4.63 The Committee recommends that:

The Australian Electoral Commission develop and implement a charging policy to apply to media organisations for their access to, and usage of, the National Tally Room wherever and whenever it is set up for elections of the Parliament of the Commonwealth.
(Recommendation 35)

4.64 In relation to the National Tally Room the Committee notes the difficulties experienced on 11 July 1987 with the AEC computer system and in particular, the processing and display of Senate results. The Committee further notes that the problem was attributed to inadequate computer hardware which has since been replaced by more powerful equipment.

10. Minutes of Evidence, p. 478.

11. Minutes of Evidence, p. 1036.

Scrutiny of Declaration Votes

4.65 Section 235 of the Electoral Act provides that where an elector wishes to vote but the elector's name cannot be found on the certified list of voters they may cast a provisional (declaration) vote once they have signed an appropriate declaration form which takes the shape of an envelope. Once the ballot paper is completed it placed in the declaration envelope. The envelope is then signed, placed in the ballot box and later forwarded to the appropriate DRO.

4.66 Upon receipt of the declaration envelope the DRO establishes the electors entitlement to vote. The declaration votes are subject to a preliminary scrutiny which either rejects them or admits them to further scrutiny.

4.67 The AEC has suggested to the Committee that the initial scrutiny is undertaken at a time when DROs are working under immense pressure and the AEC has therefore proposed that the Electoral Act be amended to allow for a second preliminary scrutiny of declaration votes at a later stage.

4.68 The Committee accepts the need for such an amendment and notes that the audit of six Divisional Offices conducted after the 1987 federal election suggested there was a need to provide for a second preliminary scrutiny.

4.69 The Committee recommends that:

The Commonwealth Electoral Act 1918 be amended to allow for a second scrutiny of all declaration votes which have been rejected at the first scrutiny. (Recommendation 36)

Enforcement of Compulsory Voting

4.70 The Committee's predecessor, the Joint Select Committee on Electoral Reform, considered the issue of enforcement of compulsory voting in its December 1986 Report, The Operation during the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation.

4.71 The AEC had suggested to the Joint Select Committee that the system of imposing an administrative fine for failure to vote without sufficient reason be replaced by an infringement notice system similar to an on-the-spot traffic fine. The AEC argued:

What we have in mind is that the current non-voter process (i.e. of seeking a reason for not voting; determining whether it is valid and sufficient; etc through to imposing a \$2 - \$4 penalty) be replaced by the issue of an infringement notice. The notice would tell the elector that according to our records he has not voted and that he may dispose of this matter by payment of \$20 or, alternatively, by

having the matter dealt with in court. It follows that if the elector paid up no further action would be taken as the matter would be deemed to have been expiated. There would be provision on the back of the form for the elector to complete if he believes he had a valid and sufficient reason for not voting; or if he in fact voted; or if he wants to have the matter dealt with by a court.¹²

4.72 The Joint Select Committee accepted the need to increase the administrative penalty to \$20 but rejected the 'on the spot fine' system. Later in its Report, the Joint Select Committee recommended that the provisions of the Electoral and Referendum Regulations (including Regulations 76-83 which deal with the enforcement of compulsory voting) be incorporated in the Electoral Act.¹³

4.73 More recently a Parliamentary Counsel signalled difficulties in seeking to incorporate regulations 76-83 into the Electoral Act questioning whether the regulations 'were within power'. The Parliamentary Counsel suggested it would be better if the present provisions were replaced with an infringement notice system, the same suggestion made by the AEC to the Joint Select Committee.

4.74 The AEC subsequently sought advice from the Attorney-General's Department. In part the advice states:

the validity of provisions authorising the administrative imposition of penalties breaches of the law relating to compulsory voting cannot be regarded as clear beyond doubt and there would seem to be merit in giving further consideration to introducing an alternative procedure such as that suggested by the Second Parliamentary Counsel.¹⁴

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12. Joint Select Committee on Electoral Reform, The Operation during the 1984 Election of the 1983/84 Amendments to Commonwealth Electoral Legislation, Report No.2, Parliamentary Paper 1/1987, pp. 111-2.
 13. Joint Select Committee on Electoral Reform, The Operation During the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation, Report No. 2, Parliamentary Paper 1/987, p. 214.
 14. Minutes of Evidence, p. 106.

4.75 The AEC believes there are three options available at this time, viz. :

1. no change - leaving the provisions for administrative enforcement of compulsory voting in the Regulations;
2. proceeding to re-enact the provisions/Regulations??? as part of the Electoral Act; or
3. replacing the present system with an infringement notice system.

4.76 As in 1986, the AEC's preference is for option 3, the introduction of an infringement notice system. In its submission on the 1987 federal election the AEC cites what might be a model scheme which is contained in the recently amended New South Wales Parliamentary Electorates and Elections Act 1912 and Regulations. Under this scheme a voter who fails to vote is served a notice by the New South Wales Electoral Commissioner. The notice allows the voter to avoid a further proceedings which entail a fine of \$50 by either giving a satisfactory reason why he/she did not vote or by paying to the Commissioner an amount not greater than \$25.

4.77 Table 4.2 shows the various penalties in Australia which relate to the enforcement of compulsory voting.

Table 4.2 State and Territory Administrative Penalties for Failure to Vote

State/Territory	Minimum	Maximum	Giving Rate
NSW(a)	-	25	-
VIC	-	50	15
QLD	-	10	10
WA	-	50	20
SA(b)	-	-	-
TAS	5	50	5
NT(c)	-	-	-
ACT(d)	-	(20)	-

- (a) 1987 amendments also provided that an Enforcement Order may be taken out for failure to reply to the administrative penalty notice or failure to give a valid and sufficient reason for failure to vote. The order is for \$50 representing the \$25 penalty plus \$25 costs prescribed under the Justices Act.
- (b) South Australia has an expiation fee currently set at \$10
- (c) The Northern Territory has no provision for administrative penalties. The courts may impose fines of up to \$100 and the average is \$35 plus costs of \$25
- (d) The legislation establishing the current electoral system for the ACT provided insufficient power to impose an administrative penalty by regulation. A bill is currently before Parliament to amend the regulation making power in s.23 of the ACT Electoral Act 1988.

4.78 The Committee notes that the AEC argued for an infringement system before the Joint Select Committee on Electoral Reform and that now, as then, its apparent motive is to achieve a system which is more administratively efficient.

4.79 The Committee is persuaded that there is now a reason for change on the basis of apparent legal difficulties with the present system, in particular, the exercise of judicial power administratively.

4.80 The Committee therefore recommends that:

An infringement notice system be introduced to replace the present system of enforcement of compulsory voting. (Recommendation 37)

CHAPTER 5

ADVERTISING

- . Definition of an Electoral Advertisement
- . Readings to Newspaper Advertisements
- . Double Page Advertisements
- . Business Cards Requirement
- . Section 328(1)(a) and(b): Printing and Publication of Electoral Advertisements, Notices, etc.
- . Publication of Matter Concerning Candidates

Definition of an Electoral Advertisement

5.1 Details of all electoral advertisements broadcast or distributed during an election period are subject to the provisions of the Electoral Act, which require, inter alia, that a return giving details of expenditure be sent to the AEC.

5.2 During the 1987 election, the then Minister for Aboriginal Affairs distributed electoral matter material which included a video. The AEC viewed this material as being subject to the provisions of s.309 of the Electoral Act and therefore requiring the completion of a return of expenditure. Subsequently the Attorney-General's Department advised the Department of Aboriginal Affairs that there was some doubt as to whether video recordings were included in the definition of an electoral advertisement.

5.3 The Committee believes there is a need to include video material in the definition of an electoral advertisement and notes that in recent elections in San Francisco (USA) one candidate's campaign consisted solely of distributing videos to electors.

5.4 The Committee recommends that:

<p>The <u>Commonwealth Electoral Act 1918</u> be amended to extend the definition of 'electoral advertisement' to cover video material. (Recommendation 38)</p>

Headings to Newspaper Advertisements

5.5 Section 331 of the Electoral Act provides that the word 'advertisement' be printed above newspaper articles and paragraphs which are paid for and contain electoral matter. Section 331 states:

The proprietor of every newspaper shall cause the word 'advertisement' to be printed as a headline in letters not smaller than 10 point or long primer to each article or paragraph in his newspaper containing electoral matter, the insertion of which is or is to be paid for or for which any reward or compensation or promise of reward or compensation is or is to be made.

5.6 During the 1987 federal election the requirements of section 331 came under criticism and in its submission to the Committee, the AEC recommended that the section be deleted.

5.7 The AEC stated that when the section was first inserted into the Electoral Act in 1911 it had been the intention of the Government of the day to alert newspaper readers to party statements put the forward under 'the guise of the publicist or the opinion of the press'¹. Furthermore, the AEC believed the section's value was diminished by the difficulty involved in its enforcement. This was because the AEC did not have the resources to monitor all newspapers. The AEC indicated that an examination of newspapers during the 1987 election showed a great variety in the extent of adherence to s.331 by newspaper proprietors.

5.8 At the public hearing held on 25 October 1988 the AEC stated that it was doubtful about the value of inserting the word 'advertisement' at the top of political advertisements, arguing that in many cases it was quite apparent to the reader was looking at an advertisement. In addition, s.328 of the Electoral Act required that advertisements carry an authorisation stating the name and address of the person making the advertisement.

5.9 In later advice to the Committee the AEC stated:

When we checked our legal advising register and the history of the section [331] we discovered that [our recommendation] in our submission on the 1987 election, that section 331 be deleted, was based on a misinterpretation of the application of the section.

The section had a much narrower application than we had thought, applying only to an 'article or paragraph' in a newspaper containing electoral matter for each payment has or will be made.²

5.10 In concluding this advice, the AEC reaffirmed its view that s.331 should be deleted, stating that it served no useful purpose.

5.11 The Committee notes the AEC's discovery as to the application of s.331.

1. Minutes of Evidence, p. 48.

2. Minutes of Evidence, p. S866.

5.12 The advice of the AEC is that in the absence of the word 'advertisement', s.328 would ensure that newspaper paragraphs, articles and advertisements containing electoral matter for which payment has or will be made contained an authorisation which identifies the name and the address of the author. Nevertheless, the Committee believes that there is merit in readers being alerted to articles or paragraphs which misleadingly appear in newspapers and on this basis the Committee does not support the deletion of s.331.

5.13 The Committee recommends that:

The Australian Electoral Commission ensure newspaper publishers are fully aware of the provisions of s.328 and s.331 of the Commonwealth Electoral Act 1918.
(Recommendation 39)

Double Page Advertisements

5.14 During the 1987 federal election questions were raised by an advertiser and a newspaper representative as to the requirements of s.328(1) and s.331(1) of the Electoral Act. In particular, clarification was sought from the AEC as to what was required by s.328(1) and s.331(1) of the Electoral Act for a newspaper advertisement which took up two adjacent pages.

5.15 The newspaper representative was of the opinion that s.331(1) required the word 'advertisement' to appear at the top of both pages and that s.328(1) required the name and the address of the person authorising the advertisement to appear at the bottom of both pages. The advertiser was of the opinion that the word 'advertisement' and the authorisation only had to appear on one of the pages.

5.16 The AEC advised both parties that in its view the Electoral Act was unclear about the requirements for 'double-page spread advertising where the two pages did not meet in the "gutter" [or seam of the two pages]'.³

5.17 For the sake of clarity and simplicity of enforcement it would be preferable to amend the Electoral Act so that each page of a double page political advertisement to carried authorisation details. However, the Committee believes an exception to this should be the advertisement that is clearly intended to extend across two adjoining pages, the proof of which would be the enclosing of the advertisement in one box or the printing of the advertisement across the 'gutter' or seam of the two pages.

3. Minutes of Evidence, p. S1761.

5.18 The Committee recommends that:

Section 328 of the Commonwealth Electoral Act 1918 be amended so that newspaper advertisements appearing as double page advertisements carry authorisation details on both pages of the advertisement unless the advertisement extends across the two pages and is contained within one box or is printed across the seam of the two pages in which case only one authorisation statement need be printed. (Recommendation 40)

Business Cards Requirement

5.19 The 1987 election raised the issue of whether candidates using business card to promote their candidacy should be required to print authorisation details on the cards.

5.20 The relevant part of the Electoral Act is s.328 and in examining the issue the AEC found that it was not clear as to what view a court would take on business cards in relation to s.328. The AEC indicated that it would not institute proceedings for a breach of s.328 if a candidate was clearly indicated on his/her cards. However, this was not to say other persons would not take legal action.

5.21 The Committee reasons that by definition a business card already contains details of the person's name and address and so does not need to have it repeated in the form of an authorisation as set down in s.328 of the Electoral Act. The Committee therefore recommends that:

Section 328 of the Commonwealth Electoral Act 1918 be amended so that business cards which promote a person's candidacy for election to the Parliament of the Commonwealth be exempt from the requirement to display authorisation details. (Recommendation 41)

Section 328(1)(a) and (b): Printing and Publication of Electoral Advertisements, Notices, etc.

5.22 During the 1987 federal election problems were experienced with the sending of a form letter containing electoral material to electors. In one case a complainant stated that a form letter was not authorised in accordance with the provisions of s.328(1)(a) and (b) of the Electoral Act. These sub-sections basically require a person to print their name and address at the end of their advertisement and in the case of an advertisement not printed in a newspaper they are required to print the name and place of business of their printer.

5.23 The AEC having received the complaint referred the matter to the Director of Public Prosecution (DPP). The DPP advised that there had been no more than a technical breach of the Act and that the appropriate course of action was simply to write to the letter's author drawing attention to the requirements of the Act. However, the DPP was concerned that s.328 may not be serving a useful purpose in relation to form letters and in particular, the provision that authorisation details appear at 'the end thereof'. The DPP concluded:

In the case of standard form letters, which are posted in envelopes which are marked with the name of the sender, there seems little reason why that should not be sufficient.⁴

5.24 The Committee agrees with the DPP's conclusion on this matter and notes that the problem may be overcome by adding 'form letters' to the list of items exempt from authorisation, which is contained in s.328(3). Accordingly, the Committee recommends that:

Section 328(3) of the Commonwealth Electoral Act 1918 be amended so as to add to the category of material that do not require authorisation under subsection (1), letters and cards (other than how-to-vote cards) which are marked with the name and address of the sender so as to make it clear who is responsible for the material.
(Recommendation 42)

Publication of Matter Concerning Candidates

5.25 During the 1987 federal election the AEC received a complaint about an advertisement and a how-to-vote card which were headed 'How to vote Australian Democrat in Petrie and give your preference to the Liberals'.⁵ The Democrats in Petrie officially directed their preferences to the Australian Labor Party.

5.26 The AEC notes that on polling day:

... on injunction was sought by the Labor candidate, Mr Johns, seeking an order restraining the distribution of the how-to-vote card. The injunction was sought against the Liberal candidate, John Charles Hodges, and one Max Mathers. Mr Mather's name appeared on both the advertisement in question and the how-to-vote cards, after the words

4. Minutes of Evidence, p. 53.

5. Minutes of Evidence, p. 56.

'Authorised by ...'. The injunction was granted on an interim basis by Mr Justice Moynihan.⁶

5.27 The AEC sought advice from the Director of Public Prosecutions (DPP) on a possible breach of s.351 and was advised that to prosecute Mr Mathers or Mr Hodges it would need evidence that:

- (a) the how-to-vote card was announced or published, or was caused to be announced or published, by Mr Mathers;
- (b) that Mr Mathers did so on behalf of an association, league, organisation or other body or persons; and
- (c) the how-to-vote card impliedly advocated or suggested that a candidate in an election is the candidate for whom the first preference vote should be given.⁷

5.28 The DPP found there was satisfactory evidence in relation to the third point but not the first two points. In relation to point (a) the fact that Mr Mather's name appeared after the words 'authorised by' was no more than documentary hearsay and there was insufficient evidence to implicate Mr Hodges in the matter. In relation to point (b) it could not be shown that the material has been published on behalf of the Liberal Party and it was open to suggestion that the material had been published on behalf of the Australian Democrat voters. But the DPP did not consider Australian Democrat voters constituted an 'association, league, organisation, or other body of persons' within the meaning of s.351.

5.29 The result of the DPP's advice is that s.351 is seen as unenforceable.

5.30 In considering the application of s.351 the Committee determined that the Electoral Act should be amended so that s.351 was enforceable. Advice was therefore sought from the AEC as to what action might be appropriate. That advice suggested two changes to the Electoral Act:

1. since it had proven difficult to prove matter had been published 'on behalf of any association, league, organisation or other body of persons' this element should be deleted from s.351; and
2. because the authorisation by a person on a how-to-vote card could not be taken as admissible evidence but merely documentary hearsay the person whose name was printed as the authoriser should be deemed to be the person who published the how-to-vote card.

6. Minutes of Evidence, p. 56.
7. Minutes of Evidence, p. 56.

5.31 Accordingly, the Committee recommends that:

Section 351 of the Commonwealth Electoral Act 1918 be amended so as to delete the requirement to prove a matter is published on behalf of any association, league, organisation or other body of persons. (Recommendation 43)

Section 351(3) of the Commonwealth Electoral Act 1918 be amended so as to provide that the person whose name is printed as the authoriser of a how-to-vote card is deemed to be the publisher. (Recommendation 44)

CHAPTER 6

ELECTORAL FRAUD

- . State and Availability
of Electoral Rolls
- . The Scrutiny
- . Cemetery Voting
- . Multiple Voting
and Personation
- . Scanning
- . Solutions

6.1 The Inquiry attracted a number of submissions which called into question the efficacy of the federal election system, suggesting multiple voting and other electoral malpractices had been widespread during the 1987 federal election.

6.2 In general, the allegations of malpractice were only supported by anecdotal evidence and as such they were difficult to pursue. Despite requests for names, dates and places no compelling information was forthcoming.

6.3 The main areas of concern were:

- . the state and availability of electoral rolls;
- . the scrutiny;
- . cemetery voting; and
- . multiple voting and impersonation.

State and Availability of Electoral Rolls

6.4 The availability of up to date electoral rolls is an important means of allowing voters and parties to check the validity of those on the rolls and hence detect any enrolment irregularities.

6.5 At the time of the 1987 federal election the AEC was nearing completion of an electoral roll review. The AEC had the option of printing the electoral rolls early so that they could be readily available for the election but it chose not to on the basis that 'the printed rolls would have been substantially out of date and inaccurate by the time they were printed'¹.

6.6 Before the close of rolls for the election some 215,000 names were added to the rolls.² The resulting rolls were then printed as the certified lists of voters and used at polling places all over the country. For the election, copies of reference rolls were available to the public at Divisional Offices and other designated places, however, copies were not available for sale to the public and few copies were produced for polling places. The decision to limit the production of reference roll was based on the cost of producing the rolls and an assessment of their usefulness at polling places. Appendix E provides AEC comment on the availability of the reference rolls.

6.7 Commenting on the availability of the rolls to the public a witness, Mr David Patton, observed:

... if private citizens or political parties are trying to check the content of the rolls, that is, for the right names on them and so forth, they need the practical means at their disposal to do so. It is utterly impractical to go along to an office and just read a few

1. Minutes of Evidence, p. S792.

2. Minutes of Evidence, p. 29.

pages or photocopy a couple of pages ...³

6.8 The Committee notes that the 1987 election was an early election and on this basis accepts the action taken by the AEC in limiting the production of the reference rolls.

6.9 As to the availability of the rolls to Members and Senators it is noted that the Electoral and Referendum Amendment Bill 1988, which at the time of drafting before the Parliament, provides for the printing and distribution of rolls to Members, Senators and political parties no later than the end of the second year of each Parliament. Senators will be entitled to five sets of the rolls and in certain cases the rolls will be made available to Members, Senators and parties in microfiche, magnetic tape or disk format.

6.10 While this change in the availability of the rolls will assist Members and Senators there remains a need for the certified lists to be more readily available to all candidates in a federal election. After consideration of the needs of candidates, Members and Senators the Committee recommends that:

The Commonwealth Electoral Act 1918 be amended so as to provide for the distribution to each candidate, as soon as practicable after the close of rolls, one copy of the certified list of voters for the Division in which the candidate seeks election. (Recommendation 45)

The Commonwealth Electoral Act 1918 be amended so as to provide that after an election for the Senate or a Division or Divisions of the House of Representatives, each Member of the House of Representatives be given three copies of the certified list of voters used in his or her Division for the election. (Recommendation 46)

The Commonwealth Electoral Act 1918 be amended so as to provide that after each election for the Senate or the House of Representatives each Senator be provided with one copy of the certified lists for his or her State or Territory. (Recommendation 47)

6.11 In relation to the quality of the rolls one submission alleged that large numbers of dummy enrolments were made before the close of rolls, then, on polling day those perpetrating the fraud legitimately appeared on the certified lists and were able to vote.⁴ The Committee notes that while individual cases have been cited no evidence of an organised scheme was presented to the Committee.

6.12 One means of dispelling concerns about such activity would be for the AEC to conduct an examination at the next federal election of two marginal Divisions. Such an examination would include looking at enrolments made in the two Divisions (one Government and one Opposition) in the months preceding the election and then examining the results of habitation reviews conducted in the same two Divisions after the election.

6.13 The Committee recommends that:

For the next federal election the Australian Electoral Commission conduct a thorough examination of those persons added to the rolls of two marginal Divisions before the election and those persons deleted from the rolls of the same Divisions after the election. One Division shall be a Government held Division and the other an Opposition held Division. (Recommendation 48)

6.14 The state of the certified lists used for the 1987 election was a matter of concern to various DROs and was raised in a submission prepared by the Administrative and Clerical Officers' Association.⁵

6.15 At federal elections prior to the 1987 federal election printed and bound versions of certified lists were used at polling places. For the 1987 election the AEC used laser printed rolls designed to be computer checked after the election.

4. Minutes of Evidence, p. S105.

5. Minutes of Evidence, p. 630.

6.16 Before the election was announced the AEC had been considering different ways of preparing the master copies of the certified lists and different ways of annotating the lists before they were printed and dispatched to polling places. Conscious of the fact that the electoral rolls have inherent inaccuracies the Commissioner took the view that the annotating of the certified lists to indicate deaths, transfers and postal voters would not protect the voting system from fraud and nor would it represent good value for money. In addition, the last minute annotating of the lists would be 'a serious distraction for senior staff in the Divisional Offices already under great pressure in arranging polling facilities'⁶.

6.17 Prior to the election the Electoral Commissioner issued a directive, under power given to him by s.32 of the Electoral Act, that:

... certified lists of electors used in polling places were not to carry any marks, deletions, additions or notations apart from those marks made during polling itself.⁷

6.18 The Commissioner also directed that lists of postal voters were not to be given to presiding officers.

6.19 The AEC has stated in its submission that these directives did not cause problems:

The net result was a streamlining of the system of preparation, printing and distribution of the lists. No noticeable increase in multiple voting was recorded. A survey was undertaken of deceased electors whose names had remained on the certified lists, and apart from one isolated case of apparent malpractice in one Division no evidence of abuse was identified.⁸

6.20 On the basis of this experience the AEC has sought the repeal of two subsections of the Electoral Act, ss.191(1) and ss.191(2), arguing they have become impractical. Subsection 191(1) provides that if there is time to conveniently do so certified lists should be marked to show postal votes and ss. 191(2) refers to a DRO advising presiding officers of postal voters. In addition, the AEC states the marking of postal voters on certified lists will interfere with its new laser scanning system which rejects pages from certified lists if they contain extraneous marks. (See paragraphs 6.53 - 6.58 for discussion of the laser scanning system).

6. Minutes of Evidence, p. 29.

7. Minutes of Evidence, p. 30. See also Appendix F.

8. Minutes of Evidence, p. 30.

6.21 The Committee accepts the justification for these changes and recommends that:

Subsections 191(1) and 191(2) of the Commonwealth Electoral Act 1918 be repealed.
(Recommendation 49)

Subsections 64(1) and 64(2) of the Referendum (Machinery Provisions) Act 1984 be repealed.
(Recommendation 50)

6.22 It is noted that the Electoral and Referendum Amendment Bill 1988 currently before the Parliament provides for similar subsection (to these recommended to be deleted) to be added to the proposed pre-poll parts of the Electoral Act and the Referendum (Machinery Provisions) Act. Accordingly, the Committee recommends that:

Proposed ss.191(1), 191(2), 200H(1) and 200H(2) of the Commonwealth Electoral Act 1918 and proposed ss.64(1), 64(2), 73G(1) and 73G(2) of the Referendum (Machinery Provisions) Act 1984 which are contained in the Electoral and Referendum Amendment Bill 1988 not be enacted. (Recommendation 51)

6.23 As already indicated DROs were concerned about the state of the certified lists used for the 1987 election, believing that known errors should be corrected. After the election some DROs advised the AEC management that they may be unwilling to certify lists if they believed the lists contained persons ineligible to vote. This led the AEC to assert, in its submission, the authority given to the Electoral Commissioner by s.32 of the Electoral Act and the requirements of s.208. Section 208 says that those voters recorded on the electoral rolls should similarly appear on certified lists and therefore DROs are in no position to remove electors from either the electoral roll or certified lists. All they can do is initiate objection action as set out in Part IX of the Electoral Act.

6.24 The AEC now takes the view that DROs are in fact no longer in a position to certify the (certified) lists because of the changes that have occurred in the production of the lists. In the past when manual typesetting was used the DROs' role was important in ensuring the correctness of the lists but the process is now computerised and the AEC argues the responsibility for the certification of the certified lists is the Commissioner's.

- 6.25 The Committee accepts this and recommends that:

Section 208 of the Commonwealth Electoral Act 1918 be amended so as to provide for the certification of certified lists by the Electoral Commissioner or an officer or officers appointed by him for that purpose (Recommendation 52)

The Scrutiny

6.26 The counting of votes in a federal election takes place as soon as practicable after the close of the poll and is subject to scrutiny by representatives of candidates.

6.27 Some submissions indicated problems had arisen during the scrutiny for the 1987 election and during the 1988 New South Wales State election. For example, it was suggested that on occasions DROs kept scrutineers at bay or told scrutineers nothing was happening when in fact counting was proceeding. One witness claimed:

Scrutineers are also told 'We will not be opening postal ballot papers for a week' or 'till ten days after the election'. When scrutineers call they find that postal ballots have been attended to without a scrutineer being present or advised.⁹

6.28 The Committee believes the best protection for a fair election is the right of scrutineers to be present at all stages of the count and therefore finds the abovementioned situation deplorable. The Committee reminds DROs who might consider not advising candidates and/or scrutineers of a scrutiny that they do so in contravention of the Electoral Act. The obligations on DROs to advise candidates and/or scrutineers of the details of scrutinies are contained in s.200(6) and Part XXVIII of the Electoral Act and are clearly spelt out in the AEC's Elections Manual.¹⁰

6.29 Other problems with the scrutiny process which were presented in submissions and later evidence related more to the 1988 New South Wales State election. In particular, it was claimed in the Wyong electorate there were more Legislative Council ballot papers received than the total number of enrolled voters at the election. It was alleged that during the scrutiny the summary counting sheets had been removed from a central counting room so that electoral officers could resolve the apparent reconciliation problem.¹¹ This received some publicity on the Alan Jones program broadcast on Sydney radio station 2UE in August 1988.

9. Minutes of Evidence, p. 673.

10. Australian Electoral Commission, Procedures Manual for Conduct of Elections in Divisional Offices, May 1987.

11. Minutes of Evidence, pp. 750-55.

6.30 The above situation pointed to possible fraud in the New South Wales election system and difficulties in the scrutiny process. Having hearing such allegations the Committee sought comment from the AEC and obtained data showing the allegation was wrong.

6.31 Further questioning indicated that the claim was based on hearsay evidence. However, as the other matters related to the New South Wales election, the Committee's terms of reference prevented it from examining them in detail. In addition, at the time such matters were presented to the Committee there was a New South Wales inquiry in progress examining issues arising from the State's 1988 election.¹²

6.32 The Committee accepts that problems may occur with the scrutiny process but at this time does not believe they are such as to warrant any form of legislative change.

Cemetery Voting

6.33 The timing of the close of rolls soon after the announcement of an election and the fact that deceased voters are removed on the advice of the Registrar of Births, Deaths and Marriages means that at the time of any election it is not unusual to find the names of deceased persons still on the Electoral Roll and hence on the certified lists. In due course such names are systematically removed from the Roll but while they exist on the Roll they provide a means for unscrupulous persons to vote. This is colloquially known as 'cemetery voting'.

6.34 A number of submissions raised this issue as an area of concern and in particular, a submission from the Liberal Party of Australia referred to the alleged fraud perpetrated at the New South Wales by-election for seat of Castlereagh in 1980.¹³ It had been alleged that the names of 400 dead people were used to win what was a close election. While the Castlereagh by-election was a State matter the Liberal Party suggested it was significant as a federal matter because the electoral rolls and certified lists used by the State were (and continue to be) produced by the AEC. Moreover, if the names of dead people had been used to win the by-election what was to say such techniques had not been used at a federal level.

6.35 In October 1988 the AEC responded to the Liberal Party's submission by forwarding to the Committee an unsolicited submission part of which sought to lay to rest the suggestion that the names of dead people had been used to any effect in the Castlereagh by-election.¹⁴ The AEC's submission noted that on 22 March 1988 the then Minister for Home Affairs, Senator Robert Ray, had written to the New South Wales Premier, the Hon. Nick Greiner, indicating his concern that the matter be investigated

12. See: New South Wales Government, Inquiry into the Operations and Processes for the Conduct of State Elections, February 1989.

13. This issue was first raised by Senator Bronwyn Bishop in the Senate on 17 March 1988.

14. Minutes of Evidence, pp. S803-7.

thoroughly and offering the assistance of the AEC. The Premier responded that a review of the State Electoral Office was about to commence which would look at the allegations. On 11 April 1988 Senator Ray again wrote to the New South Wales Premier this time suggesting that 'a more appropriate course [of action] would be reference, via the State Electoral Office, to the New South Wales police'.¹⁵ Senator Ray noted that he had not referred the allegations to the Joint Standing Committee on Electoral Matters because they were more properly a matter for the New South Wales Electoral Act. Nevertheless, he saw that a Commonwealth investigation could serve a supplementary role and he awaited an indication that a New South Wales investigation had begun. The AEC has advised that no response was sent to Senator Ray's letter.¹⁶

6.36 The AEC concluded its submission by noting that the means of verifying the allegations, that is the certified lists used for the 1980 Castlereagh by-election, had been destroyed as was normally the case for election documentation after the time for challenging results had past.

6.37 On 21 November 1988, Mr Gary Humphries appeared before the Committee on behalf of the Liberal Party and was offered the opportunity to rebut points made in the AEC's October 1988 submission. Mr Humphries took the question on notice. Subsequently, the Federal Director of the Liberal Party, Mr Tony Eggleton advised the Committee that the Party was not aware of the letters written between Senator Ray and the New South Wales Premier when the Party's submission was drafted. He concluded that an inquiry by the New South Wales Government was 'the most appropriate way of pursuing [the] matter, ...'¹⁷

6.38 In assessing the extent of cemetery voting, the Committee notes the findings and conclusions of the Report of the New South Government Inquiry into the Operations and Processes for the Conduct of State Elections which was tabled in the New South Wales Parliament in February 1989.¹⁸ The Report found that while it was possible for people to engage in cemetery voting there remained no evidence of its widespread use. In the case of the Castlereagh by-election the Report cited the investigation work carried out by the AEC, concluding 'it was proved beyond doubt that the allegation was without substance'.¹⁹

15. Minutes of Evidence, p. S807.

16. Minutes of Evidence, p. S807.

17. Minutes of Evidence, p. S940.

18. New South Wales Government, Inquiry into the Operations and Processes for the Conduct of State Elections, February 1989.

19. New South Wales Government, Inquiry into the Operations and Processes for the Conduct of State elections, February 1989, p. 37.

6.39 While the Committee's Inquiry has raised the issue of cemetery voting no evidence of its widespread use has been forthcoming. The advice of the AEC is that the activity is negligible²⁰ and the Committee therefore believes no legislative action is required at this time.

6.40 Despite recommendations in this Report designed to discontinue the practice of marking the certified lists (paragraph 6.21) there may be some advantage in using the information available at the close of rolls to code the certified lists with those voters believed to be dead even though formal advice has not been received from the Registrar of Births, Deaths and Marriages. Such coding could be used by polling staff to identify voters attempting to impersonate a dead voter.

6.41 The Committee notes the AEC's policy that certified lists are not to carry any marks, deletions, additions or any notations apart from those made during the poll itself²¹ but believes the technology now used by the AEC would allow the coding to be done.

6.42 The Committee recommends that:

At the next federal election the Australian Electoral Commission code on the laser printed certified lists the names of those voters believed to be dead but for which no official advice has been received from the Registrar of Births, Deaths and Marriages.
(Recommendation 53)

Multiple Voting and Personation

6.43 The issue of multiple voting was raised by the Liberal Party in its submission on the conduct of the 1987 federal election. The issue arose after one voter, Mr Herman Haatjens of Moruya, NSW claimed to have voted six times to test the system: five times using his own name and once using the name of another voter.

6.44 The publicity given to this particular case raised the general level of awareness as to the possible malpractices that could be engaged in at an election. While the Liberal Party was justifiably concerned about multiple voting it was not able to provide the Committee with any further evidence that it had occurred or how widespread it might be.

20. Minutes of Evidence, p. 307.

21. See Appendix F and Minutes of Evidence, p. 1387.

6.45 The AEC provided a detailed response to the concerns of the Liberal Party that at the 1987 federal election there had been an increase in the incidence of multiple voting. The AEC argued that the increase it was related to the introduction of electronic scanning rather than a concerted attempt at electoral fraud.²² (Paragraphs 6.39-6.44 deal with the new scanning process).

6.46 Prior to 1987 the reporting of cases of multiple or dual voting was done by hand with DROs completing returns and forwarding them to their respective Australian Electoral Officers in each State. This process did turn up cases of multiple voting but never on a large scale. More often the supposed multiple voting was a result of polling officials marking off the wrong name on the certified list. This is illustrated by remarks made by the Australian Electoral Officer for Victoria on the 1980 election:

... we find that in at least 98% of the cases an error was made by a polling official in marking the wrong name.

Of the three actual cases reported in this State at the last election two were aged persons (one was 77 and the other 83) and each had forgotten that they had already recorded a postal vote. The third case concerned a lady who was receiving treatment for anxiety neurosis and had little understanding of what she had done until the matter was investigated by the Divisional Returning Officer.²³

6.47 The AEC was able to provide figures on multiple voting for elections held between 1974 and 1987 but in doing so emphasised that before 1987, when the electronic scanning system was introduced, the method for identifying cases had involved an 'oral call-back' with staff calling out names to compare the master roll with the certified lists. The view was expressed that this procedure provided a real disincentive to report all the apparent cases of multiple voting and that an unknown number of cases were simply treated as errors made by polling officials.

6.48 Table 6.1 shows the apparent multiple voting reported for elections held between 1974 and 1987.

22. Minutes of Evidence, pp. 793-9.

23. Minutes of Evidence, p. S794.

Table 6.1 Incidence of Apparent Multiple Voting Reported
1974-1987.

Year	State:								
	NSW	VIC	SA	QLD	WA	TAS	NT	ACT	AUSTRALIA
1974	-	1,744	-	-	383	191	-	-	6,051
1975	-	1,531	316	-	426	169	-	-	5,107
1977	-	1,432	248	-	556	197	-	-	5,096
1980	1,617	1,807	245	568	763	186	54	53	5,487
1983	1,829	1,490	318	852	608	224	38	52	5,410
1984	1,721	2,227	343	1,435	1,289	298	64	22	7,399
1987	4,652	3,298	356	1,725	964	242	158	128	11,525

Note: 1. Except for the years 1984 and 1987 the incidence of multiple votes for Australia is proportionate to the votes cast in States for which figures are available.

Source: Minutes of Evidence, p. S794.

6.49 With regard to Table 6.1 the AEC noted that the reasons for the exclusion of votes at the 1987 federal election were the same as those for earlier elections:

... decisions taken at the Divisional level either that the name of an apparent double or multiple voter could be matched with the name of an apparent non-voter or that the evidence would not warrant further investigation ... Of the national total of 11,525 initial apparent identifications, 6,363 were disposed of on the ground that a match could be made. A further 4,717 cases were closed on the ground that the evidence was inconclusive, leaving 266 cases in which the elector admitted multiple voting and 45 referred to the Australian Federal Police or the Director of Public Prosecutions for their action.²⁴

24. Minutes of Evidence, p. S796.

6.50 As with allegations of cemetery voting the Committee did not receive any factual information to support the theory that multiple voting was prevalent at the 1987 federal election. The absence of such information makes any allegation of widespread multiple voting difficult to sustain.

6.51 The Committee notes the data on multiple voting. At face value the data does suggest an increase in multiple voting but in the absence of any other information the Committee can only conclude the increased figures reflect nothing more than the effectiveness of the AEC's new scanning process.

6.52 The Committee also notes that the scanning of certified lists had identified Mr Herman Haatjen's as a multiple voter well before he publicly drew attention to his misdeed.

Scanning

6.53 Following each federal election or by-election the AEC carries out a check or 'mark-back' of the certified lists used in polling places. The aim of the mark-back is to identify voting irregularities and the incidence of non-voting, both of which are offences under the Electoral Act.

6.54 The AEC stated in its submission on the 1987 federal election that for 60 years up until the 1987 federal election the mark-back was a task performed manually by thousands of casual staff and not only was it boring and labor intensive but it was also inaccurate.

6.55 In 1987 the mark-back system was revolutionised by the introduction of scanning which refers to the process whereby specially printed certified lists are read by computer to ascertain voting irregularities and non-voters.

6.56 Under the scanning system each page of a certified list is printed by means of a laser printer and made unique by means of bar-coding. As a result it is virtually impossible to tamper with the system without the tampering being discovered.

6.57 Like any new system, the scanning system has had some problems and while it may have led to concerns about the occurrence of multiple voting the system has substantially reduced the number of non-voter notices incorrectly sent out. In addition, the scanning system has provided the AEC with more information on voters and their voting habits and has enabled the roll cleansing process to be automated. The AEC states that the scanning system resulted in approximately \$600,000 worth of savings for the 1987 election and anticipates that through its use in State elections it will be an income generator for the Commonwealth.

6.58 While the AEC clearly states the scanning system has benefited the mark-back process and other aspects of the AEC's operations the Committee notes others have expressed concerns about the system.²⁵ The Committee is of the opinion that the scanning system may have some initial settling in problems and notes the opinion of the AEC that in the long run the system will be seen as a valuable step forward in improving the integrity of the federal election system. The AEC does not believe the scanning system will in any way contribute to electoral fraud but rather that it will serve to inhibit fraud.

Solutions

6.59 In so far as the 1987 federal election focussed attention on possible areas of electoral fraud the Committee considered what steps might be taken to inhibit fraud.

6.60 The main areas considered were:

1. the introduction of a computerised election system;
2. a requirement for persons to provide documentary evidence at the time of enrolment;
3. a requirement for voters to provide proof of identification at the time of polling;
4. the introduction of locality voting; and
5. an increase in the penalties under the Electoral Act.

6.61 A computerised election system would record the names and addresses of voters and where and when they voted. It would not provide computerised voting.

6.62 The introduction of a computer election system could be achieved in a variety of ways but whichever way was selected two basic problems would arise. First, the system would need to be an online system and therefore would be vulnerable to failure at crucial times and second, any computerised system would come at great cost because of the need to have a computer terminal at each polling place.

6.63 The Committee notes that the Report of the New South Wales Government Inquiry into the operations and processes for the conduct of State elections recommends:

2. That the Government authorise an investigation to determine the feasibility and cost of establishing a computer network linked to all polling places in New South Wales for the purpose of preventing multiple voting by a

25. Minutes of Evidence, pp. 633, 743-49.

voter validation system.²⁶

6.64 The estimated cost of the system contained in this recommendation is of the order of \$15 - 20m and on this basis alone the Committee rejects computerisation of the federal election system.

6.65 The requirements that persons wishing to enrol and/or vote provide some documentary evidence of their bona fides, such as driver's licence, Medicare card or passport, would be relatively easy measures to implement but would present some difficulties for the AEC in their administration. For example, people wishing to enrol would have to do so in person. The Committee is of the view that the need to provide documentary evidence would have a positive effect in minimising electoral fraud but it would also be a major discouragement to many people participating in the electoral process. At this time, it is likely such a requirement may generate sufficient voter irritation to negate the good that might be achieved.

6.66 Amongst those submissions and witnesses that were concerned about the issue of electoral fraud, the introduction of locality or sub-division voting was a popular remedy.

6.67 The terms should be distinguished. Locality voting would limit voters to voting at a single specified polling place close to their place of residence. Special locality rolls would be used and they would have no more than 1,000 names. Sub-division voting would operate on a similar basis but the area of the sub-division would be much larger and voters would be able to vote at any polling place within their sub-division.

6.68 Several submissions lamented the fact the 1984 amendments to the Electoral Act, which allowed voters to cast their ordinary votes at any polling place within their Division, had made things easier for those individuals wishing to engage in multiple voting.

6.69 The AEC advised that locality voting could be implemented relatively easily as a result of the additional voter information now available from the scanning of certified lists. For example, it was now known that roughly 90% of voters cast their ordinary votes at the local polling place in their residential area. However, there are two significant reasons for not introducing locality voting. First, locality voting would be a source of irritation to many people who lived near the border of two localities and as a result tried to vote at a locality polling place other than their designated polling place. They would be directed to go to their polling place or perhaps cast an absent vote which would be time consuming. Second, locality voting would involve greater expense with many additional polling places being required. The AEC has estimated the additional cost of locality voting to be \$8.5m²⁷

26. New South Wales Government, Inquiry into the Operations and Processes for the Conduct of State Elections, February 1989, p. 11.

27. Minutes of Evidence, p. S1809.

6.70 The overriding consideration for introducing locality voting was the extent of the multiple voting problem. The often stated view of the AEC is that multiple voting is not the problem that is sometimes alleged and in accepting this view the Committee believes there is no need to introduce locality voting at this time. It is to be noted, however, that should the issue of multiple voting be perceived to be a serious problem at a future election the option of introducing locality voting will be readily available even though it may involve significant costs.

6.71 The final area for tackling electoral fraud is to increase penalties from their currently low levels. This approach is easily achieved and involves no extra difficulty in its implementation.

6.72 In considering increases in penalties under the Electoral Act the Committee has been mindful of the findings and recommendations of the recent New South Wales Government Inquiry into the State's election system. In examining multiple voting the Inquiry found that in the United States the penalty for voting more than once was not more than \$10,000 or imprisonment for not more than 5 years.²⁸ This contrasts with the situation in Australia where the penalty is \$1,000 or 6 months imprisonment.

6.73 Tables 6.2, 6.3 and 6.4 show penalties for election offences that currently exist under the Electoral Act and Table 6.4 shows the penalties actually imposed for multiple voting during the 1987 federal election. It should be noted that the fines for the last two cases in Table 6.5 were not much greater than fines issued for non-voting.

28. New South Wales Government, Inquiry into the Operations and Processes for the Conduct of State Elections, February 1989, pp. 42-3.

**Table 6.2 Offences under the Commonwealth Electoral Act 1918
Carrying a Penalty of \$1,000 or Six Months
Imprisonment.**

Section	Offence
s.323	Breach of secrecy by officers or scrutineers
s.325	Officers influencing a vote
s.327	Interference with political liberty
s.329	Misleading or deceptive publications
s.330	False statements in respect of enrolment
s.338	Unlawfully marking ballot-papers
s.339(1)(a) and (b)	Personation
s.339(1)(c) and (d)	Fraudulently dealing with ballot-papers
s.339(f)	Forging or uttering nomination papers on ballot-papers
s.339(1)(g)	Supplying ballot-papers without authority
s.339(1)(h)	Interfering with ballot-boxes or ballot-papers
s.339(1)(j)	Multiple voting
s.339(1)(k)	False or misleading statements in reply to a question put under the Act
s.350	Defamation of candidates

Source: Minutes of Evidence, p. S1810.

Table 6.3 Offences under the Commonwealth Electoral Act 1918 Carrying Penalties of \$1,000 Only.

Section	Offence
s.324	Officers contravening the Act
s.328	Publication of notice without authorisation or identification of printer
s.334	Depiction of electoral matter
s.336(3)	Forging a signature on electoral paper
s.337	Various offences in respect of electoral papers
s.341	Wearing badges in a polling booth
s.342	Being a witness to an enrolment form and failing to satisfy him/herself as to accuracy of information
s.343	Failure to transmit an enrolment claim
s.351	Unauthorized publication of matter relating to candidates

Source: Minutes of Evidence, p. S1810.

Table 6.4 Offences under the Commonwealth Electoral Act 1918 Carrying Penalties of \$500 Only.

Section	Offence
s.331	Failure to head an advertisement as such
s.332	Failure to show the authorisation of material
s.335	Leaving a how-to-vote card in a polling booth
s.340	Canvassing within six metres of a polling booth
s.345	Failure to give an employee time off to vote
s.347	Disorderly conduct at a public meeting

Source: Minutes of Evidence, p. S1810.

Table 6.5 Penalties Imposed for Multiple Voting during the 1987 Federal Election.

Date	Person guilty of offence	Penalty
1987	Herman Anthonie Haantjens	\$250 fine with \$23 costs
June 1988	Alexis Louise Sendall	\$400 fine
Aug 1988	Paul Damien Dorge	\$100 fine with \$40 costs
July 1988	Norman Francis Clarke	\$100 fine with \$40 costs

Source: Minutes of Evidence, p.S1811.

6.74 In considering the need to increase penalties for electoral fraud the Committee has noted the following words of the Electoral Commissioner:

So long as the maximum penalties remain as light as they are, it is difficult to expect police to give electoral investigations high priority in competition with major crimes against person or property, to expect the courts to impose fines which are likely to be deterrent in their effect and to consider sentences of imprisonment should the incidence of the offence now be deemed to require this, and to disabuse those who ... treat enforcement with contempt.

In the light of allegations concerning enrolment and voting malpractices which followed the Commonwealth's 1987 election and 1988 referendums and also State elections since then, it now seems inevitable that the next Commonwealth election will be accompanied by allegations of widespread breaches of the Commonwealth Electoral Act and that such allegations will be given publicity on an unprecedented scale. A savage increase in penalties for both categories, enrolment and voting, of offences before the election would go part of the way to restoring public confidence in the integrity of the electoral system. Moreover, the existence of such penalties would disqualify, at least temporarily, those convicted of serious electoral offences and prevent them from sitting in Australian parliaments with a

consequent deleterious effect on public confidence in the integrity of the political system.²⁹

6.75 While allegations of electoral fraud are at times rife they are infrequently supported by facts and in its Inquiry the Committee has been presented with allegations supported by nothing more than anecdotal evidence.

6.76 The Committee believes there are powerful and effective measures that could be implemented to eradicate electoral fraud but does not believe they are warranted at this time. Nevertheless, as a first step in ensuring integrity in the Australian election system the penalties for electoral fraud need to be substantially increased before the next federal election.

6.77 The Committee therefore recommends that:

The penalties for election offences under the Commonwealth Electoral Act 1918 be substantially increased with those penalties currently set at \$1,000 or six months imprisonment being increased to \$12,000 or imprisonment for not more than two years. (Recommendation 54)

6.78 In addition, the Committee is concerned about current level of election penalties and believes there is a need for all election offences to be reviewed regularly.

6.79 The Committee recommends that:

All election penalties be subject to regular review. (Recommendations 55)

29. Minutes of Evidence, p. S1811.

CHAPTER 7

THE ELECTORAL COMMISSION

. Audit of Six Divisions

. Staff Morale

Audit of Six Divisions

7.1 The AEC's submission on the conduct of the 1987 federal election was accompanied by a report and submission on an audit of six Commonwealth Electoral Divisions which was conducted following the 1987 federal election.¹

7.2 The audit was conducted as a result of statistics sought from the AEC by Senator Jim Short in October 1987. In the process of compiling the statistics sought by Senator Short the AEC discovered it had a number of problems in reconciling different sets of statistics. These difficulties suggested there may have been problems with the AEC's Election Manual and/or in its application by Divisional staff. Because of the problems this exercise revealed in the limited range of data sought by Senator Short it was decided a more comprehensive review should be undertaken.

7.3 In February 1988 the Electoral Commissioner authorised that an audit be carried out on the work of six Commonwealth Electoral Divisions. Four of the Divisions were in New South Wales and two were in Victoria. They were chosen on the basis that the DROs in these Divisions were experienced officers and therefore familiar with both the Electoral Act and the AEC's procedures. The chosen Divisions were not to be identified so as to avoid blame for errors being allocated to individuals.²

7.4 The audit was conducted by a team of AEC officers headed by Mr Lionel Sampford, who had recently retired as the AEC's Director of Operations, Queensland. The team included DROs and members of the Internal Audit Section from the AEC's Canberra Office. The audit took approximately six weeks to complete and was forwarded to the Electoral Commissioner on 8 July 1988.

7.5 The terms of reference for the audit required the team to:

- . conduct a fresh scrutiny of the House of Representatives ballot papers (both formal and informal);
- . conduct a fresh scrutiny of the Senate Group Ticket vote ballot papers;
- . conduct a fresh scrutiny of the informal Senate ballot papers;

1. Minutes of Evidence, pp. 133-250.

2. During the Committee's Inquiry the identity of one of the Divisions was revealed. See Minutes of Evidence, p. 1049.

- . recheck all declaration votes admitted to the further scrutiny for both the House of Representatives and the Senate;
- . recheck all declaration votes admitted to the further scrutiny for the Senate only;
- . recheck all declaration votes rejected at the preliminary scrutiny; and
- . make recommendations with a view to correcting any deficiencies that the audit might reveal.

7.6 The audit found a variety of problems had occurred during the 1987 election.

7.7 The AEC's Election Procedures Manual, which was used for the first time at the 1987 election, had not been complied with in a uniform manner and this was attributed to:

- . a reluctance of AEC staff to accept national policy because of their long standing freedom to make their own interpretations of the Electoral Act;
- . the fact that the Manual did not arrive in Divisional Offices until the day after the election was announced; and
- . the fact that there was no training in the use of the Manual for Divisional staff.

7.8 The audit was critical of the lack of training for Divisional Office staff, casual employees and polling officials. In general, there was no training for these groups and as result there were problems on polling day with greater responsibility and pressure being placed on Divisional staff.

7.9 Other areas of criticism included:

- . accounting for declaration votes;
- . the withdrawal of reference rolls, with the result that a considerable number of voters were unnecessarily issued with provisional votes when their names were listed on the certified lists of voters; and
- . a laxity in security arrangements in Divisional Offices after the election and the resultant misplacing and subsequent loss of some material.

7.10 The AEC has taken and is taking action in response to the findings of the audit of the six Divisions which includes the updating and distribution of the Election Procedures Manual and the training of Divisional staff.

7.11 The Committee recognises that a number of the difficulties experienced in the management of the 1987 election can be attributed to the late arrival of the Election Procedures Manual. However, it is noted that the delay in Divisional Offices receiving the Manual was the result of a long and protracted consultative process. It is also noted that various amendments to the Electoral Act were being made at the time the election was announced.

7.12 While it is somewhat alarming that the deficiencies exposed by the audit of the six Divisions may not have come to light but for Senator Short's questioning, the whole process has been beneficial for the AEC. The audit is one of the most positive management initiatives undertaken by the AEC in recent years.

7.13 The Report on the six audits recommends that after each election an audit be carried out on the operations of at least one Division, the Division being selected at random. The Report suggests this would be a means of confirming that national policy and procedures are being followed.³ The Committee supports the AEC's decision to conduct audits of the operation of Divisional Offices at future elections and believes the audits will only be effective if the strictest audit standards are applied.

7.14 The Committee recommends that:

Future audits of Divisional Offices be conducted according to the strictest audit standards. (Recommendation 56)

Staff Morale

7.15 The 1987 federal election highlighted the issue of morale in the AEC and during the Inquiry a number of submissions from DROs specifically raised the issue. In addition, the Committee received some letters which were critical of AEC management, thereby pointing to the issue of morale. These letters were not authorised for publication by the Committee.

7.16 The cause of low morale in the AEC appears to be the degree of change the organisation has been subjected to over recent years and at the time of the 1987 federal election this change was accentuated by a number of factors not the least of which was the Election Procedures Manual.

3. Minutes of Evidence, p. 204.

7.17 While some criticisms of the Election Manual justifiably related to the timing of its distribution others concentrated on its content, seeing it as cumbersome, illogical and not user-friendly. Some DROs felt the procedures set out in the Manual conflicted with the requirements of the Electoral Act and wondered why an internal document should have precedence over the Act. In response to this the Electoral Commissioner advised that the Manual did not contradict the Act but sought to ensure a more uniform application of it. The Manual did no more than bring together what was required of Divisional staff. The Commissioner observed that even though the Manual was criticised by DROs it was a document that had been produced and vetted by DROs.

7.18 In a similar vein the Electoral Commissioner's use of s.32 of the Electoral Act during the 1987 election caused some consternation amongst some DROs. (See Chapter 6 paragraph 6.17). The DROs believed the Commissioner inappropriately issued directives under the power given to him by s.32 and in so doing contradicted the requirements of the Act. The Commissioner's directive is reproduced as Appendix F.

7.19 In response to this the Commissioner stated that there had been a need to ensure the Act was uniformly applied and this after all was the purpose of s.32. He described as nonsense a suggestion that s.32 gave him the power to override the Act. His view was simply that:

There are areas of discretion in which it is appropriate that a uniform standard apply throughout Australia, and those are the circumstances in which I think it is desirable that a direction be issued so that everybody is doing the same thing.⁴

7.20 In some respects it can be seen as inevitable that the AEC's attempts to ensure uniformity of application of the Electoral Act and uniformity of practice in Divisional Offices would lead to morale problems. For many years the Divisional staff of the AEC and its predecessor, the Electoral Office, had been able to operate independently of a central office.

7.21 As a result of this independence, interpretations of the Act varied between Divisions. The gravity of this variation was described by one DRO:

As a DRO under what I might call 'the old system', I felt most vulnerable, as I knew our operation was very loose and there were glaring inconsistencies in methods of operation, which I have no doubt could have easily swung an election.⁵

4. Minutes of Evidence, p. 1064.

5. Minutes of Evidence, p. S1053.

7.22 The 1987 election was one of the first occasions when DROs were forced to change their ways. Some DROs had enjoyed financial perquisites and now had to forego them along with their long-standing independence from firm central control.

7.23 The Electoral Commissioner admitted that morale was a problem in some Divisional areas and recognised that in some ways it was inevitable. The organisation had experienced minimal change since about 1914 when the position of DRO had become full time. The current situation was described in the following terms:

... divisional staff used to have a remarkably free hand. They were free from supervision, and free from the sorts of accuracy audits that have been introduced over the last few years. They are finding it a painful and unpleasant process. Some of them are unhappy about it.

The Commission, as best it can, is trying to ease this period of painful transition by training, by encouragement and by supervision, but the bottom line is that a number of people at that side of the work remain unhappy.⁶

7.24 It is clear to the Committee that morale is a problem at the Divisional level, however, it is not clear as to whether the problem extends to the various head offices and central office.

7.25 While the issue of the Election Procedures Manual, the Commissioner's directive given under s.32 of the Electoral Act and the overall change facing the AEC are sufficient to have an adverse effect on morale, it is difficult to assess the effect of the AEC's management style.

7.26 The evidence presented to the Committee suggests that some appropriate action is being taken and as confirmation of this, comments made by the DRO for Moreton are to be noted:

I am pleased to say that positive steps have been made by the AEC administration to improve operations. The procedures have been reviewed, training on the procedures has been conducted, controls have been set in place and there is a much greater awareness of administrative expectations. As a result the Referendum was very tightly and professionally run and certainly the most efficient electoral event I have been involved with. Improvements can and I'm sure will be made.

6. Minutes of Evidence, pp. 1060-1.

The trade-off, from a divisional point of view, is that divisions are under very close scrutiny, feel under threat, and therefore are under a different type of pressure. Under "the old system" DROs were left too much alone and under "the new system" they are never left alone. Administration needs to give more sympathetic consideration to the pressure DROs must work under. Nonetheless, the improvements augur well for tightly controlled and efficiently conducted elections and that is the crucial factor.

7.27 While the Committee is of the opinion that the AEC is on the right path it is not convinced that all is well in the organisation. Some of the submissions received by the Committee and in particular, material not authorised for publication leads the Committee to question the overall management style of the AEC. The appropriate action is therefore for a somewhat closer examination of the AEC to be conducted and to this end the Committee recommends:

The Auditor-General revise his schedule of planned efficiency audits so that an efficiency audit of the Australian Electoral Commission may commence as soon as possible.
(Recommendation 57)

CHAPTER 8

OTHER MATTERS

- . Election Informal Voting Campaign
- . Election Guide
- . How-to-Vote Cards
- . Queues at Polling Places
- . Rates of Pay for Polling Officials
- . Application of Section 282
- . Canvassing in Hospitals
- . Section 326: Bribery

Election Informal Voting Campaign

8.1 As a result of the Joint Select Committee on Electoral Reform's inquiry into the 1984 federal election, the AEC conducted an upgraded campaign to reduce informal voting at the 1987 federal election.

8.2 This campaign was conducted via the media, a telephone enquiry service and pamphlets distributed to households. Subjects covered included:

- . enrolment;
- . formal voting;
- . postal and absent voting facilities; and
- . polling place locations.

8.3 Posters carrying relevant information were also provided to ethnic community centres and other public places.

8.4 The AEC, in its submission to the Committee, has stated that the campaign was successful with respect to increased enrolment transactions. However this increase was probably also due to the scheduled statutory habitation review underway at that time.

8.5 As Figure 8.1 shows the level of informal votes was reduced at 1987 election when compared to the previous election.

Table 8.1 Informal Voting at the 1984 and 1987 Federal Elections.

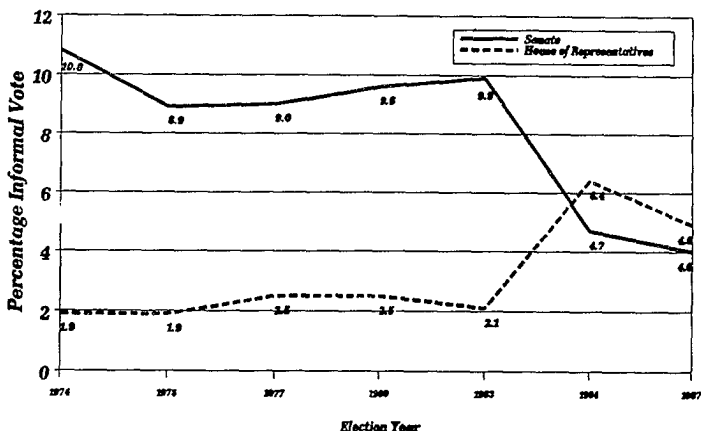
Percentage Informal Voting:		
	1984 Election (% of votes)	1987 Election (% of votes)
House of Representatives:	6.38	4.9
Senate:	4.28	4.0

Source: Australian Electoral Commission

8.6 It is apparent from evidence given to the Committee that the level of informality rises whenever there is more than one ballot paper to be marked and that further research needs to be done with respect to the design of ballot papers.

8.7 The Committee notes that the use of ticket voting for the Senate since the 1984 election has had a marked effect on the level of informal voting for Senate elections. Figure 8.2 shows that for the elections held between 1974 and 1983 the level of informal voting remained fairly constant but that in 1984 the level halved.

Figure 8.1 Percentage Informal Vote for Senate and House of Representatives Elections held between 1974 and 1987.



Sources: . Australian Electoral Commission, Informal Voting 1984: Senate Report (Research Report 1/86), AGPS, Canberra, 1986, p. 20.

. Australian Electoral Commission, Electoral Information File, Part A-K.

8.8 The ticket voting system for Senate elections has met with a wide degree of acceptance. For the 1987 federal election an average of 86.71% of Senate voters used the system.

8.9 While the system may be popular and seen as the reason for a marked decrease in the level of informal voting for Senate elections, concerns have been expressed that those voters using the system do not fully understand how their preferences are distributed. The AEC presented the Committee with the results of a survey of Senate voters at the 1987 federal election which showed that 65% of voters using the ticket voting system did not know which party or candidate would get their second or subsequent preferences.

8.10 The majority of the Committee believe that many voters decide to support a particular party rather than a candidate and choose to use the simplest voting system by voting for their preferred party's officially lodged how-to-vote cards.

8.11 However, concern was expressed by one member of the Committee that so many voters vote in ignorance of how their voting preferences are distributed. The member felt that this raised some doubts as to how well the voting system was representing the intentions of voters. The doubts were added to by the fact that some voters attempt to use the ticket voting option as well as listing their own preferences below the line on the ballot paper but do not correctly record a series of preferences. The Electoral Act provides that where a voter records a ticket vote on the top half of the ballot paper and a preferential vote on the bottom half it is the preferential vote which is counted. The ticket vote is disregarded.

8.12 At this time the Committee does not propose any changes to the Senate ticket voting system.

8.13 The ticket voting system has resulted in a reduction of the level of informal voting and is used by the overwhelming majority of electors. However, the AEC survey indicates that a majority of voters may not understand where their preferences are going. The AEC should ensure that voters are aware of the poster containing all officially lodged Senate how-to-vote cards which is on display in polling booths.

Election Guide

8.14 The election guide was a pamphlet sent to all households shortly before polling day. It contained brief information on voting and simplified representations of ballot papers.

8.15 Mr Julian Beale, MP claimed that the representation of the Senate ballot paper was misleading in that the top portion seemed to indicate that there were only three voting options. When the draw took place for positions on the Victorian Senate ballot paper, all of these options on the top of the representation of the ballot paper were Labor parties. Mr Beale therefore alleged a bias towards the Labor Party.

8.16 In response the AEC stated that the election guide had been printed two weeks before the close of nominations. The Committee is satisfied that there was no bias but believes that the guide appeared to be somewhat cramped. The Committee therefore suggests that further research be carried out with respect to the design and contents of the election guide.

How-to-Vote Cards

8.17 Since 1983 the major parties have voluntarily ensured that how-to-vote cards can be differentiated from ballot papers. The Committee is satisfied that this arrangement is working well.

8.18 The Nuclear Disarmament Party (NDP) suggested to the Committee that how-to-vote cards should be prohibited on conservation grounds and also because of voter harassment by party officials outside polling places. The NDP feels that how-to-vote cards should instead be displayed inside each booth. The Committee feels that distribution of how-to-vote cards is a legitimate part of campaigning and has had no other complaints about voter harassment by party officials outside polling places. With respect to the display of how-to-vote cards within each individual booth the Committee believes that it would be most impractical where there are many candidates.

Queues at Polling Places

8.19 The Committee received various submissions complaining about the need to queue to vote. It accepts that it is not possible to accurately estimate staffing needs for peak periods but believes that voters should not have to wait for a lengthy period to vote. The AEC has advised the Committee that a wait of ten minutes would be considered unusual due to the new procedures implemented at the election.

8.20 However, there may be a case for a larger staff where it is known that a polling place will handle a large number of aged people or persons of non-English speaking backgrounds. The AEC indicated that these situations are catered for in its guidelines.

8.21 The Committee notes that Divisional Office staff are required to assess the adequacy of polling places as part of their forward planning for an election. The Committee agrees with this practice but believes some form of written report should be made by officers in charge of polling places and forwarded to the local DRG.

Rates of Pay for Polling Officials

8.22 The AEC introduced a new 'flat rate' pay package at the last election. This was intended to simplify payment and tighten control of election expenditure.

8.23 The Administrative and Clerical Officers' Association (ACOA) was unhappy with the system introduced claiming it was 'confusing, inequitable and reduced flexibility'.

8.24 The Committee understands that this area is the subject of discussions between the AEC and ACOA at this time.

Application of Section 282

8.25 In 1984 the Electoral Act was amended to include a new section 282 which provides for the situation after a dissolution of the Senate when it is necessary to determine which of those Senators elected shall have short terms (3 years) and which shall have long terms (6 years).

8.26 Section 282 was designed to meet the requirement of s. 13 of the Constitution which states in part:

As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of three years, and the places of those of the second class at the expiration of six years, ...

8.27 In 1901, 1914, 1951, 1974, 1976 and 1983 the Senate met the requirements of s. 13 of the Constitution using a relatively simple formula: the more popular Senators for each State were given the longer terms and the less popular Senators shorter terms. However, over time it became apparent that this approach was not the best method for determining who were the most popular Senators from each State and a better method was formulated, namely s. 282 of the Electoral Act.

8.28 Following the 1987 federal election the Senate first met on Monday, 14 September 1987 and the Leader of the Government in the Senate, Senator John Button gave notice of the following motion:

That, in pursuance of section 13 of the Constitution of the Commonwealth, the Senators chosen for each State be divided into two classes as follows:

(1) The name of the Senator first elected shall be placed first on the Senators' Roll for each State and the name of the Senator next elected shall be placed next, and so on in rotation.

(2) The Senators whose names are placed first, second, third, fourth, fifth, and sixth on the Roll shall be Senators of the second class, that is, the long-term Senators, and the Senators whose names are placed seventh, eighth, ninth, tenth, eleventh and twelfth on the Roll shall be Senators of the first class, that is, the short-term Senators.

8.29 At the same time the Shadow Minister for Home Affairs, Senator Jim Short gave notice of a motion designed to implement s. 282 of the Electoral Act:

That, in pursuance of section 13 of the Constitution of the Commonwealth, the Senators chosen for each State be divided into two classes as follows:

The six Senators for each State whose order of election was determined in a re-count of ballot papers pursuant to section 282 of the Commonwealth Electoral Act and certified by the Australian Electoral Officer for that State shall be Senators of the second class, that is, the long-term Senators, and the remaining six Senators for that State shall be Senators of the first class, that is, the short-term Senators.

8.30 An acrimonious debate followed these motions with Senator Button's motion eventually being carried 37 votes to 32.

8.31 In evidence to the Committee, Mr Malcolm Mackerras stated that the passing of Senator Button's motion resulted in Senators McLean, Powell, Parer and Maguire obtaining long terms at the expense of Senators Brownhill, McGauran, Jones and Hill.¹

8.32 While Mr Mackerras alleged the Australian Labor Party and the Democrats had done a deal on the matter his primary concern was that in future the Senate should indicate its intention to use s. 282 prior to a dissolution of the Senate. Alternatively, both of the major parties should indicate their intentions or otherwise to use s. 282.

8.33 The evidence presented by Mr Mackerras demonstrates that the Senate's passing of Senator Short's motion would have achieved a different result. However, the Committee does not wish to comment on the Senate's decision. The decision did fulfil the requirements of s. 13 of the Constitution.

8.34 The Committee notes that the problem of the application of s. 282 in 1987 apparently stems from the fact that the Senate did not agree to its use prior to the dissolution of the Senate for the election. Moreover, as both the major parties have indicated they view s. 282 as a fair method of choosing long and short term Senators the real problem is one of deciding what should be done on future occasions.

8.35 The method of choosing the long and short terms for Senators is the prerogative of the Senate under the terms of s.13 of the Constitution and as such the Committee cannot compel the Senate to act in any particular fashion. Nevertheless, the Committee believes s. 282 of the Electoral Act should be used by the Senate to decide which Senators have long and short terms.

8.36 The Committee indicates to the Senate that it hopes the Senate will reach a decision on the application of s. 282 before the next Senate election.

Canvassing in Hospitals

8.37 The Member for Sturt, the Hon. Ian Wilson, MP presented a submission to the Committee which advocated a loosening of the restrictions on canvassing in hospitals.²

8.38 Mr Wilson noted that the Electoral Act prohibited canvassing in hospitals not just on polling day but for the entire period commencing on the day of the issue of the writs and concluding on polling day. He saw it as unfair that those persons who were hospitalised during the election period should be excluded from 'the normal election processes'.

1. Minutes of Evidence, p. 375.

2. Minutes of Evidence, pp. S155-6.

8.39 The Committee considered this suggestion but did not find compelling reasons why candidates should be able to have greater freedom to canvass in hospitals.

8.40 It should be noted that the Electoral and Referendum Amendment Bill 1988 now before the Senate provides for mobile polling teams to visit hospitals to carry and distribute how-to-vote material in the same way that mobile polling teams already do in rural areas. The Bill also provides for more comprehensive mobile polling in hospitals and confirms the right of a patient to cast a postal vote.

Section 326: Bribery

8.41 During the course of the Committee's examination of the 1987 election the AEC provided the Committee with legal opinions on the application of s.326 of the Electoral Act in relation to a NSW case, Scott v. Martin, which was heard in the NSW Court of Disputed Returns.

8.42 The case resulted from a challenge to the election of the Labor candidate for the NSW division of Port Stephens at the 1988 State election. The candidate, Robert Martin, had in the two weeks before the election presented cheques to a number of community groups on behalf of the NSW Government. Eleven payments were made totalling \$37,500.

8.43 Needam J, sitting as the Court of Disputed Returns, found Mr Martin had contravened s.147(a) of the Parliamentary Electorates and Elections Act 1912 (NSW), which prohibits bribery. Mr Martin's election was declared invalid.

8.44 The Attorney-General's Department was of the opinion that a candidate in a Commonwealth election who 'repeated the conduct' considered in Scott v. Martin would contravene s.326(2) of the Electoral Act and stated:

... all political parties are on notice as a result of Scott v. Martin that the distribution of Government funds to community groups may be seen as bribery.³

8.45 The Attorney-General's Department further remarked that:

there seems to be no reason why a donation made to a community group should not, in an appropriate case, be considered as bribery. A donation to such a group may have as much effect on the votes of members of the group as donations to the individual members.

3. Minutes of Evidence, p. S1513.

8.46 The Committee notes these remarks. However, it would be up to a court to interpret s.326(2) of the Electoral Act and a court could interpret s.326(2) to exclude the distribution of Government funds.

8.47 At this time the Committee has not examined the application of s.326(2) in detail and therefore makes no recommendation on the matter. Nevertheless, the Committee is concerned that Government assistance to community groups should be construed as bribery under s.326(2) of the Electoral Act. The Committee believes the Government should review the matter.

A handwritten signature in dark ink, appearing to read "Michael Lee". The signature is written in a cursive, slightly slanted style.

Michael J Lee, MP
Chairman
30 May 1989

DISSENTING COMMENTS

DISSENTING COMMENTS BY SENATOR J SHORT, MR M COBB, MP AND
DR M WOOLDRIDGE, MP

We are in general agreement with the Joint Standing Committee's Report. However, there are two matters on which we wish to express our disagreement. They are decisions by the Committee:

1. not to reintroduce the 3 months question; and
2. not to introduce Locality Voting.

We disagree on these decisions because of the widespread reports of concern in the community that the electoral system is subject to abuse and manipulation, and therefore to inaccurate or rigged election results.

Any long term perceptions of this nature could inevitably erode the confidence the electorate has in our democratic parliamentary system. The implications of this are obvious and of profound concern.

3 Month Question

In 1987 the Commonwealth Electoral Act 1918 was amended so as to eliminate the 3 month question previously asked by polling officials. Before 1987 a person was prevented from voting if they had left a Subdivision more than 3 months before polling day and had not re-enrolled at their new address.

In a submission to the Committee and in evidence before the Committee, the Electoral Commission's Director of Victorian Operations, Mr Trefor Owen, argued for the reintroduction of the 3 month question.¹ We accept the assessment made by Mr Owen that the elimination of the requirement for persons to establish their real place of living is leading to inaccurate enrolment.

We therefore disagree with the views expressed in paragraphs 3.109-3.114 of the Report.

Locational Voting

The Committee has made recommendations designed to discontinue the practice of marking the certified lists (paragraphs 6.2 - 6.22) because of the administrative burdens that the AEC advises would otherwise be involved if the present provision continued. That is, allowing people to vote anywhere within the Division in which they are enrolled.

1. Minutes of Evidence, pp. 608-20.

We consider that the existing legislative provision should be changed. The provision was inserted in the Electoral Act in 1984 as part of a general philosophical approach of making it easier for electors to vote.

We believe there is widespread concern in the community that the voting system has become so user friendly as to be susceptible to widespread abuse. Although the Committee has not received much hard evidence to support this, we believe that the existing situation is creating a lack of confidence in the integrity of the electoral system and thereby damaging our democratic processes.

We consider that the voting system would be much less open to abuse, and would be seen as having high integrity, if voters were required to vote at a polling booth relatively close to their place of living.

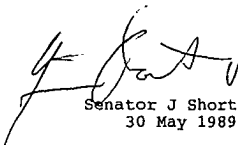
Previously voters were required to vote within their subdivision. However, to return to this method would not solve the perceived problem of potential abuse because subdivisions have become very large.

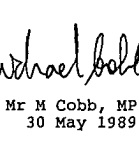
Therefore, we recommend that:

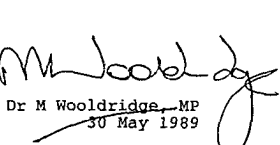
The Electoral Commission be required to examine and report in detail on the introduction of a system of "locational voting" similar to the precinct voting system in the United States.

We also recommend that:

- (a) If a system of locality voting is introduced, the marking of certified lists be made mandatory; and
- (b) In the interim, the Electoral Commission be required to report in detail on possible ways in which the marking of certified lists can reasonably be undertaken under the existing voting system.


Senator J Short
30 May 1989


Mr M Cobb, MP
30 May 1989


Dr M Wooldridge, MP
30 May 1989

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Previously voters were required to vote within their subdivision. However, to return to this method would not solve the perceived problem of potential abuse because subdivisions have become very large.

Therefore, we recommend that:

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Senator J Short
30 May 1989

Mr M Cobb, MP
30 May 1989

Dr M Wooldridge, MP
30 May 1989

DISSENTING COMMENTS SUBMITTED BY SENATOR JEAN JENKINS

I am in general agreement with the Report of the Joint Standing Committee on Electoral Matters on the Conduct of the 1987 Federal Election. However, I wish to state my disagreement with two matters contained in the Report. They are:

- . recommendations for gaol sentences for offences under the Commonwealth Electoral Act 1918; and
- . Recommendation 30, which I believe unjustifiably bestows privileges on sitting Senators standing as independent candidates for election to the Senate.

Gaol Sentences

The Report of the Joint Standing Committee contains a number of recommendations for penalties for offences under the Commonwealth Electoral Act 1918. The penalties include fines and gaol sentences. In addition, the Report recommends that penalties for election offences currently set at \$1,000 or six months imprisonment be increased to \$12,000 or imprisonment for two years.

I do not agree with the setting of penalties for non-violent crimes to include gaol sentences and nor do I agree with the recommendation 30 of the Report which increases gaol sentences for current offences under the Electoral Act.

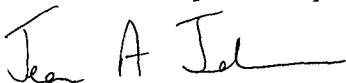
The reasons for my disagreement are:

1. those guilty of electoral offences are not a physical danger to the community;
2. the community is moving toward restitution and rehabilitation rather than imprisonment for non-violent crimes;
3. our gaols are already full; and
4. gaol sentences are expensive for the community.

Privileges for Sitting Senators

The implementation of Recommendation 30 of the Report will give an unnecessary privilege to sitting Senators who stand for election to the Senate as independent candidates by providing that their name be printed with the word 'Independent' above the line on a Senate ballot paper.

I cannot agree with this as it bestows on sitting Senators, such as Senator Don Jessop was, an unjustifiable advantage over those candidates who have never been elected to the Senate. I believe sitting Senators seeking election as independent candidates should have no more rights than any other candidates.

A handwritten signature in dark ink, appearing to read 'Jean A. Jenkins'. The signature is fluid and cursive, with the first name 'Jean' and last name 'Jenkins' clearly legible, and 'A.' in the middle.

Senator Jean Jenkins
30 May 1989

I note that the Report indicates a preference for setting community service orders rather than gaol sentences in relation to Recommendation 14 (paragraphs 3.64 - 3.65). I support this but would prefer the Recommendation to specify community service orders rather than gaol sentences.

Recommendation 53 in the Report states that 'All election penalties be subject to regular review'. I believe such review should consider replacing the penalty of imprisonment with community service orders.

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Senator Jean Jenkins
30 May 1989

Appendix A

The Committee received submissions from the following individuals and organisations.

<u>Submission Number:</u>	<u>Individual/Organisation, Date:</u>
1.	Letter dated 21 February 1988 from Mr Max Glenn.
2.	Letters dated 24 February 1988 and 12 May 1988 from Mr M Z Forbes.
3.	Letter dated 26 February 1988 and attached submission from Mr Ian Bacon.
4.	Letter dated 24 February 1988 and attachment from Mr Peter A Laing.
5.	Letter dated 8 March 1988, and four attachments from Mr Malcolm Mackerras.
6.	Letter dated 10 March 1988 from Mr Michael T Skully.
7.	Letter dated 10 March 1988 from Executive Officer, United Graziers' Association of Queensland, Mrs C F Innes.
8.	Letter dated 14 March 1988 from the President, Pensioner Party of Australia, Mr Neil McKay.
9.	Letter dated 24 March 1988 and submission from Mr R C Robertson.
10.	Letter dated 25 March 1988 from the General Secretary, National Party of Australia - (W.A.) Inc., Mr R E Bird.
11.	Letter dated 31 March 1988 from Senator Robert Hill.
12.	Letter dated 30 March 1988 from the Member for Denison, Mr Duncan Kerr, MP.
13.	Letters dated 5 April 1988 and attachment from Mr Gerald D Bisher.
14.	Letter dated 5 April 1988 from Mr Colin Graham Smith.

15. Letter dated 31 March 1988 from the Executive Director, National Farmers' Federation, Mr Rick Farley.
16. Letter dated 6 April 1988 from Mr H E Seward
17. Letter dated 12 April 1988 and submission from G F Smith.
18. Letter dated 15 April 1988 from the President, Independent E.F.F, Mr Joe Bryant.
19. Letter dated 15 April 1988 from the President, SBP - State Council Inc., Mr Paul Greenwood.
20. Letter dated 14 April 1988 and submission from Mr David Patton.
21. Letter dated 15 April 1988 and submission from the Secretary, The Nuclear Disarmament Party, Mr Hugh Pitty.
22. Letter dated 11 April 1988 and two attachments from the Director, Operations Branch (Victoria), Mr Trefor Owen.
23. Letter dated 14 April 1988 from the Member for Bradfield, Mr David M Connolly, MP.
24. Letter dated 13 April 1988 from the Member for Sturt, Mr Ian Wilson, MP.
25. Letter dated 15 April 1988 from J H Lindsay.
26. Letter dated 29 April 1988 and attached submission from the National Secretary, Administrative and Clerical Officers' Association, Mr Peter Robson.
27. Letter dated 23 April 1988 and attached submission from Mrs L Hay.
28. Letter dated 1 September 1988 and two attachments from the National Secretary, Australian Labor Party.
29. Letter dated 31 May 1988 and submission from the Federal Director, The Liberal Party of Australia, Mr Tony Eggleton.
30. Letter dated 19 September 1988 from Mr Robert C Sheezel.
31. Letter dated 13 September 1988 from Mr Philip Holberton.

32. Letters dated 23 September 1988 and 28 September 1988 and attachments from the Australian Electoral Commission.
 - . The Conduct of the 1987 Election
 - . Audit of Six Commonwealth Electoral Divisions following 11 July 1987 Federal Election. (Copies of the report which is the subject of the submission).
 - . Referendum 1988. Production and Distribution of the Yes/No Cases Pamphlet.
 - . Referendum 1988. Yes/No Case Pamphlet - Content and Format
 - . The Formality of Referendum Votes Marked with Ticks and Crosses
33. Letter dated 16 September 1988 from Ms Joan McWhirter.
34. Letter dated 25 September 1988 from Deputy Returning Officer, Division of Gellibrand, G Heavside.
35. Letter dated 27 September 1988 from Mr N W Hobson.
36. Letter dated 26 September 1988 from Aubrey H Kotz.
37. Letter dated 29 September 1988 from Mr Charles E Dormand.
38. Letter dated 3 October 1988 from J S Sheehan.
39. Letter dated 4 October 1988 from Mrs P Dabitz.
40. Letter dated 11 October 1988 and attachment from the Electoral Commissioner, Australian Electoral Commission, Dr Colin Hughes.
41. Letter dated 11 October 1988 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin Hughes.
42. Letter dated 10 October 1988 from the Chairman, Voters Veto - Riverina Group, Mr Stuart Watson.
43. Undated letter from Senator Jo Vallentine, Western Australian Senator for Nuclear Disarmament.
44. Letter dated 11 October 1988 from Mr W A Jackson.

45. Letter dated 17 October 1988 and attachment from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
 46. Letter dated 12 October 1988 from the Federal President, Pensioner Party of Australia, Mr Neil McKay.
 47. Letter dated 18 October 1988 and attachments from M H T Jackson.
 48. Letter dated 19 October 1988 from Mr Lionel A Stuckey.
 49. Letter dated 17 October 1988 from the Acting Attorney-General, Senator the Hon. Michael Tate.
 50. Letter dated 21 October 1988 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
 51. Letter dated 21 October 1988 from the Director, National Party of Australia, Mr Paul Davey.
 52. Letter dated 20 October 1988 and attachment from the Deputy Leader of the Australian Democrats, Senator Michael Macklin.
 53. Letters dated 8, 16 and 19 October 1988 from Mr Dan Paterson.
 54. Letter dated 25 October 1988 and attachment from the Australian Electoral Commission.
 55. Letter dated 28 October 1988 and attachments from the Electoral Commissioner, Dr Colin A Hughes.
 56. Letter dated 26 October 1988 from the Premier of New South Wales, The Hon. N F Greiner, MP.
 57. Letter dated 1 November 1988 and attachments from the Electoral Commissioner, Dr Colin A Hughes.
- Attachment:
- Carpentaria Pty Ltd
58. Letter dated 26 October 1988 from the General Secretary, National Party of Australia, Ms Jenny Gardiner.
 59. Letter dated 28 October 1988 from Senator the Hon. Peter Baume.

60. Letter dated 3 November 1988 from the Federal Director, The Liberal Party of Australia, Mr Tony Eggleton.
61. Letter dated 3 November 1988 and attachment from the Australian Electoral Commission.
- Attachment:
- . Response to Liberal Party Submission of 31 May 1988 (No.29)
62. Letter dated 7 November 1988 and attachment from the Australian Electoral Commission.
- Attachment:
- . Undermining Electoral Integrity - Preliminary Report
63. Letter dated 4 November 1988 from the Secretary, the Yarra Valley U3A, Mr Gordon M Bryant.
64. Letter dated 10 November 1988 and attachment from the Australian Electoral Commission.
- Attachment:
- . Response to the Liberal Party's Further Submission to the Inquiry into the Conduct of the 1988 Referendums.
65. Letter dated 15 November 1988 and attachments from the Deputy Electoral Commissioner, Australian Electoral Commission, Mr A Cirulis.
- Attachments:
- . Attachment A: Tally sheet - Oxley By-election
 - . Attachment B: Cost of Overseas Postal Voting at the 1987 Federal Election
 - . Attachment C: History of s.331 Commonwealth Electoral Act
 - . Attachments D - E: Legal advisings
66. Letter dated 14 November 1988 from Mr Marshall Perron, Chief Minister.
67. Letter dated 12 November 1988 from Mr Harry Rachkind.

68. Letter dated 21 November 1988 and attachments from Mrs F Moulding.
69. Letter dated 21 October 1988 and attachments from Mr Rodney Van Wegen.
70. Letter dated 29 November 1988 and attachments from the Australian Electoral Commission.
71. Letter dated 28 November 1988 from the Federal Director, The Liberal Party of Australia, Mr Tony Eggleton.
72. Letter dated 29 November 1988 from Hon. Secretary, Australian Labor Party, S J Kenshaw.
73. Letter dated 2 December 1988 and attachment from the Australian Electoral Commission.
- Attachment:
- . 1988 Referendum - Audit of Divisional Operational Procedures
74. Letter dated 30 December 1988 and attachment from the Australian Electoral Commissioner, Dr Colin Hughes.
- Attachment:
- . 1987 Enrolment Transactions 4 months preceding close of roll and close of roll rush
75. Letter dated 3 January 1989 from the Divisional Returning Officer for Warringah, Ms Janet Champion.
76. Letter dated 13 January 1989 and attachments from the Member for Ryan, the Hon. John Moore, MP.
77. Letter dated 14 January 1989 and attachment from Ms Evelyn Ferster.
78. Letter dated 13 January 1989 from the Divisional Returning Officer for Parramatta, Mr Ivor W Jones.
79. Letter dated 12 December 1988 from the Secretary, Miranda Branch of the Australian Labor Party, Mr Tony Iffland.
80. Letter dated 20 January 1989 from the Divisional Returning Officer for Swan, N C Pember.

81. Letter dated 27 January 1989 from the Divisional Returning Officer for Moreton, Mr Peter W Spelman.
82. Letter dated January 1989 from the National President, Australian Democrats, Mrs Heather Southcott.
83. Letter dated 3 February 1989 from the Divisional Returning Officer for Forde, G F Smith.
84. Letter dated 3 February 1989 from the Divisional Returning Officer for McPherson, Mr Mark Lamerton.
85. Letter dated 7 February 1989 from the Managing Director, Australian Broadcasting Corporation, Mr David Hill.
86. Letter dated 7 February 1989 from the Federal Director, Federation of Australian Radio Broadcasters, M J Hartcher.
87. Letter dated 6 February 1989 from the Divisional Returning Officer for Kingsford-Smith, Mr Rene Montano.
88. Letter dated 9 February 1989 from the Director, National Party of Australia, Mr Paul Davey.
89. Letter dated 9 February 1989 and submission from the Group Account Director, John Singleton Advertising, Mr Bob Cornish.
90. Letter dated 10 February 1989 from the Federal Director, Federation of Australian Commercial Television Stations, Mr David Morgan.
91. Letter dated 9 February 1989 and submission from the Attorney-General, Mr Lionel Bowen, MP.
92. Letter dated 17 February 1989 and submission from the Federal Director, The Liberal Party of Australia, Mr Tony Eggleton.
93. Letter dated 16 December 1986 and submission from the Federal Director, The Liberal Party of Australia, Mr Tony Eggleton.
94. Letter dated 17 March 1989 from the Secretary, Attorney-General's Department.
95. Letter dated 21 March 1989 from the Australian Electoral Commissioner, Dr Colin Hughes.

96. Letter dated 23 March 1989 and letter dated 13 August 1986 from Mr John C Veszely.
97. Letter dated 28 March 1989 and letter and submission dated 29 October 1986 from the Deputy Director, Advertising Federation of Australia Limited.
98. Letter dated 31 March 1989 from the President, Administrative Appeals Tribunal, T R Hartigan.
99. Letter dated 30 March 1989 and letter and submission dated 3 October 1986 from Professor of Politics, La Trobe University, Ms Joan Rydon.
100. Letter dated 15 March 1989 and submission from Mrs Joan Chambers.
101. Submission dated 10 April 1984 from the Federation of Australian Commercial Television Stations. (Appendix A dated July 1983 attached).
102. Submission dated 15 October 1986 from the Federation of Australian Commercial Television Stations.
103. A supplementary submission (proposed amendments to the Broadcasting Act and the Electoral Act) dated February 1987 from the Federation of Australian Commercial Television Stations.
104. Letter dated 5 April 1989 from Mr Morris Forbes.
105. Letters dated 24 April 1984, 28 October 1986 and 11 April 1989 from the Australian Broadcasting Tribunal.
106. Letter dated 11 April 1989 from the Chief Executive Officer, Media and Entertainment, Quintex Media, Mr Bob Campbell.
107. Submission (received 14 April 1989) from The Australian Television Network (The Seven Network).
108. Letter dated 14 April 1989 and attachment from Ms Helen Williams, Department of Transport and Communications.
109. Letter dated 21 September 1988 and attachments from the Deputy Electoral Commissioner, Australian Electoral Commission, Mr A Cirulis.

110. Letter dated 23 March 1989 and attachments from the Deputy Electoral Commissioner, Australian Electoral Commission, Mr A Cirulis.
111. Letter dated 14 April 1989 from the Federal Director, Federation of Australian Radio Broadcasters, Mr Martin Hartcher.
112. Letter dated 19 April 1989 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
113. Letter dated 21 April 1989 and attachments from First Assistant Secretary, Broadcasting Policy Division, Department of Transport and Communications, R N Smith.
114. Letter dated 28 April 1989 from the Chief Executive Officer, Media and Entertainment, Quintex Media, Mr Bob Campbell.
115. Letter dated 1 May 1989 and attachments from the Federal Director, The Liberal Party of Australia, Mr Tony Eggleton.
116. Letter dated 3 May 1989 and attachments from the Electoral Commissioner, Australian Electoral Commission, Dr Colin Hughes.
117. Letter dated 2 May 1989 from the Federal Director, Federation of Australian Commercial Television Stations, Mr David Morgan.
118. Letter dated 15 May 1989 and attachments from the Deputy Electoral Commissioner, Australian Electoral Commission, Mr A Cirulis.
119. Letter dated 24 May 1989 and attachments from Libby Gladwin, Australian Electoral Commission.
120. Letter dated 22 May 1989 and attachments from the Deputy Electoral Commissioner, Australian Electoral Commission, Mr A Cirulis.
121. Letter dated 25 May 1989 from the Deputy Electoral Commissioner, Australian Electoral Commission, Mr A Cirulis.
122. Letter dated 10 May 1989 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
123. Letter dated 8 May 1989 from the Premier, the Hon. Peter Dowding.

124. Letter dated 12 May 1989 from the Director (Programs), Australian Broadcasting Tribunal, Ms J Paramore.
125. Letter dated 21 April 1989 from Assistant Commissioner, Information and Education, J S Mahoney.
126. Letter dated 27 April 1989 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
127. Letter dated 3 May 1989 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
128. Letter dated 8 May 1989 from the Electoral Commissioner, Australian Electoral Commission, Dr Colin A Hughes.
129. Letter dated 23 May 1989 from the Divisional Returning Officer for Parramatta, Mr Ivor W Jones.

The witnesses who appeared before the Joint Standing Committee on Electoral Matters were:

Canberra, Monday 10 October 1988

- . Mr Paul Edwin Dacey, National Projects Coordinator,
Australian Electoral Commission, Canberra, ACT
- . Mr David John Farrell, Director, Operations Policy and
Coordination, Australian Electoral Commission,
Canberra, ACT
- . Dr Colin Anfield Hughes, Electoral Commissioner,
Australian Electoral Commission, Canberra, ACT
- . Mr James Scott Mahoney, Assistant Commissioner,
Information and Education, Australian Electoral
Commission, Canberra, ACT
- . Mr Michael Charles Maley, Director, Computer Services,
Australian Electoral Commission, Canberra, ACT
- . Ms Claire Louise Shepherd, Administrative Service
Officer, Operations Section, Australian Electoral
Commission, Canberra, ACT

Canberra: Tuesday, 25 October 1988

- . Mr Paul Edwin Dacey, National Projects Coordinator,
Australian Electoral Commission, Canberra, ACT
- . Mr David John Farrell, Director, Operations Policy and
Coordination, Australian Electoral Commission,
Canberra, ACT
- . Dr Colin Anfield Hughes, Electoral Commissioner,
Australian Electoral Commission, Canberra, ACT
- . Mr Malcolm Hugh Mackerras, Campbell, ACT
- . Mr James Scott Mahoney, Assistant Commissioner,
Information and Education, Australian Electoral
Commission, Canberra, ACT
- . Mr Michael Charles Maley, Director, Computer Services,
Australian Electoral Commission, Canberra, ACT
- . Ms Clair Louise Shepherd, Administrative Service
Officer, Operations Section, Australian Electoral
Commission, ACT

Canberra: 11 November 1988 *

- . Mr Robert Duncan Hogg, National Secretary, Australian Labor Party, John Curtis House, Canberra, ACT

Canberra: 21 November 1988

- . Mr Gary John Joseph Humphries, President, Australian Capital Territory Division, Liberal Party of Australia, Barton, ACT
- . Mr Trefor Huw Owen, North Melbourne, VIC
- . Ms Julie Pagonis, Industrial Officer, Administrative and Clerical Officers' Association, Sydney, NSW
- . Mr Francis Xavier Vassallo, Workplace Delegate, Administrative and Clerical Officers' Association, Sydney, NSW

Canberra: 2 December 1988

- . Mrs Leone Hay, Turramurra, NSW
- . Mr Warwick Patton, Somersby, NSW
- . Mr Hugh Warwick McRae, Secretary, New South Wales Branch, Nuclear Disarmament Party, Darlinghurst, NSW
- . Mr William Robert Wood, Spokesperson, Nuclear Disarmament Party, Darlinghurst, NSW

Canberra: 16 March 1989 *

- . Mr Robert John Cornish, Group Account Director, John Singleton Advertising (Australia) Pty Ltd, Hunters Hill, NSW
- . Mr Nick Goldie, Member, Australian Democrats, Adelaide, SA
- . Mr David Hill, Managing Director, Australian Broadcasting Corporation, Sydney NSW
- . Mr David Morgan, Federal Director, Federation of Australian Commercial Television Stations, Mosman, NSW
- . Mr Derek Sargent White, Controller, Television News and Current Affairs, Australian Broadcasting Corporation, Sydney, NSW

Canberra: 17 March 1989

- . Mrs Elizabeth Anne Gladwin, Director, Funding and Disclosure, Australian Electoral Commission, Canberra, ACT
- . Dr Colin Anfield Hughes, Electoral Commissioner, Australian Electoral Commission, Canberra, ACT
- . Mr Michael Charles Maley, Director (Computer Services), Australian Electoral Commission, Canberra, ACT

Canberra: 14 April 1989 *

- .
 - . Mr Robert Bernard Campbell, Chief Executive, Media and Entertainment, Qintex Group, Brisbane, QLD
 - . Mr Desmond Lionel Foster, Consultant, Federation of Australian Radio Broadcasters, Milsons Point, NSW
 - . Mr Martin Joseph Hartcher, Federal Director, Federation of Australian Radio Broadcasters, 8 Glen Street, Milsons Point, NSW
 - . Mr David Hamilton Jackson, Deputy Director, Advertising Federation of Australia, North Sydney, NSW
 - . Ms Ruth Elizabeth Medd, Acting General Manager, Australian Broadcasting Tribunal, North Sydney, NSW
 - . Mr Michael Kevin Minehan, Principal Legal Officer, Australian Broadcasting Tribunal, North Sydney, NSW
 - . Mr David Morgan, Federal Director, Federation of Australian Commercial Television Stations, Mosman, NSW
 - . Ms Janette Frances Paramore, Director, Programs Division, Australian Broadcasting Tribunal, North Sydney, NSW
 - . Mr Roger Neil Smith, First Assistant Secretary, Department of Transport and Communications, Canberra, ACT
- .
- .

Note: * indicates public hearings where evidence was taken on the issue of political advertising.

PERCENTAGE OF NON-VOTERS IN AGE GROUP

	Chisholm	Cowan	Dobell	Fisher	Richmond
18	3.25	1.86	3.89	3.68	3.85
19	2.32	3.50	6.23	5.75	5.53
20	2.64	8.13	7.30	6.47	8.06
21	4.78	8.42	9.53	10.08	10.49
22	5.93	10.24	8.84	12.91	11.46
23	7.55	9.54	11.56	13.63	13.35
24	7.35	8.06	8.56	9.16	11.82
25	7.96	9.29	10.79	9.88	13.31
26	6.89	7.36	8.81	9.69	13.54
27	6.77	6.33	6.48	10.14	10.46
28	5.36	5.47	8.10	8.38	9.15
29	5.21	6.60	6.00	6.36	9.43
30	6.11	4.76	5.71	7.25	9.14
31	4.49	4.78	5.36	6.62	7.65
32	4.43	4.89	5.39	6.05	9.15
33	5.07	3.74	5.08	6.42	7.14
34	3.90	4.27	5.91	6.74	6.61
35	3.75	4.33	4.49	5.33	6.41
36	3.98	3.55	6.31	5.23	6.92
37	3.86	4.00	4.62	4.08	6.54
38	3.04	3.17	4.75	5.62	6.25
39	3.56	4.19	4.13	4.67	6.54
40	3.62	3.89	5.64	4.36	5.71
41	2.82	3.39	4.95	5.25	5.35
42	3.07	3.34	5.48	5.11	6.12
43	3.20	4.00	4.49	5.38	4.82
44	2.15	2.66	4.33	6.03	4.95
45	3.03	4.45	4.48	5.06	4.33
46	1.78	4.53	3.18	4.08	5.09
47	2.18	3.94	3.49	5.38	5.19
48	2.72	3.83	3.97	4.16	5.72
49	3.69	2.87	2.33	5.56	5.21
50	2.57	3.53	4.56	4.65	4.12
51	2.85	3.75	4.39	3.69	4.48
52	2.11	3.25	3.66	4.29	4.69
53	3.86	4.62	2.71	4.20	3.71

	Chisholm	Cowan	Dobell	Fisher	Richmond
54	2.16	4.22	2.73	4.32	3.51
55	1.99	3.04	3.39	5.50	3.48
56	3.33	3.09	4.40	4.78	3.20
57	2.53	3.60	2.87	5.02	2.58
58	2.89	2.24	2.90	3.44	2.62
59	2.59	3.78	4.34	3.58	2.94
60	3.35	3.71	3.25	3.28	3.48
61	3.45	3.88	3.58	3.39	3.18
62	2.83	5.36	3.33	4.21	3.58
63	2.84	3.49	3.56	3.43	3.67
64	2.54	3.83	2.97	3.89	3.96
65	3.69	3.74	3.75	3.60	4.49
66	2.43	4.98	4.49	3.84	2.81
67	2.51	3.90	3.88	3.75	4.74
68	3.54	3.06	3.84	3.56	3.34
69	3.47	2.38	3.81	5.32	3.07
70	2.77	2.58	3.16	3.72	4.42
71	3.93	3.72	3.16	4.25	4.18
72	3.03	3.79	3.96	2.76	4.53
73	6.04	4.34	4.26	5.36	5.54
74	3.45	3.55	4.55	5.73	5.27
75	5.05	3.90	5.46	3.68	6.62
76	4.47	4.60	6.96	5.46	5.84
77	3.75	9.67	5.32	7.29	6.34
78	6.03	9.37	7.37	9.30	7.49
79	6.43	5.03	7.02	4.13	7.48
80	9.91	5.34	8.05	8.36	9.34
81	9.89	5.98	7.82	12.43	12.77
82	10.45	10.38	10.46	12.35	10.24
83	9.90	1.35	9.18	10.58	13.95
84	15.18	9.37	15.76	17.39	12.36
85	16.07	6.00	13.65	15.15	10.22
86	17.25	10.25	20.38	16.86	18.75
87	20.09	11.11	19.01	18.30	18.79
88	26.77	15.62	22.64	17.30	24.71
89	20.76	6.25	32.25	25.00	22.50
90	18.42	12.50	20.00	22.22	31.50

	Chisholm	Cowan	Dobell	Fisher	Richmond
91	33.33	11.11	27.45	30.00	24.56
92	43.07	16.66	24.39	34.61	26.82
93	45.09	–	20.83	32.00	41.37
94	34.28	14.28	20.00	50.00	43.47
95	42.10	50.00	33.33	25.00	38.09
96	38.88	–	71.42	36.36	50.00
97	50.00	–	–	66.66	71.42
98	62.50	–	37.50	50.00	33.33
99	60.00	–	60.00	–	40.00
100	45.45	16.66	55.55	–	66.66

Am I eligible to enroll?

You are eligible to enroll for Federal and Australian Capital Territory elections if:

- You are 17 years of age or older, and
- You are an Australian citizen, and
- You have lived at your present address for at least the last month.

British subjects who are not Australian citizens may enroll for Federal and Australian Capital Territory elections if they were on a Commonwealth electoral roll on 25 January 1986.

Do I have to enroll?

Yes. If you are 18 and eligible you must enroll. You may be fined if you do not.

What happens when I send in my form?

If you are eligible to enroll for Federal and Australian Capital Territory elections, you will be sent your enrollment details.

How do I vote?

When there is an election you will be told the place where you should go to vote. Your name is on the list. The polling clerk will give you your voting papers to fill in.

Do I have to vote?

Yes. Voting is compulsory for Federal and Australian Capital Territory elections. You may be fined if you do not vote.

But if you are only 17 years of age, you must not vote.

Where can I get more information?

You can get information from any of the Australian Electoral Commission, from telephone addresses and phone numbers of Electoral Commission, Commonwealth Government, or from the Electoral Commission.

How to fill in the form.**PLEASE USE BLOCK LETTERS**

These notes will help you fill in your enrollment form.

Only your name and address will appear on the roll.

2 Please give full details to show exactly where you live, especially if you live in a rural area.

3 Give your full address, the name as the address shown should be printed above.

8 If you have changed any details of your name, name of your previous address, or name of your previous residence, please give details.

9 If you are only 17 years of age, please give your date of birth.

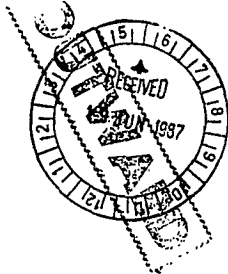
10 Please tick the box if you are an Australian citizen.

Please print the name of the person who is eligible to enroll. If you are not eligible to enroll, please print the name of the person who is eligible to enroll. If you are not eligible to enroll, please print the name of the person who is eligible to enroll.

This form may be witnessed by any person who is eligible to enroll. If you are not eligible to enroll, please print the name of the person who is eligible to enroll.

Name		Date	
1. Full name (as shown on your birth certificate)		2. Date of birth	
3. Full address (as shown on your birth certificate)		4. Date of birth	
5. Date of birth		6. Date of birth	
7. Date of birth		8. Date of birth	
9. Date of birth		10. Date of birth	
11. Date of birth		12. Date of birth	
13. Date of birth		14. Date of birth	
15. Date of birth		16. Date of birth	
17. Date of birth		18. Date of birth	
19. Date of birth		20. Date of birth	
21. Date of birth		22. Date of birth	
23. Date of birth		24. Date of birth	
25. Date of birth		26. Date of birth	
27. Date of birth		28. Date of birth	
29. Date of birth		30. Date of birth	
31. Date of birth		32. Date of birth	
33. Date of birth		34. Date of birth	
35. Date of birth		36. Date of birth	
37. Date of birth		38. Date of birth	
39. Date of birth		40. Date of birth	
41. Date of birth		42. Date of birth	
43. Date of birth		44. Date of birth	
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75. Date of birth		76. Date of birth	
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81. Date of birth		82. Date of birth	
83. Date of birth		84. Date of birth	
85. Date of birth		86. Date of birth	
87. Date of birth		88. Date of birth	
89. Date of birth		90. Date of birth	
91. Date of birth		92. Date of birth	
93. Date of birth		94. Date of birth	
95. Date of birth		96. Date of birth	
97. Date of birth		98. Date of birth	
99. Date of birth		100. Date of birth	

TO: ALL AEOs
FROM: EC (HUGHES)



CERTIFIED LISTS FOR PURPOSES OTHER THAN SCANNING

You will shortly all be receiving two master copies of the certified list of electors for each Division in your State or Territory. These copies will be printed single sided in a form suitable for photocopying in a double sided format. The pages will simply be a list of electors' names and addresses with roll numbers and a page index alpha character. The "bells and whistles" of the scanned version have been removed, as has the copyright claim at the foot of each page.

2. This is the only version of the list that may be used for purposes outside the Commission itself and uses other than optical scanning.

3. As previously advised, one copy only of the list may be issued to each House of Representatives candidate if requested. With regard to the Senate please issue the following quantities after checking whether they are wanted or not:

- One copy of each Division in the State or Territory to
- each Group of Candidates on the Senate ballot paper
 - party headquarters of each of the 4 major parties (ALP, Liberal, National, Democrats).

4. Three copies should be produced for use in each Divisional Office for recording details of deletions and reinstatements and other purposes. More detailed instructions will be included in documentation being prepared in Central Office as corrigenda to the Divisional Office Procedures - Elections - Manual.

5. The question of reference rolls for use in polling places is a somewhat vexed one. There are very strong arguments for dispensing with their use absolutely but old habits and traditions die hard.

6. Where electors are not found on the certified list they should immediately be referred to a declaration vote issuing point. Use of an EF54 will quickly determine their correct Division and will usually result in the immediate issue of an absent or provisional vote without undue delay. Using a reference roll will delay this simple procedure unnecessarily. Should a major difficulty occur, the OIC still has the easy option of inspecting the certified list in use at an ordinary issuing point.

7. Some will suggest that the elimination of reference rolls in polling places could increase the number of provisional votes to be processed in each Division. This may well be true in some cases, and it is accepted that the Divisional Office workload may increase slightly as a consequence. The cost of production of these lists is the deciding factor at this time.

8. For this election reference rolls may only be used in polling places expected to take in excess of 4,500 ordinary votes. It is hoped that even this concession will be withdrawn after this election when its effect has been measured.

Sent: 19 June 1987

1.7 Reference Rolls

1.7.1 The tested optimum polling place management system as outlined in this document envisages that provisional votes will be issued immediately, without the need to check and re-check a certified list or reference roll.

1.7.2 In general, reference rolls are seen as a real obstacle to the speedy, courteous and proper issue of a provisional vote. When reference rolls are used in polling places it is common to observe a queue at the point where the reference roll is located. Such queuing electors are neither actually voting nor being afforded an efficient service.

1.7.3 However, it is acknowledged that there are some circumstances of special need in which reference rolls could assist an OIC. Shared or very large polling places may be among these very few exceptions. Substantial language difficulties could also be a circumstance of special need. Where polling places are located near Divisional boundaries a reference roll for the adjoining Division only (not the issuing Division) could be justified on some occasions.

1.7.4 Reference rolls should only be issued where such circumstances of special need exist in polling places with six or more ordinary issuing points (i.e. over 3500 ordinary votes). Each fully justified request for a reference roll in a polling place is subject to individual Head Office approval.

1.7.5 A serious risk with reference rolls in polling places is that they may be used incorrectly to mark voters – as has occurred on more than one occasion. Non clock-marked reference rolls cannot, of course, be processed by the scanning system. The first a DRO may know of an incorrectly marked reference roll is via an irate voter's response to a non-voter's notice.

1.7.6 Reference rolls issued to polling places will be in different formats for own Division reference rolls and reference rolls for other Divisions.

- Clock marked certified lists are to be used as reference rolls for the Division in which the polling place is located. They will be uniquely numbered in sequence with the certified lists used to issue votes and therefore fully accountable. DROs must return all numbered and clock-marked certified lists (i.e. those used for both reference and polling, and those that were unused), to the scanning centre.

- Reference rolls for other Divisions will be printed in a non-scannable format (without clock marks and unnumbered). For this reason reference rolls for other Divisions are to be used solely by the OIC. These reference rolls must also be checked thoroughly by DROs to ensure that no electors' names have been marked on them.

1.7.7 OICs are to be made aware that use of reference rolls must on no account be seen, by electors patiently waiting their turn, to override the obligatory bank style single queue.

1.7.8 As with the certified lists at 1.3 above, on no account must a reference roll or extra certified list ever be located, or used, at any declaration vote issuing point.

(12)

87/130 ✓



Australian Electoral Officer
for Queensland

MARKING OF CERTIFIED LISTS PRIOR TO POLLING:
(Your Electronic Mail of 13 May 1987 refers)

I have noted and considered the concerns you have expressed following the suggestion that we break with tradition in the matter of pre-marking certified lists and the possibility of public criticism for doing so.

2. However I have also noted with concern the remarks made in the Parliament by Senator Archer, the shadow Special Minister of State, (Hansard 6 May 1987 - page 2374) during the debate on the Commonwealth Electoral Amendment Bill.

3. After detailing the estimated costs of an election Senator Archer went on to say "I realise that democracy comes at a price but we need to consider whether the price is reasonable and, more importantly, whether the price represents value for money - or whether the election is merely a Commission exercise."

4. There are certain inherent inaccuracies in our electoral rolls. A substantial number of electors who transfer interstate are not promptly removed, the 200,000 or so electoral enrolment forms received immediately prior to an election are not verified, and even a recent habitation review does not ensure perfection.

5. In the light of these more major deficiencies it is my view that any marking of certified lists, whether with deaths, interstate transfers or postal voters, can only represent dubious value for money, and indeed offers no certain way of protecting the voting system from those determined to commit the offence of personation. Nor indeed has there been any evidence derived from non-voter action that personation is, or ever was at a federal level, a significant problem.

6. Now that provisional and other section votes are freely issued there is no need to annotate certified lists with additions, reinstatements and error corrections.

7. The above views stand, independent from the way in which certified lists may be produced, be that laser, photocopying or traditional printing.

8. However, with the likelihood of unique laser produced certified lists being used at the next election, we need to reassess the application of the CEA. What we have to assess is the cost of \$500,000 for traditional mark-back consequent on not adopting scanner technology against the risk of malpractice.

9. Section 191.(1) of the Commonwealth Electoral Act provides for certified list marking, with respect to postal voting, if there is "time conveniently to do so" and that "all" relevant electors shall be noted. It will clearly no longer be convenient, and in any case is impossible to mark all postal voters.

10. Section 191.(2) talks of the Divisional Returning Officer taking such steps as he considers reasonable to advise Presiding Officers of Postal Voters. In my view it will no longer be reasonable to do so and would in fact be likely to unnecessarily impede the progress of the poll.

11. Commission policy from now on will be that certified lists of electors used in polling places are not to carry any marks, deletions, additions or notations apart from those marks made during polling itself.

12. The forwarding of advices such as typed lists of postal voters to Presiding Officers is not Commission policy. Funds will not be made available for this purpose.

13. For obvious reasons it is essential that the above decisions be applied consistently in each of our 148 Divisions.

14. It is possible that some Divisional Returning Officers will be concerned about the discharge of their statutory duties in this matter. The above policy is a direction made in accordance with Section 32 of the CEA and thus places the responsibility for both the decision and its effect on my shoulders. The substance of this should be incorporated in the Manual, the whole of which will itself constitute a direction by me under Section 32 of the CEA to all AEOs, DROs and all Commission staff engaged in the conduct of elections.

COLIN A. HUGHES

Colin A Hughes
Electoral Commissioner

18 May 1987

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"@cc: Australian Electoral Officer
for New South Wales

(with copy of the 13 May electronic mail from AEO Queensland)

"@cc: Australian Electoral Officer
for Victoria

(with copy of the 13 May electronic mail from AEO Queensland)

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